

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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**SENATE BILL 622
Appropriations/Base Budget Committee Substitute Adopted 5/3/05
Pensions & Retirement and Aging Committee Substitute Adopted 5/3/05
Fourth Edition Engrossed 5/5/05
House Committee Substitute Favorable 6/14/05
House Committee Substitute #2 Favorable 6/15/05
Seventh Edition Engrossed 6/16/05**

Short Title: 2005 Appropriations Act.

(Public)

Sponsors:

Referred to:

March 17, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE BASE BUDGET APPROPRIATIONS FOR CURRENT
3 OPERATIONS OF STATE DEPARTMENTS, INSTITUTIONS, AND
4 AGENCIES, AND FOR OTHER PURPOSES; TO INCREASE FEES FOR
5 LICENSING OF PROPRIETARY SCHOOLS AS RECOMMENDED BY THE
6 STATE BOARD; TO EXPAND THE EXPRESS REVIEW PROGRAM UNDER
7 THE DENR STATEWIDE; TO INCREASE THE CHARGE FOR APPELLATE
8 DIVISION REPORTS TO THE ACTUAL COST; TO INCREASE COURT COSTS
9 IN CRIMINAL ACTIONS FOR THE SUPPLEMENTAL PENSION BENEFITS
10 FOR SHERIFFS; TO PERMANENTLY INCREASE THE EXCISE TAX ON
11 CIGARETTES BY 25¢ A PACK BEGINNING JULY 1, 2005; TO
12 PERMANENTLY INCREASE THE EXCISE TAX RATE ON TOBACCO
13 PRODUCTS OTHER THAN CIGARETTES AND CIGARS TO 6% BEGINNING
14 JULY 1, 2005; TO EQUALIZE THE GROSS PREMIUMS TAX RATES BY
15 SETTING THE RATE FOR HMOS AT 1.9% BEGINNING JANUARY 1, 2006;
16 TO SET THE PRIVILEGE TAX ON ENTERTAINMENTS AND MOVIES AT
17 7%; TO PROVIDE A TAX CREDIT EQUAL TO 15% OF QUALIFYING
18 EXPENSES FOR CERTAIN FILM PRODUCTIONS OCCURRING IN THIS
19 STATE; TO PROVIDE FOR A TAX CREDIT OF UP TO \$400.00 PER
20 EMPLOYEE FOR SMALL BUSINESSES WHO PROVIDE HEALTH
21 INSURANCE COVERAGE FOR EMPLOYEES; TO SET THE INSURANCE
22 REGULATORY CHARGE AT 5.5%; TO SET THE REGULATORY FEE FOR
23 UTILITIES COMMISSION AT 0.12%; TO SET THE NEWBORN SCREENING
24 FEE AT \$14.00; TO SET NUMEROUS FEES IN THE DHHS, DIVISION OF
25 FACILITY SERVICES; TO INCREASE VARIOUS AGRICULTURAL FEES; TO
26 INCREASE THE CAP FOR CAMA PERMIT FEES TO \$800.00; TO INCREASE
27 GENERAL COURT FEES FOR CRIMINAL CASES BY \$9.50; TO INCREASE
28 COURT FEES FOR CIVIL CASES BY \$10.00; TO INCREASE THE MAXIMUM

1 COURT FEE FOR THE ADMINISTRATION OF ESTATES AND TRUSTS TO
 2 \$6,000; TO INCREASE THE FEE FOR EXPUNCTION TO \$125.00; TO
 3 INCREASE THE FEES FOR ELECTRONIC MONITORING; TO INCREASE
 4 THE COURT COSTS FOR FAILURE TO WEAR A SEAT BELT TO \$75.00; TO
 5 INCREASE BUTNER PROPERTY TAXES TO A RATE OF 25¢ PER \$100.00
 6 VALUATION; TO SET FEES FOR THE POLICE INFORMATION NETWORK;
 7 TO INCREASE VARIOUS DEPARTMENT OF TRANSPORTATION FEES;
 8 AND TO ALLOW THE INDUSTRIAL COMMISSION TO ESTABLISH FEES
 9 BY RULE.

10 The General Assembly of North Carolina enacts:

11
 12 **PART I. INTRODUCTION AND TITLE OF ACT**

13
 14 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
 15 Michaux

16 **INTRODUCTION**

17 **SECTION 1.1.** The appropriations made in this act are for maximum
 18 amounts necessary to provide the services and accomplish the purposes described in the
 19 budget in accordance with the Executive Budget Act. Savings shall be effected where
 20 the total amounts appropriated are not required to perform these services and
 21 accomplish these purposes and the savings shall revert to the appropriate fund at the end
 22 of each fiscal year, except as otherwise provided by law.
 23

24 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
 25 Michaux

26 **TITLE OF ACT**

27 **SECTION 1.2.** This act shall be known as the "Current Operations and
 28 Capital Improvements Appropriations Act of 2005."
 29

30 **PART II. CURRENT OPERATIONS AND EXPANSION/GENERAL FUND**

31
 32 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
 33 Michaux

34 **CURRENT OPERATIONS AND EXPANSION/GENERAL FUND**

35 **SECTION 2.1.** Appropriations from the General Fund of the State for the
 36 maintenance of the State departments, institutions, and agencies, and for other purposes
 37 as enumerated, are made for the biennium ending June 30, 2007, according to the
 38 following schedule:
 39

Current Operations – General Fund	2005-2006	2006-2007
EDUCATION		
Community Colleges System Office	\$ 775,206,482	\$ 763,366,425
Department of Public Instruction	6,665,028,995	6,639,040,147
University of North Carolina – Board of Governors		
Appalachian State University	95,723,206	96,112,508
East Carolina University:		
Academic Affairs	149,258,329	152,405,105
Health Affairs	45,314,949	45,321,933
Elizabeth City State University	28,557,992	28,159,455

1	Fayetteville State University	42,743,828	42,798,406
2	North Carolina Agricultural and Technical		
3	State University	75,302,121	75,127,553
4	North Carolina Central University	58,325,133	58,083,922
5	North Carolina School of the Arts	21,316,022	20,853,451
6	North Carolina State University:		
7	Academic Affairs	295,194,174	300,333,788
8	Agricultural Extension	35,497,987	35,384,433
9	Agricultural Research	44,884,495	44,952,506
10	University of North Carolina at Asheville	29,194,226	29,733,101
11	University of North Carolina at Chapel Hill:		
12	Academic Affairs	207,951,612	216,911,650
13	Health Affairs	161,817,995	164,024,559
14	Area Health Education Centers	44,743,422	44,743,422
15	University of North Carolina at Charlotte	128,872,610	130,553,102
16	University of North Carolina at Greensboro	111,426,487	112,582,103
17	University of North Carolina at Pembroke	38,515,524	38,823,063
18	University of North Carolina at Wilmington	73,563,667	75,855,057
19	Western Carolina University	69,318,618	69,657,116
20	Winston-Salem State University	47,760,006	47,489,842
21	General Administration	48,864,530	48,926,344
22	University Institutional Programs	35,866,059	34,174,482
23	Related Educational Programs	115,329,807	116,360,229
24	North Carolina School of Science and Mathematics	14,355,420	14,313,392
25	UNC Hospitals at Chapel Hill	38,670,494	38,634,764
26	Total University of North Carolina –		
27	Board of Governors	\$ 2,058,368,713	\$ 2,082,315,286
28			
29	HEALTH AND HUMAN SERVICES		
30			
31	Department of Health and Human Services		
32	Office of the Secretary	\$ 114,593,090	\$ 113,593,090
33	Division of Aging	29,595,139	29,495,139
34	Division of Blind Services/Deaf/HH	9,561,797	9,681,220
35	Division of Child Development	265,981,736	268,588,518
36	Division of Education Services	33,852,267	34,281,895
37	Division of Facility Services	13,102,629	13,569,760
38	Division of Medical Assistance	2,553,639,668	2,817,546,300
39	Division of Mental Health	601,583,655	602,869,039
40	NC Health Choice	76,706,650	97,511,380
41	Division of Public Health	150,273,266	144,475,524
42	Division of Social Services	190,384,693	193,664,285
43	Division of Vocational Rehabilitation	41,755,526	42,142,193
44	Total Health and Human Services	\$ 4,081,030,116	\$ 4,367,418,343
45			
46	NATURAL AND ECONOMIC RESOURCES		
47			
48	Department of Agriculture and Consumer Services	\$ 51,061,684	\$ 50,656,509
49			
50	Department of Commerce		
51	Commerce	49,265,070	35,278,265
52	Commerce State-Aid	29,472,085	12,222,085
53	NC Biotechnology Center	12,083,395	10,583,395

1	Rural Economic Development Center	25,852,607	25,552,607
2			
3	Department of Environment and Natural Resources	170,388,004	162,979,324
4			
5	DENR Clean Water Management Trust Fund	62,000,000	62,000,000
6			
7	Department of Labor	14,684,807	14,700,179
8			
9	JUSTICE AND PUBLIC SAFETY		
10			
11	Department of Correction	\$ 1,029,449,707	\$ 1,050,558,023
12			
13	Department of Crime Control and Public Safety	35,576,632	35,974,945
14			
15	Judicial Department	341,682,284	343,820,429
16	Judicial Department – Indigent Defense	94,402,142	89,431,697
17			
18	Department of Justice	78,990,095	79,060,076
19			
20	Department of Juvenile Justice and		
21	Delinquency Prevention	141,010,329	138,610,329
22			
23	GENERAL GOVERNMENT		
24			
25	Department of Administration	\$ 58,934,261	\$ 58,818,473
26			
27	Office of Administrative Hearings	2,987,410	2,969,712
28			
29	Department of State Auditor	10,850,737	10,840,918
30			
31	Office of State Controller	10,043,268	10,044,511
32			
33	Department of Cultural Resources		
34	Cultural Resources	66,834,719	61,883,584
35	Roanoke Island Commission	1,783,374	1,783,374
36			
37	State Board of Elections	5,067,543	5,069,307
38			
39	General Assembly	42,934,588	46,965,432
40			
41	Office of the Governor		
42	Office of the Governor	5,324,590	5,344,528
43	Office of State Budget and Management	5,019,735	5,021,795
44	OSBM – Reserve for Special Appropriations	5,686,429	4,311,429
45	Housing Finance Agency	4,750,945	4,750,945
46			
47	Department of Insurance		
48	Insurance	28,088,214	28,110,582
49	Insurance –		
50	Volunteer Safety Workers' Compensation	2,500,000	4,500,000
51			
52	Office of Lieutenant Governor	754,737	753,037
53			

1	Department of Revenue	82,128,036	81,245,969
2			
3	Department of Secretary of State	8,784,018	8,764,932
4			
5	Department of State Treasurer		
6	State Treasurer	8,690,595	8,295,843
7	State Treasurer – Retirement for		
8	Fire and Rescue Squad Workers	8,551,457	8,551,457
9			
10	TRANSPORTATION		
11			
12	Department of Transportation	\$ 0	\$ 0
13			
14	RESERVES, ADJUSTMENTS, AND DEBT SERVICE		
15			
16	Reserve for Compensation Increases	\$ 237,728,000	\$ 229,728,000
17			
18	Salary Adjustment Fund: 2005-2007 Biennium	4,500,000	4,500,000
19			
20	Salary Adjustment Fund: 2004-2005 Fiscal Year	4,500,000	4,500,000
21			
22	Reserve for Teachers' and State Employees'		
23	Retirement Contribution	13,810,800	13,810,800
24			
25	Reserve for Retirement System Payback	25,000,000	0
26			
27	Reserve for Death Benefit Trust	12,899,200	12,899,200
28			
29	Reserve for Disability Income Plan	6,586,500	6,586,500
30			
31	Reserve for State Health Plan	137,400,000	183,200,000
32			
33	Contingency and Emergency Fund	5,000,000	5,000,000
34			
35	Reserve for Information Technology Rate Adjustments	(2,300,000)	(2,300,000)
36			
37	Information Technology Fund	24,375,000	8,025,000
38			
39	MH/DD/SAS Trust Fund	10,000,000	0
40			
41	Health and Wellness Trust Fund Senior Rx Program	14,000,000	0
42			
43	Reserve for Job Development Investment Grants (JDIG)	9,000,000	9,000,000
44			
45	Reserve for Housing Finance	5,000,000	0
46			
47	Reserve for HB 1048 – DWI Task Force		
48	Recommendations	1,000,000	0
49			
50	Reserve for Increased Fuel Costs	3,000,000	0
51			
52	Debt Service		
53	General Debt Service	489,544,211	619,291,140

1	Federal Reimbursement	1,616,380	1,616,380
2			
3	TOTAL CURRENT OPERATIONS –		
4	GENERAL FUND	\$ 17,077,927,894	\$ 17,417,450,912
5			
6			
7			
8	Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,		
9	Michaux		
10	GENERAL FUND AVAILABILITY STATEMENT		
11	SECTION 2.2.(a) The General Fund availability used in developing the		
12	2005-2007 biennial budget is shown below:		
13		FY 2005-2006	FY 2006-2007
14			
15	Unappropriated Balance Remaining		
16	from Previous Year	\$ 0	\$ 146,394,939
17	Projected Over Collections FY 2004-2005	527,200,000	0
18	Projected Reversions FY 2004-2005	75,000,000	0
19	Less Earmarkings of Year-End Credit Balance		
20	Savings Reserve Account	(170,000,000)	0
21	Repairs and Renovations	(102,955,000)	0
22	Beginning Unreserved Credit Balance	\$ 329,245,000	\$ 146,394,939
23			
24	Revenues Based on Existing Tax Structure	\$ 15,250,100,000	\$ 15,903,000,000
25			
26	Nontax Revenues		
27	Investment Income	75,300,000	78,500,000
28	Judicial Fees	142,200,000	147,900,000
29	Disproportionate Share	100,000,000	100,000,000
30	Insurance	56,600,000	58,800,000
31	Other Nontax Revenues	150,400,000	161,800,000
32	Highway Trust Fund/Use Tax		
33	Reimbursement Transfer	252,558,117	252,663,009
34	Highway Fund Transfer	16,200,000	16,200,000
35	Subtotal Nontax Revenues	\$ 793,258,117	\$ 815,863,009
36			
37	Total General Fund Availability	\$ 16,372,603,117	\$ 16,865,257,948
38			
39	Adjustments to Availability: 2005 Session		
40	Streamlined Sales Tax Changes	61,700,000	89,500,000
41	Extend 4.5% Sales Tax Rate	413,400,000	458,700,000
42	Other Sales Tax Changes:		
43	Apply Sales Tax to Service Contracts		
44	and Warranties	10,100,000	16,800,000
45	Apply Sales Tax to Candy	11,000,000	15,800,000
46	Excise Tax on Cigarettes and		
47	Other Tobacco Products	142,000,000	165,000,000
48	Extend Marginal Individual Income		
49	Tax Rate of 8.25%	40,200,000	91,700,000
50	Continue Use Tax Line on Individual Returns	3,200,000	3,200,000
51	Conform Estate Tax to Federal Sunset	30,600,000	121,600,000
52	Film Industry Jobs Incentives	(6,000,000)	(6,000,000)
53	IRC Update – Partial Conformance	(8,000,000)	(10,700,000)

1	Small Business Tax Credit for		
2	Health Insurance Coverage	(17,700,000)	(39,800,000)
3	Privilege Tax on Entertainment	18,000,000	30,000,000
4	Gross Premium Tax Rate on		
5	Health Maintenance Organizations	14,300,000	14,300,000
6	Increase Earmarking for NC Grape Growers Council	(150,000)	(150,000)
7	Justice and Public Safety Fees	20,428,271	20,428,271
8	Transfer from Tobacco Trust Fund	34,000,000	30,000,000
9	Transfers from Special Revenue and Other Funds	9,803,950	0
10	Reimburse Debt Service for Certain Capital		
11	Facilities and Land Acquisition		
12	per S.L. 2004-179	5,958,723	21,060,827
13	Adjust Transfer from Insurance Regulatory Fund	256,513	243,813
14	Adjust Transfer from Treasurer's Office	468,478	67,478
15	DOR-Revenue Enhancement Initiative	97,500,000	97,500,000
16	Proceeds from the Sale of Polk Building	4,977,781	0
17			
18	Subtotal Adjustments to Availability:		
19	2005 Session	\$ 886,043,716	\$ 1,119,250,389
20			
21	Revised General Fund Availability	\$ 17,258,646,833	\$ 17,984,508,337
22			
23	Less: General Fund Appropriations	(\$17,112,251,894)	(\$17,417,450,912)
24			
25	Unappropriated Balance Remaining	\$ 146,394,939	\$ 567,057,425
26			

27 **SECTION 2.2.(b)** Notwithstanding G.S. 143-16.4(a2), of the funds credited
28 to the Tobacco Trust Account from the Master Settlement Agreement pursuant to
29 Section 6(2) of S.L. 1999-2 during the 2005-2007 fiscal biennium, the sum of
30 thirty-four million dollars (\$34,000,000) for the 2005-2006 fiscal year and the sum of
31 thirty million dollars (\$30,000,000) for the 2006-2007 fiscal year shall be transferred
32 from the Department of Agriculture and Consumer Services, Budget Code 23703
33 (Tobacco Trust Fund) to the State Controller to be deposited in Nontax Budget Code
34 19978 (Intrastate Transfers) to support General Fund appropriations for the 2005-2006
35 and 2006-2007 fiscal years.

36 **SECTION 2.2.(b1)** Notwithstanding the provisions of G.S. 143-15.2 and
37 G.S. 143-15.3, the State Controller shall transfer only one hundred seventy million
38 dollars (\$170,000,000) from the unreserved credit balance to the Savings Reserve
39 Account on June 30, 2005.

40 **SECTION 2.2.(c)** G.S. 143-15.3 is amended by adding a new subsection to
41 read:

42 "(a2) The transfer of funds to the Savings Reserve Account in accordance with this
43 section or any other provision of law is not an "appropriation made by law", as that
44 phrase is used in Article V, Section 7(1) of the North Carolina Constitution."

45 This subsection becomes effective June 30, 2005.

46 **SECTION 2.2.(d)** Notwithstanding G.S. 143-15.2 and G.S. 143-15.3A, the
47 State Controller shall transfer one hundred two million nine hundred fifty-five thousand
48 dollars (\$102,955,000) from the unreserved credit balance to the Repairs and
49 Renovations Reserve Account on June 30, 2005. Funds transferred under this section to
50 the Repairs and Renovations Reserve Account are appropriated for the 2005-2006 fiscal
51 year to be used in accordance with G.S. 143-15.3A. This subsection becomes effective
52 June 30, 2005.

1 **SECTION 2.2.(e)** When the Highway Trust Fund was created in 1989, the
 2 revenue from the sales tax on motor vehicles was transferred from the General Fund to
 3 the Highway Trust Fund. To offset this loss of revenue from the General Fund, the
 4 Highway Trust Fund was required to transfer one hundred seventy million dollars
 5 (\$170,000,000) to the General Fund each year, an amount equal to the revenue in 1989
 6 from the sales tax on motor vehicles. This transfer did not, however, make the General
 7 Fund whole after the transfer of the sales tax revenue because no provision has been
 8 made to adjust the amount for the increased volume of transactions and increased
 9 vehicle prices. The additional eighty million dollars (\$80,000,000) transferred from the
 10 Highway Trust Fund to the General Fund by this act is an effort to recover a portion of
 11 the sales tax revenues that would have gone to the General Fund over the last 16 years.

12 **SECTION 2.2.(f)** Notwithstanding G.S. 105-187.9(b)(1), the sum to be
 13 transferred under that subdivision for the 2005-2006 fiscal year and for the 2006-2007
 14 fiscal year is two hundred fifty million dollars (\$250,000,000).

15 **SECTION 2.2.(g)** Section 2.2(g) of S.L. 2002-126 is repealed.

16 **SECTION 2.2.(h)** Notwithstanding any other provision of law to the
 17 contrary, effective July 1, 2005, cash balances remaining in special funds on June 30,
 18 2005, shall be transferred to the State Controller to be deposited in Nontax Budget Code
 19 19978 (Intrastate Transfers) according to the schedule that follows. These funds shall
 20 be used to support General Fund appropriations for the 2005-2006 fiscal year.

Fund	Amount Transferred
Department of Environment and Natural Resources	
Budget Code 24300, Fund Code 2338 (DAQ-Inspections and Maintenance – Air Pollution)	\$ 300,000
Budget Code 24300, Fund Code 2106 (DEH – Sleep Products)	200,000
Budget Code 24300, Fund Code 2735 (DLR – Sedimentation Fees)	200,000
Budget Code 24306, Fund Code 2127 (DWM – Clean-Up Dry Cleaning Solvent)	4,350,000
Budget Code 24300, Fund Code 2310 (DWQ – Well Construction Fund)	100,000
Budget Code 24300, Fund Code 2335 (DWQ – Lab Certification Fees)	100,000
Budget Code 24300, Fund Code 2341 (DWQ – Water Permits)	500,000
Budget Code 64306, Fund Code 6341 (DWQ – WW Treatment Maintenance and Repair)	100,000
Budget Code 24304, Fund Code 2982 (DWQ – Riparian Buffer Restoration)	2,000,000
Department of Correction	
Budget Code 24502 (Inmate Canteen/Welfare Fund)	440,000
Judicial Department	
Budget Code 22005, Fund Code 2263 (Worthless Check Fund)	100,000
Department of Administration	
Budget Code 24160, Fund Code 2000 (NC Flex)	913,950

47 **SECTION 2.2.(i)** The transfer of cash from the Department of Correction,
 48 Budget Code 74500, Fund Code 7100 (Prison Enterprises) to Nontax Budget Code
 49 19978 (Intrastate Transfers) shall be increased by five hundred thousand dollars
 50 (\$500,000), effective July 1, 2005, for the 2005-2006 fiscal year.

51 **SECTION 2.2.(j)** Notwithstanding G.S. 143-15.3B(a) for the 2005-2007
 52 fiscal biennium only, the appropriation to the Clean Water Management Trust Fund for
 53 the 2005-2006 fiscal year is only sixty-two million dollars (\$62,000,000) as provided by

1 this act, and the appropriation for the 2006-2007 fiscal year is only sixty-two million
 2 dollars (\$62,000,000) as provided by this act. The funds appropriated by this act to the
 3 Clean Water Management Trust Fund shall be used as provided by G.S. 143-15.3B(b).

4 5 **PART III. CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND**

6
7 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
8 Michaux

9 **CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND**

10 **SECTION 3.1.** Appropriations from the State Highway Fund for the
 11 maintenance and operation of the Department of Transportation and for other purposes
 12 as enumerated are made for the biennium ending June 30, 2007, according to the
 13 following schedule:

14	Current Operations – Highway Fund	2005-2006	2006-2007
15			
16			
17	Department of Transportation		
18	Administration	\$ 91,585,812	\$ 94,034,411
19			
20	Division of Highways		
21	Administration	30,621,612	30,632,164
22	Construction	139,010,000	139,750,000
23	Maintenance	831,680,458	828,853,288
24	Planning and Research	4,280,000	4,280,000
25	OSHA Program	425,000	425,000
26			
27	Ferry Operations	21,264,811	21,264,811
28			
29	State Aid		
30	Municipalities	91,910,000	92,650,000
31	Public Transportation	66,466,447	89,866,447
32	Railroads	17,308,153	17,101,153
33			
34	Governor's Highway Safety	293,118	293,118
35			
36	Division of Motor Vehicles	96,047,914	95,468,137
37			
38	Other State Agencies	238,941,823	232,345,961
39			
40	Reserves and Transfers	23,174,852	25,274,852
41			
42	TOTAL	\$ 1,653,010,000	\$ 1,672,239,342

43
44 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
45 Michaux

46 **HIGHWAY FUND AVAILABILITY STATEMENT**

47 **SECTION 3.2.** The Highway Fund availability used in developing the
 48 2005-2007 biennial budget is shown below:

49	Highway Fund Availability Statement	2005-2006	2006-2007
50			
51			
52	Beginning Credit Balance	\$ 10,490,000	\$ -
53	Estimated Revenue	1,642,520,000	1,712,940,000

1	Estimated Reversions	-	-
2			
3	Total Highway Fund Availability	\$ 1,653,010,000	\$ 1,712,940,000

4
5 **PART IV. HIGHWAY TRUST FUND APPROPRIATIONS**

6
7 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
8 Michaux

9 **HIGHWAY TRUST FUND APPROPRIATIONS**

10 **SECTION 4.1.** Appropriations from the State Highway Trust Fund for the
11 maintenance and operation of the Department of Transportation and for other purposes
12 as enumerated are made for the biennium ending June 30, 2007, according to the
13 following schedule:

14		2005-2006	2006-2007
15	Current Operations – Highway Trust Fund		
16			
17	Intrastate System	\$ 472,112,366	\$ 496,924,658
18	Urban Loops	190,902,579	200,935,637
19	Aid to Municipalities	49,535,599	52,138,988
20	Secondary Roads	86,825,599	90,358,988
21	Program Administration	41,295,740	42,918,720
22	Transfer to General Fund	252,558,117	252,663,009
23			
24	GRAND TOTAL CURRENT OPERATIONS		
25	AND EXPANSION	\$ 1,093,230,000	\$ 1,135,940,000

26
27 **PART V. BLOCK GRANTS**

28
29 Requested by: Representatives Insko, Barnhart

30 **DHHS BLOCK GRANTS**

31 **SECTION 5.1.(a)** Appropriations from federal block grant funds are made
32 for the fiscal year ending June 30, 2006, according to the following schedule:

33
34 **COMMUNITY SERVICES BLOCK GRANT**

35		
36	01. Community Action Agencies	\$ 15,071,666
37		
38	02. Limited Purpose Agencies	837,315
39		
40	03. Department of Health and Human Services	
41	to administer and monitor	
42	the activities of the	
43	Community Services Block Grant	837,315

44		
45	TOTAL COMMUNITY SERVICES BLOCK GRANT	\$ 16,746,296

46
47 **SOCIAL SERVICES BLOCK GRANT**

48		
49	01. County departments of social services	\$ 28,868,189
50	(Transfer from TANF – \$4,500,000)	
51		
52	02. Allocation for in-home services provided	
53	by county departments of	

1	social services	2,101,113
2		
3	03. Adult day care services	2,155,301
4		
5	04. Child Protective Services/CPS Investigative	
6	Services/Child Medical Evaluation Program	238,321
7		
8	05. Foster Care Services – CCI's	1,706,063
9		
10	06. Division of Aging and Adult Services – Home and Community	
11	Care Block Grant	1,834,077
12		
13	07. UNC-CH CARES Program for training and	
14	consultation services	247,920
15		
16	08. Mental Health Services Program	422,003
17		
18	09. Division of Mental Health, Developmental Disabilities, and	
19	Substance Abuse Services – Developmentally Disabled	
20	Services Program	5,000,000
21		
22	10. Division of Mental Health, Developmental Disabilities,	
23	and Substance Abuse Services	3,234,601
24		
25	11. Division of Services for the Blind – Independent	
26	Living Program	3,182,987
27		
28	12. Division of Vocational Rehabilitation Services –	
29	Easter Seals Society/UCP	188,263
30		
31	13. Office of the Secretary – Office of Economic	
32	Opportunity for N.C. Senior Citizens'	
33	Federation for outreach services to	
34	low-income elderly persons	41,302
35		
36	14. Child Care Subsidies	3,150,000
37		
38	15. Division of Facility Services –	
39	Adult Care Licensure Program	411,897
40		
41	16. Division of Facility Services –	
42	Mental Health Licensure	205,668
43		
44	17. State administration	1,706,017
45		
46	18. Division of Mental Health, Developmental	
47	Disabilities, and Substance Abuse Services –	
48	Administration	18,098
49		
50	19. Division of Facility Services	37,204
51		
52	20. Office of the Secretary – NC Interagency Council	
53	for Coordinating Homeless Programs	250,000

1			
2	21.	Department of Administration	
3		for the N.C. State Commission of Indian Affairs	
4		In-Home Services Program for the Elderly	203,198
5			
6	22.	Transfer to Preventative Health Services Block	
7		Grant for HIV/AIDS education, counseling, and	
8		testing	145,819
9			
10		TOTAL SOCIAL SERVICES BLOCK GRANT	\$ 55,348,041
11			
12		LOW-INCOME ENERGY BLOCK GRANT	
13			
14	01.	Energy Assistance Programs	\$ 13,208,740
15			
16	02.	Crisis Intervention	9,592,387
17			
18	03.	Administration	3,186,258
19		County DSS	\$1,930,734
20		Division of Social Services	\$ 300,000
21		Division of Mental Health, Developmental	
22		Disabilities, and Substance Abuse	
23		Services	\$ 7,146
24		Local Residential Energy Efficiency	
25		Service Providers	\$ 353,820
26		Office of the Secretary	\$ 594,558
27			
28	04.	Weatherization Program	4,343,072
29			
30	05.	Department of Administration –	
31		N.C. State Commission of Indian Affairs	54,840
32			
33	06.	Heating Air Repair and Replacement Program	2,025,687
34			
35		TOTAL LOW-INCOME ENERGY BLOCK GRANT	\$ 32,410,984
36			
37		MENTAL HEALTH SERVICES BLOCK GRANT	
38			
39	01.	Provision of community-based	
40		services for severe and persistently	
41		mentally ill adults	\$ 6,983,202
42			
43	02.	Provision of community-based	
44		services to children	3,921,991
45			
46	03.	Comprehensive Treatment Services	
47		Program for Children	1,500,000
48			
49	04.	Administration	568,911
50			
51		TOTAL MENTAL HEALTH SERVICES BLOCK GRANT	\$ 12,974,104
52			
53		SUBSTANCE ABUSE PREVENTION	

1	AND TREATMENT BLOCK GRANT	
2		
3	01. Provision of community-based	
4	alcohol and drug abuse services,	
5	tuberculosis services, and services	
6	provided by the Alcohol and Drug Abuse	
7	Treatment Centers	\$ 20,441,082
8		
9	02. Continuation of services for	
10	pregnant women and women	
11	with dependent children	8,069,524
12		
13	03. Continuation of services to	
14	IV drug abusers and others at risk	
15	for HIV diseases	4,816,378
16		
17	04. Child Substance Abuse Prevention	5,835,701
18		
19	05. Provision of services to children	
20	and adolescents	4,940,500
21		
22	06. Juvenile Services – Family Focus	851,156
23		
24	07. Allocation to the Division of Public Health	
25	for HIV/STD Risk Reduction Projects	383,980
26		
27	08. Allocation to the Division of Public Health	
28	for HIV/STD Prevention by County Health	
29	Departments	209,576
30		
31	09. Allocation to the Division of Public Health	
32	for the Maternal and Child Health Hotline	37,779
33		
34	10. Administration	2,596,307
35		
36	TOTAL SUBSTANCE ABUSE PREVENTION	
37	AND TREATMENT BLOCK GRANT	\$ 48,181,983
38		
39	CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT	
40		
41	01. Child care subsidies	\$158,708,393
42		
43	02. Quality and availability initiatives	33,059,644
44		
45	03. Administrative expenses	7,163,654
46		
47	04. Transfer from TANF Block Grant for	
48	child care subsidies	81,292,880
49		
50	TOTAL CHILD CARE AND DEVELOPMENT FUND	
51	BLOCK GRANT	\$280,224,571
52		
53	TEMPORARY ASSISTANCE TO NEEDY FAMILIES	

1	(TANF) BLOCK GRANT	
2		
3	01. Work First Cash Assistance	\$107,794,365
4		
5	02. Work First County Block Grants	94,653,315
6		
7	03. Child Welfare Workers for local DSS	12,452,391
8		
9	04. Support Our Students – Department of	
10	Juvenile Justice and Delinquency	
11	Prevention	2,749,642
12		
13	05. Family Violence Prevention	1,200,000
14		
15	06. Work First – After-School Services for	
16	At-Risk Children	
17	YWCA Central Carolinas	
18	Youth Development Programs \$176,000	2,249,642
19		
20	07. Division of Social Services –	
21	Administration	356,291
22		
23	08. Office of the Secretary –	
24	Administration	60,249
25		
26	09. Child Welfare Training	2,550,000
27		
28	10. Boys and Girls Clubs	1,000,000
29		
30	11. Work Central Career Advancement Center	550,000
31		
32	12. Special Children's Adoption Fund	3,000,000
33		
34	13. Maternity Homes	838,000
35		
36	14. After-School Programs for At-Risk Youth in	
37	Middle Schools	500,000
38		
39	15. Pregnancy Prevention Initiatives	2,500,000
40		
41	16. Subsidized Child Care for TANF Recipients	35,331,547
42		
43	17. TANF Automation Projects	592,500
44		
45	18. NC FAST Implementation	2,717,298
46		
47	19. Transfer to the Child Care and	
48	Development Fund Block Grant	
49	for child care subsidies	81,292,880
50		
51	20. Transfer to Social Services Block Grant for	
52	County Departments of Social Services for	
53	Children's Services	4,500,000

1		
2	TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES	
3	(TANF) BLOCK GRANT	\$356,888,120
4		
5	MATERNAL AND CHILD HEALTH BLOCK GRANT	
6		
7	01. Healthy Mothers/Healthy Children	
8	Block Grants to Aid-to-County	9,189,236
9		
10	02. Children's Health Services Aid-to-County	7,364,216
11		
12	03. Healthy Beginnings Aid-to-County	404,559
13		
14	04. Maternal Health Aid-to-County	397,761
15		
16	05. Children's Health Services	2,878,883
17		
18	06. Office of Women's Health and	
19	Maternal Health Activities	114,063
20		
21	07. State Center for Health Statistics	28,874
22		
23	08. Local Technical Assistance & Training	46,866
24		
25	09. Injury and Violence Prevention	149,438
26		
27	10. Office of Minority Health	99,352
28		
29	11. Special Supplemental Nutrition Program	
30	for Women, Infants and Children (WIC)	25,713
31		
32	12. Immunization Program – Vaccine Distribution	819,997
33		
34	13. Administration	518,137
35		
36	14. Adolescent Pregnancy Prevention Coalition of NC	150,000
37		
38	TOTAL MATERNAL AND CHILD	
39	HEALTH BLOCK GRANT	\$ 22,207,095
40		
41	PREVENTIVE HEALTH SERVICES BLOCK GRANT	
42		
43	01. Statewide Health Promotion Programs	\$3,653,520
44		
45	02. Rape Crisis/Victims' Services	
46	Program – Council for Women	197,112
47		
48	03. Transfer from Social Services	
49	Block Grant – HIV/AIDS education,	
50	counseling, and testing	145,819
51		
52	04. Oral Health	134,251
53		

1	05. Administration and Program Support	121,271
2		
3	06. Osteoporosis Task Force Operating Costs	150,000
4		
5	TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT	\$4,401,973
6		

GENERAL PROVISIONS

8 **SECTION 5.1.(b)** Information to Be Included in Block Grant Plans. – The
9 Department of Health and Human Services shall submit a separate plan for each Block
10 Grant received and administered by the Department, and each plan shall include the
11 following:

- 12 (1) A delineation of the proposed allocations by program or activity,
13 including State and federal match requirements.
- 14 (2) A delineation of the proposed State and local administrative
15 expenditures.
- 16 (3) An identification of all new positions to be established through the
17 Block Grant, including permanent, temporary, and time-limited
18 positions.
- 19 (4) A comparison of the proposed allocations by program or activity with
20 two prior years' program and activity budgets and two prior years'
21 actual program or activity expenditures.
- 22 (5) A projection of current year expenditures by program or activity.
- 23 (6) A projection of federal Block Grant funds available, including unspent
24 federal funds from the current and prior fiscal years.

25 **SECTION 5.1.(c)** Changes in Federal Fund Availability. – If the Congress
26 of the United States increases the federal fund availability for any of the Block Grants
27 administered by the Department of Health and Human Services from the amounts
28 appropriated in this section, the Department shall allocate the increase proportionally
29 across the program and activity appropriations identified for that Block Grant in this
30 section. In allocating an increase in federal fund availability, the Department shall not
31 propose funding for new programs or activities not appropriated in this section or
32 increase State administrative expenditures.

33 If the Congress of the United States decreases the federal fund availability for
34 any of the Block Grants administered by the Department of Health and Human Services
35 from the amounts appropriated in this section, the Department shall reduce State
36 administration by at least the percentage of the reduction in federal funds. After
37 determining the State administration, the remaining reductions shall be allocated
38 proportionately across the program and activity appropriations identified for that Block
39 Grant in this section. In allocating a decrease in federal fund availability, the
40 Department shall not eliminate the funding for a program or activity appropriated in this
41 section unless it is related to the State administration.

42 Prior to allocating the change in federal fund availability, the proposed
43 allocation must be approved by the Office of State Budget and Management. If the
44 Department adjusts the allocation of any Block Grant due to changes in federal fund
45 availability, then a report shall be made to the Joint Legislative Commission on
46 Governmental Operations, the House of Representatives Appropriations Subcommittee
47 on Health and Human Services, the Senate Appropriations Committee on Health and
48 Human Services, and the Fiscal Research Division.

49 **SECTION 5.1.(d)** All changes to the budgeted allocations to the Block
50 Grants administered by the Department of Health and Human Services that are not
51 specifically addressed in this section shall be approved by the Office of State Budget
52 and Management, and a report shall be submitted to the Joint Legislative Commission
53 on Governmental Operations for review prior to implementing the changes. All changes

1 to the budgeted allocations to the Block Grant shall be reported immediately to the
2 House of Representatives Appropriations Subcommittee on Health and Human
3 Services, the Senate Appropriations Committee on Health and Human Services, and the
4 Fiscal Research Division.

5 **SECTION 5.1.(e)** The Department of Health and Human Services shall
6 develop a monitoring and oversight plan for all recipients, both public and private, and
7 subrecipients of the federal Block Grant funding. The plan shall be modeled after the
8 Department's performance contracting initiative and include the following:

- 9 (1) Performance standards for recipients.
- 10 (2) Financial audit standards for non-State entities equivalent to the
11 requirements in G.S. 143-6.2 for non-State entities receiving State
12 funds.
- 13 (3) Means for collecting performance data from recipients.
- 14 (4) Any other information necessary for monitoring and overseeing the
15 use of Block Grant funding.

16 The Department shall provide the plan to the Fiscal Research Division by January 1,
17 2006.

18 **SECTION 5.1.(f)** The Department of Health and Human Services shall
19 report to the House of Representatives Appropriations Subcommittee on Health and
20 Human Services, the Senate Appropriations Committee on Health and Human Services,
21 and the Fiscal Research Division on positions funded from federal Block Grants. The
22 report shall include the following for each Block Grant:

- 23 (1) All State positions currently funded through the Block Grant,
24 including permanent, temporary, and time-limited positions.
- 25 (2) Budgeted salary and fringe benefits for each position.
- 26 (3) Identify the percentage of Block Grant funds used to fund each
27 position.

28 The report shall be submitted no later than December 1, 2005.

29 **SOCIAL SERVICES BLOCK GRANT**

30 **SECTION 5.1.(g)** Social Services Block Grant funds appropriated to the
31 North Carolina Inter-Agency Council for Coordinating Homeless Program are exempt
32 from the provisions of 10A NCAC 71R.0201(3).

33 **LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM**

34 **SECTION 5.1.(h)** Additional emergency contingency funds received may
35 be allocated for Energy Assistance Payments or Crisis Intervention Payments without
36 prior consultation with the Joint Legislative Commission on Governmental Operations.
37 Additional funds received shall be reported to the Joint Legislative Commission on
38 Governmental Operations and the Fiscal Research Division upon notification of the
39 award. The Department of Health and Human Services shall not allocate funds for any
40 activities, including increasing administration, other than assistance payments, without
41 prior consultation with the Joint Legislative Commission on Governmental Operations.

42 **MENTAL HEALTH BLOCK GRANT**

43 **SECTION 5.1.(i)** The sum of one million five hundred thousand dollars
44 (\$1,500,000) appropriated in this section in the Mental Health Block Grant to the
45 Department of Health and Human Services, Division of Mental Health, Developmental
46 Disabilities, and Substance Abuse Services, for the 2005-2006 fiscal year, and the sum
47 of four hundred twenty-two thousand three dollars (\$422,003) appropriated in this
48 section in the Social Services Block Grant to the Department of Health and Human
49 Services, Division of Social Services, for the 2005-2006 fiscal year shall be used to
50 continue a Comprehensive Treatment Services Program for Children in accordance with
51 Section 10.25 of this act.

52 **SECTION 5.1.(j)** The Department of Health and Human Services shall
53 contract with the University of North Carolina at Chapel Hill for the purpose of

1 providing psychology student stipends in the amount of fifty thousand dollars (\$50,000)
2 for the 2005-2006 fiscal year. Twenty-five thousand dollars (\$25,000) of this contract
3 shall be paid from the Mental Health Block Grant.

4 **CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT**

5 **SECTION 5.1.(k)** The sum of no more than four hundred thousand dollars
6 (\$400,000) appropriated in this section to the Department of Health and Human
7 Services in the Child Care and Development Fund Block Grant may be used for the
8 operations of the Medical Child Care Pilot.

9 **SECTION 5.1.(l)** Payment for subsidized child care services provided with
10 federal TANF funds shall comply with all regulations and policies issued by the
11 Division of Child Development and School Readiness for the subsidized child care
12 program.

13 **SECTION 5.1.(m)** If funds appropriated through the Child Care and
14 Development Fund Block Grant for any program cannot be obligated or spent in that
15 program within the obligation or liquidation periods allowed by the federal grants, the
16 Department may move funds to child care subsidies, unless otherwise prohibited by
17 federal requirements of the grant, in order to use the federal funds fully.

18 **TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT**
19 **(TANF)**

20 **SECTION 5.1.(n)** The sum of four hundred sixteen thousand five hundred
21 forty dollars (\$416,540) appropriated in this section in the TANF Block Grant to the
22 Department of Health and Human Services, Division of Social Services, for the
23 2005-2006 fiscal year shall be used to support administration of TANF-funded
24 programs.

25 **SECTION 5.1.(o)** The sum of two million seven hundred forty-nine
26 thousand six hundred forty-two dollars (\$2,749,642) appropriated in this section in the
27 TANF Block Grant to the Department of Health and Human Services and transferred to
28 the Department of Juvenile Justice and Delinquency Prevention for the 2005-2006 fiscal
29 year shall be used to support the existing Support Our Students Program, including gang
30 prevention, and to expand the Program statewide, focusing on low-income communities
31 in unserved areas. These funds shall not be used for administration of the Program.

32 **SECTION 5.1.(p)** The sum of one million two hundred thousand dollars
33 (\$1,200,000) appropriated under this section in the TANF Block Grant to the
34 Department of Health and Human Services, Division of Social Services, for the
35 2005-2006 fiscal year shall be used to provide domestic violence services to Work First
36 recipients. These funds shall be used to provide domestic violence counseling, support,
37 and other direct services to clients. These funds shall not be used to establish new
38 domestic violence shelters or to facilitate lobbying efforts. The Division of Social
39 Services may use up to seventy-five thousand dollars (\$75,000) in TANF funds to
40 support one administrative position within the Division of Social Services to implement
41 this subsection.

42 Each county department of social services and the local domestic violence
43 shelter program serving the county shall jointly develop a plan for utilizing these funds.
44 The plan shall include the services to be provided and the manner in which the services
45 shall be delivered. The county plan shall be signed by the county social services director
46 or the director's designee and the domestic violence program director or the director's
47 designee and submitted to the Division of Social Services by December 1, 2005. The
48 Division of Social Services, in consultation with the Council for Women, shall review
49 the county plans and shall provide consultation and technical assistance to the
50 departments of social services and local domestic violence shelter programs, if needed.

51 The Division of Social Services shall allocate these funds to county
52 departments of social services according to the following formula: (i) each county shall
53 receive a base allocation of five thousand dollars (\$5,000); and (ii) each county shall

1 receive an allocation of the remaining funds based on the county's proportion of the
2 statewide total of the Work First caseload as of July 1, 2005, and the county's proportion
3 of the statewide total of the individuals receiving domestic violence services from
4 programs funded by the Council for Women as of July 1, 2005. The Division of Social
5 Services may reallocate unspent funds to counties that submit a written request for
6 additional funds.

7 The Department of Health and Human Services shall report on the uses of
8 these funds no later than March 1, 2006, to the House of Representatives Appropriations
9 Subcommittee on Health and Human Services, the Senate Appropriations Committee on
10 Health and Human Services, and the Fiscal Research Division.

11 **SECTION 5.1.(q)** The sum of two million two hundred forty-nine thousand
12 six hundred forty-two dollars (\$2,249,642) appropriated in this section in the TANF
13 Block Grant to the Department of Health and Human Services, Division of Social
14 Services, shall be used to expand after-school programs and services for at-risk children.
15 The Department shall develop and implement a grant program to award grants to
16 community-based programs that demonstrate the ability to reach children at risk of teen
17 pregnancy, school dropout, and gang participation. The Department shall award grants
18 to community-based organizations that demonstrate the ability to develop and
19 implement linkages with local departments of social services, area mental health
20 programs, schools, and other human services programs in order to provide support
21 services and assistance to the child and family. These funds may be used to fund one
22 position within the Division of Social Services to coordinate at-risk after-school
23 programs and shall not be used for other State administration. The Department shall
24 report no later than March 1, 2006, on its progress in complying with this section to the
25 House of Representatives Appropriations Subcommittee on Health and Human
26 Services, the Senate Appropriations Committee on Health and Human Services, and the
27 Fiscal Research Division.

28 **SECTION 5.1.(r)** The sum of twelve million four hundred fifty-two
29 thousand three hundred ninety-one dollars (\$12,452,391) appropriated in this section to
30 the Department of Health and Human Services, Division of Social Services, in the
31 TANF Block Grant for the 2005-2006 fiscal year for Child Welfare Improvements, shall
32 be allocated to the county departments of social services for hiring or contracting staff
33 to investigate and provide services in Child Protective Services cases; to provide foster
34 care and support services; to recruit, train, license, and support prospective foster and
35 adoptive families; and to provide interstate and postadoption services for eligible
36 families.

37 **SECTION 5.1.(s)** The sum of two million five hundred fifty thousand
38 dollars (\$2,550,000) appropriated in this section in the TANF Block Grant to the
39 Department of Health and Human Services, Division of Social Services, for fiscal year
40 2005-2006 shall be used to support various child welfare training projects as follows:

- 41 (1) Provide a regional training center in southeastern North Carolina.
- 42 (2) Support the Masters Degree in Social Work/Baccalaureate Degree in
43 Social Work Collaborative.
- 44 (3) Provide training for residential child care facilities.
- 45 (4) Provide for various other child welfare training initiatives.

46 **SECTION 5.1.(t)** The sum of eight hundred thirty-eight thousand dollars
47 (\$838,000) appropriated in this section in the TANF Block Grant to the Department of
48 Health and Human Services shall be used to purchase services at maternity homes
49 throughout the State.

50 **SECTION 5.1.(u)** The sum of three million dollars (\$3,000,000)
51 appropriated in this section in the TANF Block Grant to the Department of Health and
52 Human Services, Special Children Adoption Fund, for the 2005-2006 fiscal year shall
53 be used in accordance with Section 10.48 of this act. The Division of Social Services,

1 in consultation with the North Carolina Association of County Directors of Social
2 Services and representatives of licensed private adoption agencies, shall develop
3 guidelines for the awarding of funds to licensed public and private adoption agencies
4 upon the adoption of children described in G.S. 108A-50 and in foster care. Payments
5 received from the Special Children Adoption Fund by participating agencies shall be
6 used exclusively to enhance the adoption services program. No local match shall be
7 required as a condition for receipt of these funds.

8 **SECTION 5.1.(v)** The sum of one million seven hundred six thousand sixty
9 three dollars (\$1,706,063) appropriated in this section in the TANF Block Grant and
10 transferred to the Social Services Block Grant to the Department of Health and Human
11 Services, Division of Social Services, for child caring agencies for the 2005-2006 fiscal
12 year shall be allocated to the State Private Child Caring Agencies Fund.

13 **SECTION 5.1.(w)** The sum of one million dollars (\$1,000,000) appropriated
14 in this section to the Department of Health and Human Services in the TANF Block
15 Grant for Boys and Girls Clubs shall be used to make grants for approved programs.
16 The Department of Health and Human Services, in accordance with federal regulations
17 for the use of TANF Block Grant funds, shall administer a grant program to award
18 funds to the Boys and Girls Clubs across the State in order to implement programs that
19 improve the motivation, performance, and self-esteem of youths and to implement other
20 initiatives that would be expected to reduce gang participation, school dropout, and teen
21 pregnancy rates. The Department shall encourage and facilitate collaboration between
22 the Boys and Girls Clubs and Support Our Students, Communities in Schools, and
23 similar programs to submit joint applications for the funds if appropriate.

24 **SECTION 5.1.(x)** The sum of five hundred fifty thousand dollars (\$550,000)
25 appropriated in this section to the Department of Health and Human Services in the
26 TANF Block Grant shall be transferred to Work Central, Inc. Work Central, Inc., shall
27 report on the number of people served and the services received as a result of the receipt
28 of funds. The report shall contain expenditure data, including the amount of funds used
29 for administration and direct training. The report shall also include the number of people
30 who have been employed as a direct result of services provided by Work Central, Inc.,
31 including the length of employment in the new position. The Department of Health and
32 Human Services shall evaluate the program and ensure that services provided are not
33 duplicative of local employment security commissions in the nine counties served by
34 Work Central, Inc. The evaluation report shall be submitted to the House of
35 Representatives Appropriations Subcommittee on Health and Human Services, the
36 Senate Appropriations Committee on Health and Human Services, and the Fiscal
37 Research Division no later than May 1, 2006.

38 **SECTION 5.1.(y)** The sum of two million seven hundred seventeen
39 thousand two hundred ninety-eight dollars (\$2,717,298) in this section appropriated to
40 the Department of Health and Human Services in the TANF Block Grant shall be used
41 to implement N.C. FAST (North Carolina Families Accessing Services through
42 Technology). The N.C. FAST Program involves the entire automation initiative through
43 which families access services and local departments of social services deliver benefits,
44 supervised by the Department of Health and Human Services, Divisions of Social
45 Services, Aging and Adult Services, Medical Assistance, and Child Development. The
46 statewide automated initiative shall be implemented in compliance with federal
47 regulations in order to ensure federal financial participation in the project. The
48 Department of Health and Human Services shall report on its compliance with this
49 subsection to the House of Representatives Appropriations Subcommittee on Health and
50 Human Services, the Senate Appropriations Committee on Health and Human Services,
51 and the Fiscal Research Division no later than January 1, 2006.

52 **SECTION 5.1.(z)** The sum of five hundred thousand dollars (\$500,000)
53 appropriated in this section to the Department of Health and Human Services, Division

1 of Social Services, in the TANF Block Grant shall be used to expand after-school
 2 programs for at-risk children attending middle school. The Department shall develop
 3 and implement a grant program to award funds to community-based programs
 4 demonstrating the capacity to reach children at risk of teen pregnancy, school dropout,
 5 and gang participation. These funds shall not be used for training or administration at
 6 the State level. All funds shall be distributed to community-based programs, focusing on
 7 those communities where similar programs do not exist in middle schools. The
 8 Department shall report to the House of Representatives Appropriations Subcommittee
 9 on Health and Human Services, the Senate Appropriations Committee on Health and
 10 Human Services, and the Fiscal Research Division on its progress in complying with
 11 this subsection no later than May 1, 2006.

12 **MATERNAL AND CHILD HEALTH BLOCK GRANT**

13 **SECTION 5.1.(aa)** If federal funds are received under the Maternal and
 14 Child Health Block Grant for abstinence education, pursuant to section 912 of Public
 15 Law 104-193 (42 U.S.C. § 710), for the 2005-2006 fiscal year, then those funds shall be
 16 transferred to the State Board of Education to be administered by the Department of
 17 Public Instruction. The Department of Public Instruction shall use the funds to establish
 18 an Abstinence Until Marriage Education Program and shall delegate to one or more
 19 persons the responsibility of implementing the program and G.S. 115C-81(e1)(4). The
 20 Department of Public Instruction shall carefully and strictly follow federal guidelines in
 21 implementing and administering the abstinence education grant funds.

22 **SECTION 5.1.(bb)** The Department of Health and Human Services shall
 23 ensure that there will be follow-up testing in the Newborn Screening Program.

24 **SECTION 5.1.(cc)** Of the funds budgeted in the Maternal and Child Health
 25 Block Grant, three million two hundred fifty thousand dollars (\$3,250,000) shall be
 26 used for a school nurse funding initiative for the 2005-2006 fiscal year. The Department
 27 of Health and Human Services, Division of Public Health, in conjunction with the
 28 Department of Public Instruction, shall provide funds to communities to hire school
 29 nurses. The program will fund approximately 65 time-limited nurses. The criteria shall
 30 include determining the areas in the greatest need for school nurses with the greatest
 31 inability to pay for these nurses. Among other criteria, consideration shall also be given
 32 to (i) the current nurse-to-student ratio; (ii) the economic status of the community; and
 33 (iii) the health needs of area children.

34 There shall be no supplanting of local or Title I funds with these block grant
 35 funds. Communities shall maintain their current level of effort and funding for school
 36 nurses. No block grant funds shall be used for funding nurses for State agencies. All
 37 funding shall be used for direct services.

38 The Department of Health and Human Services shall report on the use of
 39 funds allocated under this section by December 1, 2005, to the House of
 40 Representatives Appropriations Subcommittee on Health and Human Services, the
 41 Senate Appropriations Committee on Health and Human Services, and the Fiscal
 42 Research Division.

43
 44 Requested by: Representatives Hunter, Warren

45 **NER BLOCK GRANTS**

46 **SECTION 5.2.(a)** Appropriations from federal block grant funds are made
 47 for fiscal year ending June 30, 2006, according to the following schedule:

48 **COMMUNITY DEVELOPMENT BLOCK GRANT**

49		
50		
51	01. State Administration	\$ 1,000,000
52		
53	02. Urgent Needs and Contingency	1,000,000

1		
2	03. Scattered Site Housing	13,200,000
3		
4	04. Economic Development	8,710,000
5		
6	05. Community Revitalization	13,500,000
7		
8	06. State Technical Assistance	450,000
9		
10	07. Housing Development	2,000,000
11		
12	08. Infrastructure	5,140,000
13		
14	TOTAL COMMUNITY DEVELOPMENT	
15	BLOCK GRANT – 2006 Program Year	\$ 45,000,000
16		

17 **SECTION 5.2.(b)** Decreases in Federal Fund Availability. – If federal funds
 18 are reduced below the amounts specified above after the effective date of this act, then
 19 every program in each of these federal block grants shall be reduced by the same
 20 percentage as the reduction in federal funds.

21 **SECTION 5.2.(c)** Increases in Federal Fund Availability for Community
 22 Development Block Grant. – Any block grant funds appropriated by the Congress of the
 23 United States in addition to the funds specified in this section shall be expended as
 24 follows: each program category under the Community Development Block Grant shall
 25 be increased by the same percentage as the increase in federal funds.

26 **SECTION 5.2.(d)** Limitations on Community Development Block Grant
 27 Funds. – Of the funds appropriated in this section for the Community Development
 28 Block Grant, the following shall be allocated in each category for each program year: up
 29 to one million dollars (\$1,000,000) may be used for State Administration; not less than
 30 one million dollars (\$1,000,000) may be used for Urgent Needs and Contingency; up to
 31 thirteen million two hundred thousand dollars (\$13,200,000) may be used for Scattered
 32 Site Housing; up to eight million seven hundred ten thousand dollars (\$8,710,000) may
 33 be used for Economic Development, including Urban Redevelopment Grants and Small
 34 Business or Entrepreneurial Assistance; not less than thirteen million five hundred
 35 thousand dollars (\$13,500,000) shall be used for Community Revitalization; up to four
 36 hundred fifty thousand dollars (\$450,000) may be used for State Technical Assistance;
 37 up to two million dollars (\$2,000,000) may be used for Housing Development; up to
 38 five million one hundred forty thousand dollars (\$5,140,000) may be used for
 39 Infrastructure. If federal block grant funds are reduced or increased by the Congress of
 40 the United States after the effective date of this act, then these reductions or increases
 41 shall be allocated in accordance with subsection (b) or (c) of this section, as applicable.

42 **SECTION 5.2.(e)** Increase Capacity for Nonprofit Organizations. –
 43 Assistance to nonprofit organizations to increase their capacity to carry out
 44 CDBG-eligible activities in partnership with units of local government is an eligible
 45 activity under any program category in accordance with federal regulations. Capacity
 46 building grants may be made from funds available within program categories, program
 47 income, or unobligated funds.

48 **SECTION 5.2.(f)** Department of Commerce Demonstration Grants in
 49 Partnership with Rural Economic Development Center, Inc. – The Department of
 50 Commerce, in partnership with the Rural Economic Development Center, Inc., shall
 51 award up to two million two hundred fifty thousand dollars (\$2,250,000) in
 52 demonstration grants to local governments in very distressed rural areas of the State.

1 These grants shall be used to address critical infrastructure and entrepreneurial needs
2 and to provide small business assistance.

3 **SECTION 5.2.(g)** The Department of Commerce shall consult with the Joint
4 Legislative Commission on Governmental Operations prior to reallocating Community
5 Development Block Grant Funds. Notwithstanding the provisions of this subsection,
6 whenever the Director of the Budget finds that:

- 7 (1) A reallocation is required because of an emergency that poses an
8 imminent threat to public health or public safety, the Director of the
9 Budget may authorize the reallocation without consulting the
10 Commission. The Department of Commerce shall report to the
11 Commission on the reallocation no later than 30 days after it was
12 authorized and shall identify in the report the emergency, the type of
13 action taken, and how it was related to the emergency.
- 14 (2) The State will lose federal block grant funds or receive less federal
15 block grant funds in the next fiscal year unless a reallocation is made,
16 the Department of Commerce shall provide a written report to the
17 Commission on the proposed reallocation and shall identify the reason
18 that failure to take action will result in the loss of federal funds. If the
19 Commission does not hear the issue within 30 days of receipt of the
20 report, the Department may take the action without consulting the
21 Commission.

22 23 **PART VI. GENERAL PROVISIONS**

24
25 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
26 Michaux

27 **APPROPRIATION OF CASH BALANCES AND RECEIPTS**

28 **SECTION 6.1.(a)** Expenditures of cash balances, federal funds,
29 departmental receipts, grants, and gifts from the various General Fund, Special Revenue
30 Fund, Enterprise Fund, Internal Service Fund, and Trust and Agency Fund budget codes
31 are appropriated and authorized for the 2005-2007 fiscal biennium as follows:

- 32 (1) For all budget codes listed in "State of North Carolina, Recommended
33 Continuation Budget 2005-2007, Volumes 1 through 6", cash balances
34 and receipts are appropriated up to the amounts specified in Volumes 1
35 through 6, as adjusted by the General Assembly, for the 2005-2006
36 fiscal year and the 2006-2007 fiscal year. Funds may be expended only
37 for the programs, purposes, objects, and line items specified in
38 Volumes 1 through 6, or otherwise authorized by the General
39 Assembly.
- 40 (2) For all budget codes that are not listed in "State of North Carolina,
41 Recommended Continuation Budget 2005-2007, Volumes 1 through
42 6", cash balances and receipts are appropriated for each year of the
43 2005-2007 fiscal biennium up to the level of actual expenditures for
44 the 2004-2005 fiscal year, unless otherwise provided by law. Funds
45 may be expended only for the programs, purposes, objects, and line
46 items authorized for the 2004-2005 fiscal year.
- 47 (3) Notwithstanding subdivisions (1) and (2) of this subsection, any
48 receipts that are required to be used to pay debt service requirements
49 for various outstanding bond issues and certificates of participation are
50 appropriated up to the actual amounts received for the 2005-2006
51 fiscal year and the 2006-2007 fiscal year and shall be used only to pay
52 debt service requirements.

- 1 (4) Notwithstanding subdivisions (1) and (2) of this subsection, cash
2 balances and receipts of funds that meet the definition issued by the
3 Governmental Accounting Standards Board of a trust or agency fund
4 are appropriated for and in the amounts required to meet the legal
5 requirements of the trust agreement for the 2005-2006 fiscal year and
6 the 2006-2007 fiscal year.

7 All these cash balances, federal funds, departmental receipts, grants, and gifts
8 shall be expended and reported in accordance with the provisions of the Executive
9 Budget Act, except as otherwise provided by law and this section.

10 **SECTION 6.1.(b)** Receipts collected in a fiscal year in excess of the
11 amounts authorized by this section shall remain unexpended and unencumbered until
12 appropriated by the General Assembly in a subsequent fiscal year, unless the
13 expenditure of overrealized receipts in the fiscal year in which the receipts were
14 collected is authorized by the Executive Budget Act.

15 Overrealized receipts are appropriated up to the amounts necessary to
16 implement this subsection.

17 In addition to the consultation and reporting requirements set out in
18 G.S. 143-23 and G.S. 143-27, the Office of State Budget and Management shall report
19 to the Joint Legislative Commission on Governmental Operations and to the Fiscal
20 Research Division of the Legislative Services Office within 30 days after the end of
21 each quarter on any overrealized receipts approved for expenditure under this
22 subsection by the Director of the Budget. The report shall include the source of the
23 receipt, the amount overrealized, the amount authorized for expenditure, and the
24 rationale for expenditure.

25 **SECTION 6.1.(c)** Notwithstanding subsections (a) and (b) of this section,
26 there is appropriated from the Reserve for Reimbursements to Local Governments and
27 Shared Tax Revenues for each fiscal year an amount equal to the amount of the
28 distributions required by law to be made from that reserve for that fiscal year.

29 **SECTION 6.1.(d)** Notwithstanding subsections (a) and (b) of this section, if
30 Senate Bill 1126, 2005 Session, or substantially similar legislation revising the Coastal
31 Recreational Fishing License program or establishing a unified fishing license for
32 hunting and fishing in coastal, joint, and inland waters, becomes law, any receipts from
33 license revenues generated pursuant to such legislation are hereby appropriated for the
34 2005-2006 fiscal year and the 2006-2007 fiscal year for programs and purposes
35 authorized by law.

36
37 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
38 Michaux

39 **CONTINGENCY AND EMERGENCY FUND ALLOCATIONS**

40 **SECTION 6.2.** Funds in the amount of five million dollars (\$5,000,000) for
41 the 2005-2006 fiscal year and five million dollars (\$5,000,000) for the 2006-2007 fiscal
42 year are appropriated in this act to the Contingency and Emergency Fund. Of these
43 funds:

- 44 (1) Up to five hundred thousand dollars (\$500,000) for the 2005-2006
45 fiscal year may be used for purposes related to the Base Realignment
46 and Closure Act (BRAC); and
47 (2) Up to five hundred thousand dollars (\$500,000) for the 2005-2006
48 fiscal year and up to five hundred thousand dollars (\$500,000) for the
49 2006-2007 fiscal year may be expended for purposes other than those
50 set out in G.S. 143-23(a1)(2) or in subdivision (1) of this section.

51 The remainder of these funds shall be expended for purposes outlined in
52 G.S. 143-23(a1)(2).
53

1 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
2 Michaux

3 **EXPENDITURES OF FUNDS IN RESERVES LIMITED**

4 **SECTION 6.3.** All funds appropriated by this act into reserves may be
5 expended only for the purposes for which the reserves were established.
6

7 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
8 Michaux

9 **BUDGET REPORTS ACCURATELY REFLECT PROJECTED RECEIPTS,
10 EXPENDITURES, FUND BALANCES, AND ACTUAL COLLECTIONS**

11 **SECTION 6.4.** G.S. 143-11(a) reads as rewritten:

12 **"§ 143-11. Survey of departments, departments and recommended budget report.**

13 (a) On or before the fifteenth day of December, biennially in the even-numbered
14 years, the Director shall make a complete, careful survey of the operation and
15 management of all the departments, bureaus, divisions, officers, boards, commissions,
16 institutions, and agencies and undertakings of the State and all persons or corporations
17 who use or expend State funds, in the interest of economy and efficiency, and of
18 obtaining a working knowledge upon which to base recommendations to the General
19 Assembly as to appropriations for maintenance and special funds and capital
20 expenditures for the succeeding biennium. If the Director and the Commission shall
21 agree in their recommendations for the budget for the next biennial period, he shall
22 prepare their report in the form of a proposed budget, together with such comment and
23 recommendations as they may deem proper to make. If the Director and Commission
24 shall not agree in substantial particulars, the Director shall prepare the proposed budget
25 based on his own conclusions and judgment, and the Commission or any of its members
26 retain the right to submit separately to the General Assembly such statement of
27 disagreement and the particulars thereof as representing their views. The budget report
28 shall contain a complete and itemized plan of all proposed expenditures for each State
29 department, bureau, board, division, institution, commission, State agency or
30 undertaking, person or corporation who receives or may receive for use and expenditure
31 any State funds, in accordance with the classification of funds and accounts adopted by
32 the State Controller, and of the estimated revenues and borrowings for each year in the
33 ensuing biennial period beginning with the first day of July thereafter. Opposite each
34 line item of the proposed expenditures, the budget shall show in separate parallel
35 columns:

- 36 (1) Proposed expenditures and receipts for each fiscal year of the
37 biennium;
- 38 (2) The certified budget for the preceding fiscal year;
- 39 (3) The currently authorized budget for the preceding fiscal year;
- 40 (4) Actual expenditures and receipts for the most recent fiscal year for
41 which actual expenditure information is available; and
- 42 (5) Proposed increases and decreases.

43 Revenue and expenditure information shall be no less specific than the two-digit level in
44 the State Accounting System Chart of Accounts as prescribed by the State Controller.
45 The budget shall clearly differentiate between general fund expenditures for operating
46 and maintenance, special fund expenditures for any purpose, and proposed capital
47 improvements. The budget report shall include accurate projections of receipts,
48 expenditures, and fund balances for all budget codes, funds, and accounts. Estimated
49 receipts, including tuition collected by university or community college institutions,
50 shall be adjusted to reflect actual collections from the previous fiscal year, unless the
51 Director either (i) recommends a change that will result in collections in the budget year
52 that differ from the actual collections of the prior year or (ii) otherwise determines there
53 is a more reasonable basis upon which to accurately project receipts."

1
2 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
3 Michaux

4 **AUTHORIZATION TO ESTABLISH RECEIPT-SUPPORTED POSITIONS**

5 **SECTION 6.5.** Notwithstanding G.S. 143-34.1(a1), a department,
6 institution, or other agency of State government may establish receipt-supported
7 positions authorized in this act upon approval by the Director of the Budget. The
8 Director, if necessary, may establish a receipt-supported position pursuant to this
9 section at an annual salary amount different from the salary amount set out in this act if
10 (i) funds are available from the proposed funding source and (ii) the alternative salary
11 amount remains within the established salary range grade identified for the job
12 classification of the affected receipt-supported position established in this act. The
13 Director shall not change the job classifications or increase the number of
14 receipt-supported positions specified in this act without prior consultation with the Joint
15 Legislative Commission on Governmental Operations.

16
17 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
18 Michaux

19 **DEVELOP AND IMPLEMENT OVERHEAD COST RECOVERY**

20 **SECTION 6.6.(a)** The General Assembly finds that the General Fund
21 supports many State agencies that provide services and administer programs that impact
22 all of State government. These agencies include the Office of the Governor, the Office
23 of State Controller, the Department of Administration, including the Office of State
24 Personnel, State Property Office, Office of State Construction, and the Division of
25 Purchase and Contract, the Secretary of State, the Office of State Treasurer, and the
26 Office of State Auditor. The General Assembly also finds that the General Fund
27 supports the departmental administrative overhead costs for many receipt-supported
28 programs, activities, boards, and commissions. The General Assembly further finds that
29 only federally funded programs routinely reimburse the State for such administrative
30 overhead activities through an indirect cost allocation method. The General Assembly
31 finds that an indirect cost allocation program should be established to recover overhead
32 and indirect costs from all receipt-supported programs, activities, boards, and
33 commissions.

34 **SECTION 6.6.(b)** The Office of State Budget and Management shall study
35 the collection of overhead receipts and develop an overhead cost recovery program. In
36 implementing this section, the Office of State Budget and Management shall do the
37 following:

- 38 (1) For each receipt, determine the authority and requirements for the
39 allocation of overhead costs and collection of overhead receipts.
- 40 (2) For each receipt for which the State currently redirects a portion for
41 overhead costs, ensure that all future receipts revert to the General
42 Fund in accordance with the State Budget Manual, except as otherwise
43 required by law.
- 44 (3) For each receipt for which the State does not currently redirect a
45 portion for overhead costs, establish an indirect cost allocation
46 methodology and redirect a portion of future receipts for overhead
47 costs to the General Fund, except as otherwise required by law.
- 48 (5) Estimate the anticipated reimbursement to the General Fund for the
49 2006-2007 fiscal year.
- 50 (6) Effective with the 2006-2007 fiscal year, the Office of State Budget
51 and Management shall implement the overhead cost recovery program
52 to maximize reimbursement of statewide indirect costs supported by
53 the General Fund.

1 **SECTION 6.6.(c)** The Office of State Budget and Management shall report
2 on its progress in implementing this section to the Chairs of the Senate Committee on
3 Appropriations/Base Budget, the Chairs of the House of Representatives Committee on
4 Appropriations, and the Fiscal Research Division by April 1, 2006. The report shall
5 recommend any statutory changes required to implement the requirements of this
6 section.

7 **SECTION 6.6.(d)** The requirements of this section shall apply to all receipts
8 credited to a State agency, special revenue fund, enterprise fund, internal service fund,
9 or trust fund, except as otherwise provided by law.

10 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
11 Michaux

12 **PRIOR CONSULTATION WITH THE JOINT LEGISLATIVE COMMISSION**
13 **ON GOVERNMENTAL OPERATIONS**

14 **SECTION 6.7.(a)** The last paragraph of G.S. 120-76(8) is recodified as
15 G.S. 120-76.1 and reads as rewritten:

16 "**§ 120-76.1. Prior consultation with the Commission.**

17 (a) Notwithstanding the provisions of ~~this subdivision~~ G.S. 120-76(8) or any
18 other provision of law requiring prior consultation by the Governor with the
19 Commission, whenever an expenditure is required because of an emergency that poses
20 an imminent threat to public health or public safety, and is either the result of a natural
21 event, such as a hurricane or a flood, or an accident, such as an explosion or a wreck,
22 the Governor may take action ~~under this subsection~~ without consulting the Commission
23 if the action is determined by the Governor to be related to the emergency. The
24 Governor shall report to the Commission on any expenditures made under this
25 ~~paragraph~~ subsection no later than 30 days after making the expenditure and shall
26 identify in the report the emergency, the type of action taken, and how it was related to
27 the emergency.

28 (b) Any agency, board, commission, or other entity required under
29 G.S. 120-76(8) or any other provision of law to consult with the Commission prior to
30 taking an action shall submit a detailed report of the action under consideration to the
31 Chairs of the Commission, the Commission Assistant, and the Fiscal Research Division
32 of the General Assembly. If the Commission does not hold a meeting to hear the
33 consultation within 60 days of receiving the submission of the detailed report, the
34 consultation requirement is satisfied."
35

36 **SECTION 6.7.(b)** G.S. 143-23(a1) reads as rewritten:

37 "(a1) Notwithstanding the provisions of subsection (a) of this section, a department,
38 institution, or other spending agency may, with approval of the Director of the Budget,
39 spend more than was appropriated for:

- 40 (1) An object or line item within a purpose or program so long as the total
41 amount expended for the purpose or program is no more than was
42 appropriated from all sources for the purpose or program for the fiscal
43 period;
- 44 (2) A purpose or program, without consultation with the Joint Legislative
45 Commission on Governmental Operations, if the overexpenditure of
46 the purpose or program is:
- 47 a. Required by a court, Industrial Commission, or administrative
48 hearing officer's order;
- 49 b. Required to respond to an unanticipated disaster such as a fire,
50 hurricane, or tornado; or
- 51 c. Required to call out the National Guard.

The Director of the Budget shall report on a quarterly basis to the Joint Legislative Commission on Governmental Operations on any overexpenditures under this subdivision; or

- (3) A purpose or program, after consultation with the Joint Legislative Commission on Governmental Operations in accordance with G.S. 120-76(8), and only if: (i) the overexpenditure is required to continue the purpose or programs due to complications or changes in circumstances that could not have been foreseen when the budget for the fiscal period was enacted and (ii) the scope of the purpose or program is not increased. The consultation is required as follows:
 - a. For a purpose or program with a certified budget of up to five million dollars (\$5,000,000), consultation is required when the authorization for the overexpenditure exceeds ten percent (10%) of the certified budget;
 - b. For a purpose or program with a certified budget of from five million dollars (\$5,000,000) up to twenty million dollars (\$20,000,000), consultation is required when the authorization for the overexpenditure exceeds five hundred thousand dollars (\$500,000) or seven and one-half percent (7.5%) of the certified budget, whichever is greater;
 - c. For a purpose or program with a certified budget of twenty million dollars (\$20,000,000) or more, consultation is required when the authorization for the overexpenditure exceeds one million five hundred thousand dollars (\$1,500,000) or five percent (5%) of the certified budget, whichever is greater;
 - d. For a purpose or program supported by federal funds or when expenditures are required for the reasons set out in subdivision (2) of this subsection, no consultation is required.

~~If the Joint Legislative Commission on Governmental Operations does not meet for more than 30 days, the Director of the Budget may satisfy the requirements of the subsection to report to or consult with the Commission by reporting to or consulting with a joint meeting of the Chairs of the Appropriations Committees of the Senate and the House of Representatives."~~

Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill, Michaux

CONSULTATION NOT REQUIRED PRIOR TO ESTABLISHING OR INCREASING FEES IN ACCORDANCE WITH BUDGET ACT

SECTION 6.8.(a) Notwithstanding G.S. 12-3.1(a), an agency is not required to consult with the Joint Legislative Commission on Governmental Operations prior to establishing or increasing a fee as authorized or anticipated in the Current Operations and Capital Improvements Appropriations Act of 2005 or the House of Representatives Appropriations Committee Report on the Continuation, Expansion and Capital Budgets, which was distributed in the House of Representatives and used to explain this act.

SECTION 6.8.(b) This section expires June 30, 2007.

Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill, Michaux

STATE MONEY RECIPIENTS/CONFLICT OF INTEREST POLICY/VENDOR FRAUD

SECTION 6.9.(a) G.S. 143-6.2 reads as rewritten:
"§ 143-6.2. Use of State funds by non-State entities.

1 (a) Disbursement and Use of State Funds. – Every non-State entity that receives,
2 uses, or expends any State funds shall use or expend the funds only for the purposes for
3 which they were appropriated by the General Assembly. State funds include federal
4 funds that flow through the State. For the purposes of this section, the term "non-State
5 entity" means a firm, corporation, partnership, association, unit of local government,
6 public authority, or any other person, organization, group, or governmental entity that is
7 not a State agency, department, or institution. For the purposes of this section, "unit of
8 local government" has the meaning set out in G.S. 159-7(15) and "public authority" has
9 the meaning set out in G.S. 159-7(10).

10 (a1) Every non-State entity subject to the provisions of subsection (a) of this
11 section shall file with the State agency or department disbursing funds to the entity a
12 copy of that entity's policy addressing conflicts of interest that may arise involving the
13 entity's management employees and the members of its board of directors or other
14 governing body before funds may be disbursed to the entity. The policy shall address
15 situations in which any of these individuals may directly or indirectly benefit, except as
16 the entity's employees or members of the board or other governing body, from the
17 entity's disbursing of State funds, and shall include actions to be taken by the entity or
18 the individual, or both, to avoid conflicts of interest and the appearance of impropriety.

19 (a2) A vendor of goods or services that receives payment from a State agency or
20 department shall not be required to file a conflict of interest policy with the State agency
21 or department disbursing funds.

22 (b) For the purposes of this section, the term "grantee" means a non-State entity
23 that receives a grant of State funds from a State agency, department, or institution but
24 does not include any non-State entity subject to the audit and other reporting
25 requirements of the Local Government Commission. The term "grantee" shall not
26 include a vendor of goods or services. The term "subgrantee" means a non-State entity
27 that receives a grant of State funds from a grantee or from another subgrantee but does
28 not include any non-State entity subject to the audit and other reporting requirements of
29 the Local Government Commission. The terms "State grant funds" and "State grants" do
30 not include any payment made by the Medicaid program, the Teachers' and State
31 Employees' Comprehensive Major Medical Plan, or other similar medical programs.

32 (c) Compliance by Non-State Entities. – If the Director of the Budget finds that a
33 non-State entity has spent or encumbered State funds for an unauthorized purpose, the
34 Director shall take appropriate administrative action to ensure that no further
35 irregularities occur and shall report to the Attorney General any facts that pertain to an
36 apparent violation of a criminal law or an apparent instance of malfeasance,
37 misfeasance, or nonfeasance in connection with the use of State funds.

38 (c1) Fraud by Vendors. – If the Director of the Budget finds that a vendor of
39 goods or services may have obtained State funds fraudulently, the Director shall report
40 all facts that pertain to the alleged fraud to the Attorney General and to the appropriate
41 local law enforcement authorities.

42 (d) The Office of State Budget and Management shall adopt rules to ensure the
43 uniform administration of State grants by all grantor State agencies and grantees or
44 subgrantees. The rules shall establish policies and procedures for disbursements of
45 grants and for State agency oversight, monitoring, and evaluation of grantees and
46 subgrantees. Such policies and procedures shall:

- 47 (1) Ensure that the purpose and reporting requirements of each grant are
48 specified to the grantee.
- 49 (2) Ensure that grantees specify the purpose and reporting requirements
50 for grants made to subgrantees.
- 51 (3) Ensure that funds are spent in accordance with the purposes for which
52 they were granted.

- 1 (4) Hold the grantees and subgrantees accountable for the legal and
2 appropriate expenditure of State grant funds.
- 3 (5) Provide for adequate oversight and monitoring to prevent the misuse
4 of State funds.
- 5 (6) Establish mandatory periodic reporting requirements for grantees and
6 subgrantees, including methods of reporting, to provide financial and
7 program performance information. The mandatory periodic reporting
8 requirements shall require grantees and subgrantees to file with the
9 State Auditor copies of reports and statements that are filed with State
10 agencies pursuant to this subsection.
- 11 (7) Require grantees and subgrantees to maintain reports, records, and
12 other information to properly account for the expenditure of all State
13 grant funds and to make such reports, records, and other information
14 available to the grantor State agency for oversight, monitoring, and
15 evaluation purposes.
- 16 (8) Require grantees and subgrantees to ensure that work papers in the
17 possession of their auditors are available to the State Auditor for the
18 purposes set out in subsection (h) of this section.
- 19 (9) Require grantees to be responsible for managing and monitoring each
20 project, program, or activity supported by State grant funds and each
21 subgrantee project, program, or activity supported by State grant
22 funds.
- 23 (10) Provide procedures for the suspension of further disbursements or use
24 of State grant funds for noncompliance with these rules or other
25 inappropriate use of the funds.
- 26 (11) Provide procedures for use in appropriate circumstances for
27 reinstatement of disbursements that have been suspended for
28 noncompliance with these rules or other inappropriate use of State
29 grant funds.
- 30 (12) Provide procedures for the recovery and return to the grantor State
31 agency of unexpended State grant funds from a grantee or subgrantee
32 if the grantee or subgrantee is unable to fulfill the purposes of the
33 grant.
- 34 (13) Require grantees to report their policies addressing conflicts of interest
35 that may arise involving the entity's management employees and the
36 members of its board of directors or other governing body before funds
37 may be disbursed to the entity. The policy shall meet the requirements
38 of subsection (a1) of this section.

39 (e) Notwithstanding the provisions of G.S. 150B-2(8a)b, rules adopted pursuant
40 to subsection (d) of this section are subject to the provisions of Chapter 150B of the
41 General Statutes.

42 (f) The Office of State Budget and Management shall consult with the Office of
43 the State Auditor and the Attorney General in establishing the rules required by
44 subsection (d) of this section.

45 (g) The Office of State Budget and Management, after consultation with the
46 administering agency, shall have the power to suspend disbursement of State grant
47 funds to grantees or subgrantees, to prevent further use of State grant funds already
48 disbursed, and to recover State grant funds already disbursed for noncompliance with
49 rules adopted pursuant to subsection (d) of this section. If the grant funds are a
50 pass-through of funds granted by an agency of the United States, then the Office of
51 State Budget and Management must consult with the granting agency of the United
52 States and the State agency that is the recipient of the pass-through funds prior to taking
53 the actions authorized by this subsection.

(h) Audit Oversight. – The State Auditor has audit oversight, with respect to State grant funds received by the grantee or subgrantee, pursuant to Article 5A of Chapter 147 of the General Statutes, of every grantee or subgrantee that receives, uses, or expends State grant funds. A grantee or subgrantee must, upon request, furnish to the State Auditor for audit all books, records, and other information necessary for the State Auditor to account fully for the use and expenditure of State grant funds received by the grantee or subgrantee. The grantee or subgrantee must furnish any additional financial or budgetary information requested by the State Auditor, including audit work papers in the possession of any auditor of a grantee or subgrantee directly related to the use and expenditure of State grant funds.

(i) Not later than May 1, 2007, and by May 1 of every succeeding year, the Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on all grantees or subgrantees that failed to comply with this section during the prior fiscal year, including the amount of State funds that were disbursed to each of those grantees or subgrantees during that fiscal year and the amount of State funds that were withheld.

(j) Grantor State agencies shall submit a list to the State Auditor, in the format prescribed by the State Auditor, by October 31 each year of every grantee to which the agency disbursed State funds in the prior fiscal year, the amount disbursed, the amount disbursed to each grantee, and other such information as required by the State Auditor to comply with the requirements set forth in this section.

(k) Civil Actions. – Civil actions to recover State funds or to obtain other mandatory orders in the name of the State on relation of the Attorney General, or in the name of the Office of State Budget and Management, shall be filed in the General Court of Justice in Wake County."

SECTION 6.9.(b) This section applies to non-State entities that receive State funds on or after July 1, 2005, and State funds shall not be disbursed to those entities on or after July 1, 2005, until the entity files the policy required by this section with the disbursing agency or department.

Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill, Michaux

NON-STATE ENTITIES SHALL NOT HAVE OUTSTANDING TAX ASSESSMENTS/APPLICABILITY OF REPORTING REQUIREMENTS

SECTION 6.10.(a) G.S. 143-6.2 is amended by adding a new subsection to read:

"(c1) No Overdue Tax Debts. – No grantee or subgrantee shall receive a grant of State funds from a State agency, department, or institution if the grantee or subgrantee has any overdue tax debts, as defined by G.S. 105-243.1, at the federal, State, or local level."

SECTION 6.10.(b) This section shall apply to all State grant funds appropriated or awarded on or after July 1, 2005. Grants awarded prior to July 1, 2005, shall be subject to the reporting requirements in effect at the time the grant was made.

Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill, Michaux

INFORMATION TECHNOLOGY FUND AVAILABILITY STATEMENT

SECTION 6.13. The availability used to support appropriations made in this act from the Information Technology Fund established in G.S. 147-33.72H is as follows:

	FY 2005-2006	FY 2006-2007
Receipts from Information Technology Enterprise Fee (G.S. 147-33.82)	\$5,000,000	\$5,000,000

1			
2	Transfer from June 30, 2005, Information Technology		
3	Services Internal Service Fund cash balance to		
4	support statewide IT initiatives	\$5,000,000	
5			
6	Appropriation from General Fund	\$24,375,000	\$8,025,000
7			
8	Total Funds Available	\$34,375,000	\$13,025,000.
9			

10 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
11 Michaux

12 **INFORMATION TECHNOLOGY APPROPRIATIONS**

13 **SECTION 6.14.** Appropriations are made from the Information Technology
14 Fund established in G.S. 147-33.72H as follows:

15			
16	Office of Information Technology Services	FY 2005-2006	FY 2006-2007
17	To establish two project management assistant		
18	positions and one enterprise licensing position		
19	and to purchase and maintain asset management		
20	software and enterprise licenses.	\$1,600,000	\$1,400,000
21	To continue existing activities including project		
22	management assistance, security, asset management,		
23	legal support, and legacy system assessment.	\$5,100,000	\$3,300,000
24	To provide services previously supported by		
25	cross subsidies in the rate structure, including		
26	State portal maintenance, security services,		
27	enterprise identity management, and office		
28	operations.	\$6,300,000	\$5,800,000
29	To facilitate consolidation of information		
30	technology services in State agencies.	\$500,000	
31			
32	Office of State Controller		
33	To initiate replacement of the State's personnel		
34	and payroll systems consistent with the analysis		
35	and findings of the Statewide Business Infra-		
36	structure study.	\$20,875,000	\$2,525,000
37			
38	Total Appropriation	\$34,375,000	\$13,025,000
39			

40 Funds appropriated under this section are subject to the reporting requirement set out in
41 G.S. 147-33.72H.

42
43 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
44 Michaux

45 **MONITOR AND EVALUATE LEASE PURCHASE ACTIVITY**

46 **SECTION 6.17.(a)** By December 30, 2005, the Office of State Budget and
47 Management, in consultation with the Office of State Treasurer, the Office of State
48 Controller, and the Department of Administration shall:

- 49 (1) Develop and implement a management process that does all of the
- 50 following:
- 51 a. Standardizes the criteria used by executive branch agencies to
- 52 evaluate the business case for acquisitions by lease purchase.

- b. Provides for executive branch agency budget submissions that clearly show current and proposed debt service requirements occasioned by existing and proposed lease purchase agreements.
 - c. Provides that all lease purchase agreements entered into by executive branch agencies are centrally inventoried and monitored.
 - d. Includes debt accruing through lease purchase activity by executive branch agencies in the annual report of the Debt Affordability Advisory Committee required by G.S. 142-101.
 - e. Evaluates the advantages of a pooled or master lease arrangement.
- (2) Prepare a consolidated report summarizing by State agency all lease purchase expenditures in the current fiscal year and all lease purchase expenditures planned for the upcoming fiscal year and submit the report to the Chairs of the House of Representatives and Senate Appropriations Committees and to the Fiscal Research Division on the first day of the 2006 and 2007 Regular Sessions of the General Assembly.

SECTION 6.17.(b) This section does not apply to The University of North Carolina.

Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill, Michaux

PRIVATE LICENSE PLATES ON PUBLICLY OWNED MOTOR VEHICLES

SECTION 6.18.(a) Section 6.14(b) of S.L. 2001-424 is repealed.

SECTION 6.18.(b) This section becomes effective April 30, 2005.

Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill, Michaux

UNIFORM PAYROLL SYSTEM

SECTION 6.19. G.S. 143B-426.39 reads as rewritten:

"§ 143B-426.39. Powers and duties of the State Controller.

The State Controller shall:

- ...
- (6) Operate a central payroll system, in accordance with G.S. 143-3.2 and 143-34.1. Prescribe, develop, operate, and maintain a uniform payroll system, in accordance with G.S. 143-3.2 and G.S. 143-34.1, for all State agencies. This uniform payroll system shall be designed to assure compliance with all legal and constitutional requirements. When the State Controller finds it expedient to do so because of a State agency's size and location, the State Controller may authorize a State agency to operate its own payroll system. Any State agency authorized by the State Controller to operate its own payroll system shall comply with the requirements adopted by the State Controller.

...."

Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill, Michaux

STUDY STATE CONSTRUCTION INSPECTIONS

SECTION 6.20.(a) There is created the Legislative Study Commission on State Construction Inspections (Commission). The purpose of the study shall be to examine the following:

- 1 (1) The scope and nature of each type of inspection of private and public
- 2 construction projects performed or required by State agencies.
- 3 (2) The extent to which State inspections overlap with inspections
- 4 performed by local governments.
- 5 (3) The total cost of the State's inspection of public and private
- 6 construction projects.
- 7 (4) The comparative efficiencies and efficacies of each type of inspection
- 8 of private and public construction projects performed or required by
- 9 State agencies to determine whether:
- 10 a. The inspections can be combined to save the costs of
- 11 administrations and to limit any hardships on public and private
- 12 entities engaged in construction projects.
- 13 b. Any inspections should be otherwise modified in scope or
- 14 eliminated.
- 15 (5) The level of training of the various inspectors in the State agencies and
- 16 whether the training is satisfactory for the types of inspections
- 17 performed.
- 18 (6) Any other matter related to increasing the efficiency and efficacy of
- 19 the State's inspection of public and private construction projects.

20 **SECTION 6.20.(b)** The Commission shall consist of 14 members appointed

21 as follows:

- 22 (1) Five voting members appointed by the Speaker of the House of
- 23 Representatives.
- 24 (2) Five voting members appointed by the President Pro Tempore of the
- 25 Senate.
- 26 (3) Four nonvoting ex officio members, or their designees, including the
- 27 Commissioner of Labor, the Commissioner of Insurance, the Secretary
- 28 of Administration, and the Secretary of Health and Human Services.

29 The Speaker of the House of Representatives and the President Pro Tempore
30 of the Senate shall each appoint a cochair for the Commission. The Commission may
31 contract for consultant services as provided by G.S. 120-32.02. Upon approval of the
32 Legislative Services Commission, the Legislative Services Officer shall assign
33 professional and clerical staff to assist in the work of the Commission. Clerical staff
34 shall be furnished to the Commission through the offices of the House of
35 Representatives and the Senate Directors of Legislative Assistants. The Commission
36 may meet in the Legislative Building or the Legislative Office Building upon the
37 approval of the Legislative Services Commission. Members of the Commission shall
38 receive per diem, subsistence, and travel allowances at the rate established in
39 G.S. 120-3.1. The appointing authority shall fill vacancies.

40 The Commission, while in the discharge of its official duties, may exercise all
41 the powers provided under the provisions of G.S. 120-19 through G.S. 120-19.4,
42 including the power to request all officers, agents, agencies, and departments of the
43 State to provide any information, data, or documents within their possession,
44 ascertainable from their records, or otherwise available to them, and the power to
45 subpoena witnesses.

46 **SECTION 6.20.(c)** By May 1, 2006, the Commission shall report its
47 findings, conclusions, and recommendations, including any legislative proposals, to the
48 General Assembly. The Commission shall expire upon filing its final report.

49
50 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
51 Michaux, Gibson

52 **CLEAN WATER MANAGEMENT TRUST FUND BOARD OF**
53 **TRUSTEES/STUDY STEWARDSHIP OF CONSERVATION EASEMENTS**

1 **SECTION 6.22.** The Clean Water Management Trust Fund Board of
2 Trustees shall study management and stewardship of conservation easements. The
3 Board shall report its findings and any recommendations to the Environmental Review
4 Commission by December 1, 2005.

5
6 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
7 Michaux

8 **COMMISSION ON STATE PROPERTY FUNDS**

9 **SECTION 6.23.** Of the funds appropriated to the Department of
10 Administration for the 2005-2006 fiscal year, the Director of the Budget shall transfer
11 two hundred thousand dollars (\$200,000) to the Commission on State Property
12 established in Article 78 of Chapter 143 of the General Statutes.

13
14 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
15 Michaux, Insko

16 **COLLABORATION AMONG DEPARTMENTS OF ADMINISTRATION,**
17 **HEALTH AND HUMAN SERVICES, JUVENILE JUSTICE AND**
18 **DELINQUENCY PREVENTION, AND PUBLIC INSTRUCTION ON**
19 **SCHOOL-BASED CHILD AND FAMILY TEAM INITIATIVE**

20 **SECTION 6.24.(a)** Department of Public Instruction. –

- 21 (1) Program established. – There is established the School-Based Child
22 and Family Team Initiative. The purpose of the Initiative is to identify
23 and coordinate appropriate community services and supports for
24 children at risk of school failure or out-of-home placement in order to
25 address the physical, social, legal, emotional, and developmental
26 factors that affect academic performance. The Department of Health
27 and Human Services, the Department of Public Instruction, the
28 Department of Juvenile Justice and Delinquency Prevention, the
29 Administrative Office of the Courts, and other State agencies that
30 provide services for children shall share responsibility and
31 accountability to improve outcomes for these children and their
32 families. The Initiative shall be based on the following principles:
- 33 a. The development of a strong infrastructure of interagency
34 collaboration;
 - 35 b. One child, one team, one plan;
 - 36 c. Individualized strengths-based care;
 - 37 d. Accountability;
 - 38 e. Cultural competence;
 - 39 f. Children at risk of school failure or out-of-home placement may
40 enter the system through any participating agency;
 - 41 g. Services shall be specified, delivered, and monitored through a
42 unified Child and Family Plan that is outcome-oriented and
43 evaluation-based;
 - 44 h. Services shall be the most efficient in terms of cost and
45 effectiveness and shall be delivered in the most natural settings
46 possible;
 - 47 i. Out-of-home placements for children shall be a last resort and
48 shall include concrete plans to bring the children back to a
49 stable, permanent home, their schools, and their community;
50 and
 - 51 j. Families and consumers shall be involved in decision making
52 throughout service planning, delivery, and monitoring.

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(2) Local level responsibilities. – In coordination with the North Carolina Child and Family Leadership Council (Council), the local board of education shall establish the School-Based Child and Family Team Initiative (Initiative) at designated schools and shall appoint the Child and Family Team Leaders who shall be a school nurse and a school social worker. Each local management entity that has any selected schools in its catchment area shall appoint a Care Coordinator, and any Department of Social Services that has a selected school in its catchment area shall appoint a Child and Family Teams Facilitator. The Care Coordinators and Child and Family Team Facilitators shall have as their sole responsibility working with the selected schools in their catchment areas and shall provide training to school-based personnel, as required. The Child and Family Team Leaders shall identify and screen children who are potentially at risk of academic failure or out-of-home placement due to physical, social, legal, emotional, or developmental factors. Based on the screening results, responsibility for developing, convening, and implementing the Child and Family Team is as follows:

- a. School personnel shall take the lead role for those children and their families whose primary unmet needs are related to academic achievement.
- b. The local management entity shall take the lead role for those children and their families whose primary unmet needs are related to mental health, substance abuse, and/or developmental disabilities and who meet the criteria for the target population established by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.
- c. The local Department of Public Health shall take the lead role for those children and their families whose primary unmet needs are health-related.
- d. The Department of Social Services Facilitator shall take the lead for those children and their families whose primary unmet needs are related to child welfare, abuse, or neglect.
- e. A representative from the district court or juvenile justice shall take the lead for those children and their families whose primary unmet needs are related to community safety or legal issues.

A representative from each agency shall participate as a member of the Team as needed. Team members shall coordinate, monitor, and assure the successful implementation of a unified Child and Family Plan.

(3) Reporting requirements. – School-Based Child and Family Team Leaders shall provide data to the Council for inclusion in their report to the North Carolina General Assembly. The report shall include the following:

- a. The number of and other demographic information on children served;
- b. The amount and source of funds expended to implement the Initiative;
- c. Information on how families and consumers are involved in decision making throughout service planning, delivery, and monitoring;

- d. Information on the number of children screened, the number of children assigned to a Team, and the service needs of the children served;
 - e. Information on the placement of children in programs or facilities outside the child's home and outside the child's county and the average length of stay in residential treatment, transition, and return to home;
 - f. The number of children diverted from institutions, other out-of-home placements, or from the custody of the department of social services because of unmet behavioral health needs;
 - g. A description of the services provided;
 - h. Other information as required by the Council to evaluate success in local programs and ensure appropriate outcomes; and
 - i. Recommendations on needed improvements.
- (4) Local Advisory Committee. – In each county with a participating school, a Local Child and Family Team Advisory Committee shall be chaired by the superintendent of the local LEA and the head of a participating county agency as elected by the Committee. The Committee shall include the directors of the county departments of social services and health, the directors of the local management entity, the chief district court judge, the chief court counselor, and representatives of other agencies providing services to children, as designated by the Committee. The members of the Committee shall meet as needed to monitor and support the successful implementation of the School-Based Child and Family Team Initiative.

The Local Child and Family Team Advisory Committee may designate existing cross-agency collaboratives or councils as working groups or to provide assistance in accomplishing established goals.

SECTION 6.24.(b) Department of Administration.

- (1) North Carolina Child and Family Leadership Council established. – There is established the North Carolina Child and Family Leadership Council (Council). The Council shall be located within the Department of Administration for organizational and budgetary purposes.
- (2) Purpose. – The purpose of the Council is to review and advise the Governor in the development of the School-Based Child and Family Teams Initiative and to ensure the active participation and collaboration in the Initiative by all State agencies and their local counterparts providing services to children in order to increase the academic success and reduce out-of-home and out-of-county placements of children at risk of academic failure.
- (3) Membership. – The Superintendent of Public Instruction and the Secretary of Health and Human Services shall serve as cochairs of the Council. Council membership shall include the Secretary of the Department of Juvenile Justice and Delinquency Prevention, the Director of the Administrative Office of the Courts, and other members as appointed by the Governor.
- (4) The Council may:
 - a. As needed, sign an annual memorandum of agreement (MOA) among the named State agencies to define the purposes of the program and to ensure that program goals are accomplished.
 - b. As needed, recommend a local MOA to be signed annually by the superintendent of the local LEA, the directors of the county departments of social services and health, the directors of the

- 1 local management entity, the chief district court judge, the chief
- 2 court counselor.
- 3 c. Increase capacity in the school setting to address the needs of
- 4 children in need of academic, health, mental health, social, and
- 5 legal services.
- 6 d. Resolve State policy issues, as identified at the local level,
- 7 which interfere with effective implementation of the Child and
- 8 Family Team Initiative.
- 9 e. Direct the integration of resources as needed to meet goals and
- 10 ensure that the Initiative promotes the most effective and
- 11 efficient use of resources and eliminates duplication of effort.
- 12 f. Ensure that children receiving services are screened initially to
- 13 identify needs and assessed periodically to determine progress
- 14 and sustained improvement in educational, health, safety,
- 15 behavioral, and social outcomes.
- 16 g. Establish criteria for defining success in local programs and
- 17 ensure appropriate outcomes.
- 18 h. Develop an evaluation process based on expected outcomes to
- 19 ensure the goals and objectives of this initiative are achieved.
- 20 i. Review progress made on integrating policies and resources
- 21 across State agencies, reaching expected outcomes, and
- 22 accomplishing other goals.
- 23 j. Report semiannually on progress made to the Office of the
- 24 Governor and the General Assembly.

25 The Council may designate existing cross-agency collaboratives or
 26 councils as working groups or to provide assistance in accomplishing
 27 established goals.

- 28 (5) Program services. – In order to ensure that children receiving services
- 29 are appropriately served, the affected State and local agencies shall:
- 30 a. Provide only those services that are known to be effective based
- 31 upon research or national standards of best practices.
- 32 b. Develop uniform screening mechanisms and a set of outcomes
- 33 that are shared across affected State agencies to measure
- 34 children's progress in home, school, and community settings.
- 35 c. Review services provided across affected State agencies to
- 36 ensure that children's needs are met.
- 37 d. Eliminate cost shifting and facilitate cost-sharing among
- 38 governmental agencies with respect to service development,
- 39 service delivery, and monitoring for participating children and
- 40 their families.

41 **SECTION 6.24.(c)** Department of Health and Human Services. – The
 42 Secretary of the Department of Health and Human Services shall ensure that all
 43 agencies within the Department collaborate in the development and implementation of
 44 the School-Based Child and Family Team Initiative and provide all required support to
 45 ensure that the Initiative is successful.

46 **SECTION 6.24.(d)** Department of Juvenile Justice and Delinquency
 47 Prevention. – The Secretary of the Department of Juvenile Justice and Delinquency
 48 Prevention shall ensure that all agencies within the Department collaborate in the
 49 development and implementation of the School-Based Child and Family Team Initiative
 50 and provide all required support to ensure that the Initiative is successful.

51
 52 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
 53 Michaux

LIMIT SALE OF DOROTHEA DIX AND BLUE RIDGE ROAD PROPERTIES

SECTION 6.25. G.S. 146-27 reads as rewritten:

"§ 146-27. The role of the Department of Administration in sales, leases, and rentals; approval by General Assembly.

(a) General. — ~~Every~~ Except as otherwise provided by this section, every sale, lease, rental, or gift of land owned by the State or by any State agency shall be made by the Department of Administration and approved by the Governor and Council of State. A lease or rental of land owned by the State may not exceed a period of 99 years. The Department of Administration may initiate proceedings for sales, leases, rentals, and gifts of land owned by the State or by any State agency.

(b) Large Disposition. — If a proposed disposition is a sale or gift of land with an appraised value of at least twenty-five thousand dollars (\$25,000), the sale or gift shall not be made until after consultation with the Joint Legislative Commission on Governmental Operations.

(c) Exceptions. — Notwithstanding any other provision of law, the following State-owned property shall not be sold without the prior approval of the General Assembly:

(1) The property encompassing the Dorothea Dix Hospital campus.

(2) The property described in the 1995 Capital Area Master Plan for State Government, Blue Ridge Road Area, developed by O'Brien/Atkins, except for the Special Development District."

Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill, Michaux

AHEC STUDY/HORACE WILLIAMS AIRPORT

SECTION 6.26. The Legislative Research Commission shall study the continued viability of the Area Health Education Centers (AHEC) program if the Horace Williams Airport is not available and report its findings to the General Assembly no later than the reconvening of the 2005 Regular Session of the General Assembly in 2006. In conducting the study, the Legislative Research Commission should invite all physicians and pilots frequently participating in the AHEC program to appear before the Commission.

The University of North Carolina at Chapel Hill shall operate the Horace Williams Airport and continue air transportation support for the AHEC program and the public from that location until 30 days after sine die adjournment of the 2005 Regular Session of the General Assembly.

Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill, Michaux

NO FUNDS BUDGETED FOR REPLACED EQUIPMENT

SECTION 6.27. Once a State agency has purchased and installed equipment that performs the same function as equipment it leases, the agency shall not continue to budget funds for leased equipment that it no longer needs.

Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill, Michaux

RIGHT OF INSURED TO REDEEM HEALTH CARE OR PRESCRIPTION DRUG BENEFIT.

SECTION 6.28. G.S. 58-50-30 is amended by adding the following new subsection to read:

"(g1) An insured beneficiary under a health benefit plan shall have the right to redeem a health care or prescription drug benefit at any provider or pharmacy. The insurer, third-party administrator, or any other entity providing a health care or

1 prescription drug benefit for the insurer shall redeem the health care or prescription drug
2 benefit and reimburse the provider or pharmacy in the same manner, to the same extent,
3 at the same rate, and on the same payment schedule as the insurer, third-party
4 administrator, or other entity would to a provider or pharmacy that is a party to a
5 provider or pharmacy provider contract."

6
7 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
8 Michaux

9 **HEALTH BENEFIT PLAN CO-PAYMENTS**

10 **SECTION 6.29.** G.S. 58-50-30(a3) reads as rewritten:

11 "(a3) Whenever any health benefit plan, subscriber contract, or policy of insurance
12 issued by a health maintenance organization, hospital or medical service corporation, or
13 insurer governed by Articles 1 through 67 of this Chapter provides coverage for
14 medically necessary treatment, the insurer shall not impose any limitation on treatment
15 or levels of coverage if performed by a duly licensed chiropractor acting within the
16 scope of the chiropractor's practice as defined in G.S. 90-151 unless a comparable
17 limitation is imposed on the medically necessary treatment if performed or authorized
18 by any other duly licensed physician. An insurer shall not impose as a limitation on
19 treatment or level of coverage a co-payment amount charged to the insured for
20 chiropractic services that is higher than the co-payment amount charged to the insured
21 for the services of a duly licensed primary care physician for the same medically
22 necessary treatment or condition."

23
24 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
25 Michaux

26 **TRAINING RETIREMENT SYSTEMS DIVISION PERSONNEL**

27 **SECTION 6.30.** Of the funds appropriated from the General Fund to the

28 Department of State Treasurer, Retirement Systems Division, the sum of up to one
29 hundred twenty-eight thousand three hundred fifty dollars (\$128,350) may be used in
30 each year of the 2005-2007 fiscal biennium to provide training for Retirement Systems
31 Division employees to meet the increasing demands on the Retirement Systems due to
32 record retirements of public employees over the next 17 years. The Division shall report
33 annually to the General Assembly on the training that has been provided to its staff to
34 meet these increasing demands.

35
36 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
37 Michaux

38 **AMEND THE TOBACCO RESERVE FUND TO PROMOTE THE HEALTH** 39 **AND WELLNESS OF THE STATE'S CITIZENS AND ECONOMIC** 40 **DEVELOPMENT**

41 **SECTION 6.32.(a)** G.S. 66-291(b)(2) reads as rewritten:

42 "(2) To the extent that a tobacco product manufacturer establishes that the
43 amount it was required to place into escrow on account of units sold in
44 the State in a particular year was greater than the State's allocable
45 share of the total payments that such manufacturer would have been
46 required to make in that year under the Master Settlement Agreement
47 (as determined pursuant to section IX(i)(2) of the Master Settlement
48 Agreement, and before any of the adjustments or offsets described in
49 section IX(i)(3) of that Agreement other than the Inflation
50 Adjustment)the Master Settlement Agreement payments, as
51 determined pursuant to Section IX(i) of that agreement, including after
52 final determination of all adjustments, that the manufacturer would
53 have been required to make on account of the units sold had it been a

participating manufacturer, the excess shall be released from escrow and revert back to such tobacco product manufacturer; or".

SECTION 6.32.(b) If this section, or any portion of the amendment made to G.S. 66-291(b)(2) by this section, is held by a court of competent jurisdiction to be unconstitutional, then G.S. 66-291(b)(2) shall be deemed to be repealed in its entirety. If G.S. 66-291(b)(2) shall thereafter be held by a court of competent jurisdiction to be unconstitutional, then this section shall be repealed, and G.S. 66-291(b)(2) shall be restored as if no amendments had been made by this section. Neither any judicial holding of unconstitutionality nor the repeal of G.S. 66-291(b)(2) shall affect, impair, or invalidate any other portion of Part 1 of Article 37 of Chapter 66 of the General Statutes or the application of Part 1 of Article 37 of Chapter 66 of the General Statutes to any other person or circumstance, and the remaining portions of Part 1 of Article 37 of Chapter 66 of the General Statutes shall at all times continue in full force and effect.

SECTION 6.32.(c) This section becomes effective October 1, 2006.

PART VII. PUBLIC SCHOOLS

Requested by: Representatives Jeffus, Tolson, Yongue

TEACHER SALARY SCHEDULES

SECTION 7.1.(a) Effective for the 2005-2006 school year, the Director of the Budget shall transfer from the Reserve for Experience Step Salary Increase for Teachers and Principals in Public Schools funds necessary to implement the teacher salary schedules set out in subsection (b) of this section and for longevity in accordance with subsection (d) of this section, including funds for the employer's retirement and social security contributions for all teachers whose salaries are supported from the State's General Fund.

These funds shall be allocated to individuals according to rules adopted by the State Board of Education.

SECTION 7.1.(b) The following monthly salary schedules shall apply for the 2005-2006 fiscal year to certified personnel of the public schools who are classified as teachers. The schedule contains 30 steps with each step corresponding to one year of teaching experience.

2005-2006 Monthly Salary Schedule
"A" Teachers

<u>Years of Experience</u>	<u>"A" Teachers</u>	<u>NBPTS Certification</u>
0	\$2,558	N/A
1	\$2,600	N/A
2	\$2,644	N/A
3	\$2,800	\$3,136
4	\$2,941	\$3,294
5	\$3,075	\$3,444
6	\$3,204	\$3,588
7	\$3,308	\$3,705
8	\$3,356	\$3,759
9	\$3,406	\$3,815
10	\$3,456	\$3,871
11	\$3,505	\$3,926
12	\$3,557	\$3,984
13	\$3,607	\$4,040
14	\$3,660	\$4,099

1	15	\$3,715	\$4,161
2	16	\$3,770	\$4,222
3	17	\$3,825	\$4,284
4	18	\$3,884	\$4,350
5	19	\$3,942	\$4,415
6	20	\$4,000	\$4,480
7	21	\$4,063	\$4,551
8	22	\$4,124	\$4,619
9	23	\$4,189	\$4,692
10	24	\$4,254	\$4,764
11	25	\$4,319	\$4,837
12	26	\$4,386	\$4,912
13	27	\$4,454	\$4,988
14	28	\$4,524	\$5,067
15	29	\$4,596	\$5,148

2005-2006 Monthly Salary Schedule
"M" Teachers

<u>Years of Experience</u>	<u>"M" Teachers</u>	<u>NBPTS Certification</u>
24	0	N/A
25	1	N/A
26	2	N/A
27	3	\$3,450
28	4	\$3,623
29	5	\$3,789
30	6	\$3,947
31	7	\$4,076
32	8	\$4,135
33	9	\$4,197
34	10	\$4,258
35	11	\$4,319
36	12	\$4,383
37	13	\$4,444
38	14	\$4,509
39	15	\$4,577
40	16	\$4,645
41	17	\$4,713
42	18	\$4,785
43	19	\$4,856
44	20	\$4,928
45	21	\$5,005
46	22	\$5,080
47	23	\$5,161
48	24	\$5,240
49	25	\$5,321
50	26	\$5,404
51	27	\$5,487
52	28	\$5,573
53	29	\$5,663

1
2 **SECTION 7.1.(c)** Annual longevity payments for teachers shall be at the
3 rate of one and one-half percent (1.5%) of base salary for 10 to 14 years of State
4 service, two and twenty-five hundredths percent (2.25%) of base salary for 15 to 19
5 years of State service, three and twenty-five hundredths percent (3.25%) of base salary
6 for 20 to 24 years of State service, and four and one-half percent (4.5%) of base salary
7 for 25 or more years of State service. The longevity payment shall be paid in a lump
8 sum once a year.

9 **SECTION 7.1.(d)** Certified public schoolteachers with certification based
10 on academic preparation at the six-year degree level shall receive a salary supplement of
11 one hundred twenty-six dollars (\$126.00) per month in addition to the compensation
12 provided for certified personnel of the public schools who are classified as "M"
13 teachers. Certified public schoolteachers with certification based on academic
14 preparation at the doctoral degree level shall receive a salary supplement of two
15 hundred fifty-three dollars (\$253.00) per month in addition to the compensation
16 provided for certified personnel of the public schools who are classified as "M"
17 teachers.

18 **SECTION 7.1.(e)** The first step of the salary schedule for school
19 psychologists shall be equivalent to Step 5, corresponding to five years of experience,
20 on the salary schedule established in this section for certified personnel of the public
21 schools who are classified as "M" teachers. Certified psychologists shall be placed on
22 the salary schedule at an appropriate step based on their years of experience. Certified
23 psychologists shall receive longevity payments based on years of State service in the
24 same manner as teachers.

25 Certified psychologists with certification based on academic preparation at
26 the six-year degree level shall receive a salary supplement of one hundred twenty-six
27 dollars (\$126.00) per month in addition to the compensation provided for certified
28 psychologists. Certified psychologists with certification based on academic preparation
29 at the doctoral degree level shall receive a salary supplement of two hundred fifty-three
30 dollars (\$253.00) per month in addition to the compensation provided for certified
31 psychologists.

32 **SECTION 7.1.(f)** Speech pathologists who are certified as speech
33 pathologists at the masters degree level and audiologists who are certified as
34 audiologists at the masters degree level and who are employed in the public schools as
35 speech and language specialists and audiologists shall be paid on the school
36 psychologist salary schedule.

37 Speech pathologists and audiologists with certification based on academic
38 preparation at the six-year degree level shall receive a salary supplement of one hundred
39 twenty-six dollars (\$126.00) per month in addition to the compensation provided for
40 speech pathologists and audiologists. Speech pathologists and audiologists with
41 certification based on academic preparation at the doctoral degree level shall receive a
42 salary supplement of two hundred fifty-three dollars (\$253.00) per month in addition to
43 the compensation provided for speech pathologists and audiologists.

44 **SECTION 7.1.(g)** Certified school nurses who are employed in the public
45 schools as nurses shall be paid on the "M" salary schedule.

46 **SECTION 7.1.(h)** As used in this section, the term "teacher" shall also
47 include instructional support personnel.
48

49 Requested by: Representatives Jeffus, Tolson, Yongue

50 **SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE**

51 **SECTION 7.2.(a)** Effective for the 2005-2006 school year, the Director of
52 the Budget shall transfer from the Reserve for Compensation Increases funds necessary

1 to implement the salary schedules for school-based administrators as provided in this
 2 section. These funds shall be used for State-paid employees only.

3 **SECTION 7.2.(b)** The base salary schedule for school-based administrators
 4 shall apply only to principals and assistant principals. The base salary schedule for the
 5 2005-2006 fiscal year, commencing July 1, 2005, is as follows:

6
 7 2005-2006
 8 Principal and Assistant Principal Salary Schedules
 9 Classification

10	11 Yrs. of	Assistant	Prin I	Prin II	Prin III	Prin IV
12	Exp	Principal	(0-10)	(11-21)	(22-32)	(33-43)
13						
14	0-4	3,267	-	-	-	-
15	5	3,417	-	-	-	-
16	6	3,559	-	-	-	-
17	7	3,675	-	-	-	-
18	8	3,728	3,728	-	-	-
19	9	3,783	3,783	-	-	-
20	10	3,839	3,839	3,895	-	-
21	11	3,895	3,895	3,951	-	-
22	12	3,951	3,951	4,007	4,066	-
23	13	4,007	4,007	4,066	4,127	4,187
24	14	4,066	4,066	4,127	4,187	4,251
25	15	4,127	4,127	4,187	4,251	4,314
26	16	4,187	4,187	4,251	4,314	4,379
27	17	4,251	4,251	4,314	4,379	4,445
28	18	4,314	4,314	4,379	4,445	4,514
29	19	4,379	4,379	4,445	4,514	4,582
30	20	4,445	4,445	4,514	4,582	4,654
31	21	4,514	4,514	4,582	4,654	4,726
32	22	4,582	4,582	4,654	4,726	4,798
33	23	4,654	4,654	4,726	4,798	4,872
34	24	4,726	4,726	4,798	4,872	4,949
35	25	4,798	4,798	4,872	4,949	5,027
36	26	4,872	4,872	4,949	5,027	5,107
37	27	4,949	4,949	5,027	5,107	5,209
38	28	5,027	5,027	5,107	5,209	5,313
39	29	5,107	5,107	5,209	5,313	5,419
40	30	5,209	5,209	5,313	5,419	5,527
41	31	5,313	5,313	5,419	5,527	5,638
42	32	-	5,419	5,527	5,638	5,751
43	33	-	-	5,638	5,751	5,866
44	34	-	-	5,751	5,866	5,983
45	35	-	-	-	5,983	6,103
46	36	-	-	-	6,103	6,225
47	37	-	-	-	-	6,350

48
 49 2005-2006
 50 Principal and Assistant Principal Salary Schedules
 51 Classification

52	53 Yrs. of	Prin V	Prin VI	Prin VII	Prin VIII
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Exp	(44-54)	(55-65)	(66-100)	(101+)
0-14	4,314	-	-	-
15	4,379	-	-	-
16	4,445	4,514	-	-
17	4,514	4,582	4,726	-
18	4,582	4,654	4,798	4,872
19	4,654	4,726	4,872	4,949
20	4,726	4,798	4,949	5,027
21	4,798	4,872	5,027	5,107
22	4,872	4,949	5,107	5,209
23	4,949	5,027	5,209	5,313
24	5,027	5,107	5,313	5,419
25	5,107	5,209	5,419	5,527
26	5,209	5,313	5,527	5,638
27	5,313	5,419	5,638	5,751
28	5,419	5,527	5,751	5,866
29	5,527	5,638	5,866	5,983
30	5,638	5,751	5,983	6,103
31	5,751	5,866	6,103	6,225
32	5,866	5,983	6,225	6,350
33	5,983	6,103	6,350	6,477
34	6,103	6,225	6,477	6,607
35	6,225	6,350	6,607	6,739
36	6,350	6,477	6,739	6,874
37	6,477	6,607	6,874	7,011
38	6,607	6,739	7,011	7,151
39	-	6,874	7,151	7,294
40	-	7,011	7,294	7,440
41	-	-	7,440	7,589

SECTION 7.2.(c) The appropriate classification for placement of principals and assistant principals on the salary schedule, except for principals in alternative schools and in cooperative innovative high schools, shall be determined in accordance with the following schedule:

Classification	Number of Teachers Supervised
Assistant Principal	
Principal I	Fewer than 11 Teachers
Principal II	11-21 Teachers
Principal III	22-32 Teachers
Principal IV	33-43 Teachers
Principal V	44-54 Teachers
Principal VI	55-65 Teachers
Principal VII	66-100 Teachers
Principal VIII	More than 100 Teachers

The number of teachers supervised includes teachers and assistant principals paid from State funds only; it does not include teachers or assistant principals paid from non-State funds or the principal or teacher assistants.

The beginning classification for principals in alternative schools and in cooperative innovative high school programs shall be the Principal III level. Principals

1 in alternative schools who supervise 33 or more teachers shall be classified according to
 2 the number of teachers supervised.

3 **SECTION 7.2.(d)** A principal shall be placed on the step on the salary
 4 schedule that reflects total number of years of experience as a certificated employee of
 5 the public schools and an additional step for every three years of experience as a
 6 principal. A principal or assistant principal shall also continue to receive any additional
 7 State-funded percentage increases earned for the 1997-1998, 1998-1999, and 1999-2000
 8 school years for improvement in student performance or maintaining a safe and orderly
 9 school.

10 **SECTION 7.2.(e)** Principals and assistant principals with certification based
 11 on academic preparation at the six-year degree level shall be paid a salary supplement of
 12 one hundred twenty-six dollars (\$126.00) per month and at the doctoral degree level
 13 shall be paid a salary supplement of two hundred fifty-three dollars (\$253.00) per
 14 month.

15 **SECTION 7.2.(f)** Longevity pay for principals and assistant principals shall
 16 be as provided for State employees under the State Personnel Act.

17 **SECTION 7.2.(g)** If a principal is reassigned to a higher job classification
 18 because the principal is transferred to a school within a local school administrative unit
 19 with a larger number of State-allotted teachers, the principal shall be placed on the
 20 salary schedule as if the principal had served the principal's entire career as a principal
 21 at the higher job classification.

22 If a principal is reassigned to a lower job classification because the principal
 23 is transferred to a school within a local school administrative unit with a smaller number
 24 of State-allotted teachers, the principal shall be placed on the salary schedule as if the
 25 principal had served the principal's entire career as a principal at the lower job
 26 classification.

27 This subsection applies to all transfers on or after the effective date of this
 28 section, except transfers in school systems that have been created, or will be created, by
 29 merging two or more school systems. Transfers in these merged systems are exempt
 30 from the provisions of this subsection for one calendar year following the date of the
 31 merger.

32 **SECTION 7.2.(h)** Participants in an approved full-time masters in school
 33 administration program shall receive up to a 10-month stipend at the beginning salary of
 34 an assistant principal during the internship period of the masters program. For the
 35 2005-2006 fiscal year and subsequent fiscal years, the stipend shall not exceed the
 36 difference between the beginning salary of an assistant principal and any fellowship
 37 funds received by the intern as a full-time student, including awards of the Principal
 38 Fellows Program. The Principal Fellows Program or the school of education where the
 39 intern participates in a full-time masters in school administration program shall supply
 40 the Department of Public Instruction with certification of eligible full-time interns.

41 **SECTION 7.2.(i)** During the 2005-2006 fiscal year, the placement on the
 42 salary schedule of an administrator with a one-year provisional assistant principal's
 43 certificate shall be at the entry-level salary for an assistant principal or the appropriate
 44 step on the teacher salary schedule, whichever is higher.

45
 46 Requested by: Representatives Jeffus, Tolson, Yongue

47 **CENTRAL OFFICE SALARIES**

48 **SECTION 7.3.(a)** The monthly salary ranges that follow apply to assistant
 49 superintendents, associate superintendents, directors/coordinators, supervisors, and
 50 finance officers for the 2005-2006 fiscal year, beginning July 1, 2005.

51	School Administrator I	\$2,932	\$5,533
52	School Administrator II	\$3,112	\$5,869
53	School Administrator III	\$3,303	\$6,225

1	School Administrator IV	\$3,436	\$6,474
2	School Administrator V	\$3,574	\$6,735
3	School Administrator VI	\$3,792	\$7,143
4	School Administrator VII	\$3,945	\$7,430

5 The local board of education shall determine the appropriate category and
6 placement for each assistant superintendent, associate superintendent,
7 director/coordinator, supervisor, or finance officer within the salary ranges and within
8 funds appropriated by the General Assembly for central office administrators and
9 superintendents. The category in which an employee is placed shall be included in the
10 contract of any employee.

11 **SECTION 7.3.(b)** The monthly salary ranges that follow apply to public
12 school superintendents for the 2005-2006 fiscal year, beginning July 1, 2005.

13	Superintendent I	\$4,187	\$7,883
14	Superintendent II	\$4,445	\$8,359
15	Superintendent III	\$4,716	\$8,868
16	Superintendent IV	\$5,005	\$9,406
17	Superintendent V	\$5,312	\$9,980

18 The local board of education shall determine the appropriate category and
19 placement for the superintendent based on the average daily membership of the local
20 school administrative unit and within funds appropriated by the General Assembly for
21 central office administrators and superintendents.

22 **SECTION 7.3.(c)** Longevity pay for superintendents, assistant
23 superintendents, associate superintendents, directors/coordinators, supervisors, and
24 finance officers shall be as provided for State employees under the State Personnel Act.

25 **SECTION 7.3.(d)** Superintendents, assistant superintendents, associate
26 superintendents, directors/coordinators, supervisors, and finance officers with
27 certification based on academic preparation at the six-year degree level shall receive a
28 salary supplement of one hundred twenty-six dollars (\$126.00) per month in addition to
29 the compensation provided pursuant to this section. Superintendents, assistant
30 superintendents, associate superintendents, directors/coordinators, supervisors, and
31 finance officers with certification based on academic preparation at the doctoral degree
32 level shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per
33 month in addition to the compensation provided for under this section.

34 **SECTION 7.3.(e)** The State Board of Education shall not permit local
35 school administrative units to transfer State funds from other funding categories for
36 salaries for public school central office administrators.

37 **SECTION 7.3.(f)** The annual salary increase for all permanent full-time
38 personnel paid from the Central Office Allotment shall be the greater of five hundred
39 dollars (\$500.00) or two and one-half percent (2.5%), commencing July 1, 2005. The
40 State Board of Education shall allocate these funds to local school administrative units.
41 The local boards of education shall establish guidelines for providing salary increases to
42 these personnel.

43
44 Requested by: Representatives Jeffus, Tolson, Yongue

45 **NONCERTIFIED PERSONNEL SALARY**

46 **SECTION 7.4.(a)** The annual salary increase for permanent, full-time
47 noncertified public school employees whose salaries are supported from the State's
48 General Fund shall be the greater of five hundred dollars (\$500.00) or two and one-half
49 percent (2.5%), commencing July 1, 2005.

50 **SECTION 7.4.(b)** Local boards of education shall increase the rates of pay
51 for such employees who were employed for all or part of fiscal year 2004-2005 and who
52 continue their employment for fiscal year 2005-2006 by providing an annual salary

1 increase for employees of the greater of five hundred dollars (\$500.00) or two and
2 one-half percent (2.5%).

3 For part-time employees, the pay increase shall be pro rata based on the
4 number of hours worked.

5 **SECTION 7.4.(c)** The State Board of Education may adopt salary ranges for
6 noncertified personnel to support increases of the greater of five hundred dollars
7 (\$500.00) or two and one-half percent (2.5%) for the 2005-2006 fiscal year.

8
9 Requested by: Representatives Jeffus, Tolson, Yongue

10 **BONUS FOR CERTIFIED PERSONNEL AT THE TOP OF THEIR SALARY**
11 **SCHEDULES**

12 **SECTION 7.5.** Effective July 1, 2005, any permanent certified personnel
13 employed on July 1, 2003, and paid on the teacher salary schedule with 29+ years of
14 experience shall receive a one-time bonus equivalent to the average increase of the 26 to
15 29 year steps. Effective July 1, 2005, any permanent personnel employed on July 1,
16 2004, and paid at the top of the principal and assistant principal salary schedule shall
17 receive a one-time bonus equivalent to two percent (2%).

18 For permanent part-time personnel, the one-time bonus shall be adjusted pro
19 rata. Personnel defined under G.S. 115C-325(a)(5a) are not eligible to receive the
20 bonus.

21
22 Requested by: Representatives Jeffus, Tolson, Yongue

23 **SUPPLEMENTAL FUNDING IN LOW-WEALTH COUNTIES**

24 **SECTION 7.6.(a)** Funds for Supplemental Funding. – The General
25 Assembly finds that it is appropriate to provide supplemental funds in low-wealth
26 counties to allow those counties to enhance the instructional program and student
27 achievement. Therefore, funds are appropriated to State Aid to Local School
28 Administrative Units for the 2005-2006 fiscal year and the 2006-2007 fiscal year to be
29 used for supplemental funds for the schools.

30 **SECTION 7.6.(b)** Use of Funds for Supplemental Funding. – All funds
31 received pursuant to this section shall be used only: (i) to provide instructional
32 positions, instructional support positions, teacher assistant positions, clerical positions,
33 school computer technicians, instructional supplies and equipment, staff development,
34 and textbooks; (ii) for salary supplements for instructional personnel and instructional
35 support personnel; and (iii) to pay an amount not to exceed ten thousand dollars
36 (\$10,000) of the plant operation contract cost charged by the Department of Public
37 Instruction for services.

38 Local boards of education are encouraged to use at least twenty-five percent
39 (25%) of the funds received pursuant to this section to improve the academic
40 performance of children who are performing at Level I or II on either reading or
41 mathematics end-of-grade tests in grades 3-8 and children who are performing at Level
42 I or II on the writing tests in grades 4 and 7. Local boards of education shall report to
43 the State Board of Education on an annual basis on funds used for this purpose, and the
44 State Board shall report this information to the Joint Legislative Education Oversight
45 Committee. These reports shall specify how these funds were targeted and used to
46 implement specific improvement strategies of each local school administrative unit and
47 its schools, such as teacher recruitment, closing the achievement gap, improving student
48 accountability, addressing the needs of at-risk students, and establishing and
49 maintaining safe schools.

50 **SECTION 7.6.(c)** Definitions. – As used in this section:

- 51 (1) "Anticipated county property tax revenue availability" means the
52 county-adjusted property tax base multiplied by the effective State
53 average tax rate.

- 1 (2) "Anticipated total county revenue availability" means the sum of the:
2 a. Anticipated county property tax revenue availability,
3 b. Local sales and use taxes received by the county that are levied
4 under Chapter 1096 of the 1967 Session Laws or under
5 Subchapter VIII of Chapter 105 of the General Statutes,
6 c. Sales tax hold harmless reimbursement received by the county
7 under G.S. 105-521, and
8 d. Fines and forfeitures deposited in the county school fund for the
9 most recent year for which data are available.
- 10 (3) "Anticipated total county revenue availability per student" means the
11 anticipated total county revenue availability for the county divided by
12 the average daily membership of the county.
- 13 (4) "Anticipated State average revenue availability per student" means the
14 sum of all anticipated total county revenue availability divided by the
15 average daily membership for the State.
- 16 (5) "Average daily membership" means average daily membership as
17 defined in the North Carolina Public Schools Allotment Policy
18 Manual, adopted by the State Board of Education. If a county contains
19 only part of a local school administrative unit, the average daily
20 membership of that county includes all students who reside within the
21 county and attend that local school administrative unit.
- 22 (6) "County-adjusted property tax base" shall be computed as follows:
23 a. Subtract the present-use value of agricultural land, horticultural
24 land, and forestland in the county, as defined in G.S. 105-277.2,
25 from the total assessed real property valuation of the county,
26 b. Adjust the resulting amount by multiplying by a weighted
27 average of the three most recent annual sales assessment ratio
28 studies,
29 c. Add to the resulting amount the:
30 1. Present-use value of agricultural land, horticultural land,
31 and forestland, as defined in G.S. 105-277.2,
32 2. Value of property of public service companies,
33 determined in accordance with Article 23 of Chapter 105
34 of the General Statutes, and
35 3. Personal property value for the county.
- 36 (7) "County-adjusted property tax base per square mile" means the
37 county-adjusted property tax base divided by the number of square
38 miles of land area in the county.
- 39 (8) "County wealth as a percentage of State average wealth" shall be
40 computed as follows:
41 a. Compute the percentage that the county per capita income is of
42 the State per capita income and weight the resulting percentage
43 by a factor of five-tenths,
44 b. Compute the percentage that the anticipated total county
45 revenue availability per student is of the anticipated State
46 average revenue availability per student and weight the
47 resulting percentage by a factor of four-tenths,
48 c. Compute the percentage that the county-adjusted property tax
49 base per square mile is of the State-adjusted property tax base
50 per square mile and weight the resulting percentage by a factor
51 of one-tenth,
52 d. Add the three weighted percentages to derive the county wealth
53 as a percentage of the State average wealth.

- 1 (9) "Effective county tax rate" means the actual county tax rate multiplied
2 by a weighted average of the three most recent annual sales assessment
3 ratio studies.
- 4 (10) "Effective State average tax rate" means the average of effective
5 county tax rates for all counties.
- 6 (10a) "Local current expense funds" means the most recent county current
7 expense appropriations to public schools, as reported by local boards
8 of education in the audit report filed with the Secretary of the Local
9 Government Commission pursuant to G.S. 115C-447.
- 10 (11) "Per capita income" means the average for the most recent three years
11 for which data are available of the per capita income according to the
12 most recent report of the United States Department of Commerce,
13 Bureau of Economic Analysis, including any reported modifications
14 for prior years as outlined in the most recent report.
- 15 (12) "Sales assessment ratio studies" means sales assessment ratio studies
16 performed by the Department of Revenue under G.S. 105-289(h).
- 17 (13) "State average current expense appropriations per student" means the
18 most recent State total of county current expense appropriations to
19 public schools, as reported by local boards of education in the audit
20 report filed with the Secretary of the Local Government Commission
21 pursuant to G.S. 115C-447.
- 22 (14) "State average adjusted property tax base per square mile" means the
23 sum of the county-adjusted property tax bases for all counties divided
24 by the number of square miles of land area in the State.
- 25 (14a) "Supplant" means to decrease local per student current expense
26 appropriations from one fiscal year to the next fiscal year.
- 27 (15) "Weighted average of the three most recent annual sales assessment
28 ratio studies" means the weighted average of the three most recent
29 annual sales assessment ratio studies in the most recent years for which
30 county current expense appropriations and adjusted property tax
31 valuations are available. If real property in a county has been revalued
32 one year prior to the most recent sales assessment ratio study, a
33 weighted average of the two most recent sales assessment ratios shall
34 be used. If property has been revalued the year of the most recent sales
35 assessment ratio study, the sales assessment ratio for the year of
36 revaluation shall be used.

37 **SECTION 7.6.(d)** Eligibility for Funds. – Except as provided in subsection
38 (h) of this section, the State Board of Education shall allocate these funds to local school
39 administrative units located in whole or in part in counties in which the county wealth
40 as a percentage of the State average wealth is less than one hundred percent (100%).

41 **SECTION 7.6.(e)** Allocation of Funds. – Except as provided in subsection
42 (g) of this section, the amount received per average daily membership for a county shall
43 be the difference between the State average current expense appropriations per student
44 and the current expense appropriations per student that the county could provide given
45 the county's wealth and an average effort to fund public schools. (To derive the current
46 expense appropriations per student that the county could be able to provide given the
47 county's wealth and an average effort to fund public schools, multiply the county wealth
48 as a percentage of State average wealth by the State average current expense
49 appropriations per student.)

50 The funds for the local school administrative units located in whole or in part
51 in the county shall be allocated to each local school administrative unit located in whole
52 or in part in the county based on the average daily membership of the county's students
53 in the school units.

1 If the funds appropriated for supplemental funding are not adequate to fund
2 the formula fully, each local school administrative unit shall receive a pro rata share of
3 the funds appropriated for supplemental funding.

4 **SECTION 7.6.(f)** Formula for Distribution of Supplemental Funding
5 Pursuant to This Section Only. – The formula in this section is solely a basis for
6 distribution of supplemental funding for low-wealth counties and is not intended to
7 reflect any measure of the adequacy of the educational program or funding for public
8 schools. The formula is also not intended to reflect any commitment by the General
9 Assembly to appropriate any additional supplemental funds for low-wealth counties.

10 **SECTION 7.6.(g)** Minimum Effort Required. – Counties that had effective
11 tax rates in the 1996-1997 fiscal year that were above the State average effective tax
12 rate but that had effective rates below the State average in the 1997-1998 fiscal year or
13 thereafter shall receive reduced funding under this section. This reduction in funding
14 shall be determined by subtracting the amount that the county would have received
15 pursuant to Section 17.1(g) of Chapter 507 of the 1995 Session Laws from the amount
16 that the county would have received if qualified for full funding and multiplying the
17 difference by ten percent (10%). This method of calculating reduced funding shall
18 apply one time only.

19 This method of calculating reduced funding shall not apply in cases in which
20 the effective tax rate fell below the statewide average effective tax rate as a result of a
21 reduction in the actual property tax rate. In these cases, the minimum effort required
22 shall be calculated in accordance with Section 17.1(g) of Chapter 507 of the 1995
23 Session Laws.

24 If the county documents that it has increased the per student appropriation to
25 the school current expense fund in the current fiscal year, the State Board of Education
26 shall include this additional per pupil appropriation when calculating minimum effort
27 pursuant to Section 17.1(g) of Chapter 507 of the 1995 Session Laws.

28 **SECTION 7.6.(h)** Nonsupplant Requirement. – A county in which a local
29 school administrative unit receives funds under this section shall use the funds to
30 supplement local current expense funds and shall not supplant local current expense
31 funds. For the 2005-2007 fiscal biennium, the State Board of Education shall not
32 allocate funds under this section to a county found to have used these funds to supplant
33 local per student current expense funds. The State Board of Education shall make a
34 finding that a county has used these funds to supplant local current expense funds in the
35 prior year, or the year for which the most recent data are available, if:

- 36 (1) The current expense appropriation per student of the county for the
37 current year is less than ninety-five percent (95%) of the average of the
38 local current expense appropriations per student for the three prior
39 fiscal years; and
40 (2) The county cannot show: (i) that it has remedied the deficiency in
41 funding or (ii) that extraordinary circumstances caused the county to
42 supplant local current expense funds with funds allocated under this
43 section.

44 The State Board of Education shall adopt rules to implement this section.

45 **SECTION 7.6.(i)** Reports. – The State Board of Education shall report to the
46 Joint Legislative Education Oversight Committee prior to May 1, 2006, if it determines
47 that counties have supplanted funds.

48 **SECTION 7.6.(j)** Department of Revenue Reports. – The Department of
49 Revenue shall provide to the Department of Public Instruction a preliminary report for
50 the current fiscal year of the assessed value of the property tax base for each county
51 prior to March 1 of each year and a final report prior to May 1 of each year. The reports
52 shall include for each county the annual sales assessment ratio and the taxable values of
53 (i) total real property, (ii) the portion of total real property represented by the

1 present-use value of agricultural land, horticultural land, and forestland as defined in
2 G.S. 105-277.2, (iii) property of public service companies determined in accordance
3 with Article 23 of Chapter 105 of the General Statutes, and (iv) personal property.
4

5 Requested by: Representatives Jeffus, Tolson, Yongue

6 **SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING**

7 **SECTION 7.7.(a)** Funds for Small School Systems. – Except as provided in
8 subsection (b) of this section, the State Board of Education shall allocate funds
9 appropriated for small school system supplemental funding (i) to each county school
10 administrative unit with an average daily membership of fewer than 3,175 students and
11 (ii) to each county school administrative unit with an average daily membership from
12 3,175 to 4,000 students if the county in which the local school administrative unit is
13 located has a county-adjusted property tax base per student that is below the
14 State-adjusted property tax base per student and if the total average daily membership of
15 all local school administrative units located within the county is from 3,175 to 4,000
16 students. The allocation formula shall:

- 17 (1) Round all fractions of positions to the next whole position.
- 18 (2) Provide five and one-half additional regular classroom teachers in
19 counties in which the average daily membership per square mile is
20 greater than four, and seven additional regular classroom teachers in
21 counties in which the average daily membership per square mile is
22 four or fewer.
- 23 (3) Provide additional program enhancement teachers adequate to offer
24 the standard course of study.
- 25 (4) Change the duty-free period allocation to one teacher assistant per 400
26 average daily membership.
- 27 (5) Provide a base for the consolidated funds allotment of at least seven
28 hundred forty thousand seventy-four dollars (\$740,074), excluding
29 textbooks for the 2005-2006 fiscal year and a base of seven hundred
30 forty thousand seventy-four dollars (\$740,074) for the 2006-2007
31 fiscal year.
- 32 (6) Allot vocational education funds for grade 6 as well as for grades 7-12.

33 If funds appropriated for each fiscal year for small school system
34 supplemental funding are not adequate to fully fund the program, the State Board of
35 Education shall reduce the amount allocated to each county school administrative unit
36 on a pro rata basis. This formula is solely a basis for distribution of supplemental
37 funding for certain county school administrative units and is not intended to reflect any
38 measure of the adequacy of the educational program or funding for public schools. The
39 formula is also not intended to reflect any commitment by the General Assembly to
40 appropriate any additional supplemental funds for such county administrative units.

41 **SECTION 7.7.(b)** Nonsupplant Requirement. – A county in which a local
42 school administrative unit receives funds under this section shall use the funds to
43 supplement local current expense funds and shall not supplant local current expense
44 funds. For the 2005-2007 fiscal biennium, the State Board of Education shall not
45 allocate funds under this section to a county found to have used these funds to supplant
46 local per student current expense funds. The State Board of Education shall make a
47 finding that a county has used these funds to supplant local current expense funds in the
48 prior year, or the year for which the most recent data are available, if:

- 49 (1) The current expense appropriation per student of the county for the
50 current year is less than ninety-five percent (95%) of the average of the
51 local current expense appropriations per student for the three prior
52 fiscal years; and

- 1 (2) The county cannot show: (i) that it has remedied the deficiency in
2 funding or (ii) that extraordinary circumstances caused the county to
3 supplant local current expense funds with funds allocated under this
4 section.

5 The State Board of Education shall adopt rules to implement this section.

6 **SECTION 7.7.(c)** Phase-Out Provisions. – If a local school administrative
7 unit becomes ineligible for funding under this formula solely because of an increase in
8 the county-adjusted property tax base per student of the county in which the local school
9 administrative unit is located, funding for that unit shall be phased out over a two-year
10 period. For the first year of ineligibility, the unit shall receive the same amount it
11 received for the prior fiscal year. For the second year of ineligibility, it shall receive
12 one-half of that amount.

13 If a local school administrative unit becomes ineligible for funding under this
14 formula solely because of an increase in the population of the county in which the local
15 school administrative unit is located, funding for that unit shall be continued for five
16 years after the unit becomes ineligible.

17 **SECTION 7.7.(d)** Definitions. – As used in this section:

- 18 (1) "Average daily membership" means within two percent (2%) of the
19 average daily membership as defined in the North Carolina Public
20 Schools Allotment Policy Manual adopted by the State Board of
21 Education.
22 (2) "County-adjusted property tax base per student" means the total
23 assessed property valuation for each county, adjusted using a weighted
24 average of the three most recent annual sales assessment ratio studies,
25 divided by the total number of students in average daily membership
26 who reside within the county.
27 (2a) "Local current expense funds" means the most recent county current
28 expense appropriations to public schools, as reported by local boards
29 of education in the audit report filed with the Secretary of the Local
30 Government Commission pursuant to G.S. 115C-447.
31 (3) "Sales assessment ratio studies" means sales assessment ratio studies
32 performed by the Department of Revenue under G.S. 105-289(h).
33 (4) "State-adjusted property tax base per student" means the sum of all
34 county-adjusted property tax bases divided by the total number of
35 students in average daily membership who reside within the State.
36 (4a) "Supplant" means to decrease local per student current expense
37 appropriations from one fiscal year to the next fiscal year.
38 (5) "Weighted average of the three most recent annual sales assessment
39 ratio studies" means the weighted average of the three most recent
40 annual sales assessment ratio studies in the most recent years for which
41 county current expense appropriations and adjusted property tax
42 valuations are available. If real property in a county has been revalued
43 one year prior to the most recent sales assessment ratio study, a
44 weighted average of the two most recent sales assessment ratios shall
45 be used. If property has been revalued during the year of the most
46 recent sales assessment ratio study, the sales assessment ratio for the
47 year of revaluation shall be used.

48 **SECTION 7.7.(e)** Reports. – The State Board of Education shall report to
49 the Joint Legislative Education Oversight Committee prior to May 1, 2006, if it
50 determines that counties have supplanted funds.

51 **SECTION 7.7.(f)** Use of Funds. – Local boards of education are encouraged
52 to use at least twenty percent (20%) of the funds they receive pursuant to this section to
53 improve the academic performance of children who are performing at Level I or II on

1 either reading or mathematics end-of-grade tests in grades 3-8 and children who are
2 performing at Level I or II on the writing tests in grades 4 and 7. Local boards of
3 education shall report to the State Board of Education on an annual basis on funds used
4 for this purpose, and the State Board shall report this information to the Joint
5 Legislative Education Oversight Committee. These reports shall specify how these
6 funds were targeted and used to implement specific improvement strategies of each
7 local school administrative unit and its schools such as teacher recruitment, closing the
8 achievement gap, improving student accountability, addressing the needs of at-risk
9 students, and establishing and maintaining safe schools.

10
11 Requested by: Representatives Jeffus, Tolson, Yongue

12 **DISADVANTAGED STUDENT SUPPLEMENTAL FUNDING**

13 **SECTION 7.8.(a)** Funds are appropriated in this act to address the capacity
14 needs of local school administrative units to meet the needs of disadvantaged students.
15 Each local school administrative unit shall use funds allocated to it for disadvantaged
16 student supplemental funding to implement a plan jointly developed by the unit and the
17 LEA Assistance Program team. The plan shall be based upon the needs of students in
18 the unit not achieving grade-level proficiency. The plan shall detail how these funds
19 shall be used in conjunction with all other supplemental funding allotments such as
20 Low-Wealth, Small County, At-Risk Student Services/Alternative Schools, and
21 Improving Student Accountability, to provide instructional and other services that meet
22 the educational needs of these students. Prior to the allotment of disadvantaged student
23 supplemental funds, the plan shall be approved by the State Board of Education.

24 Funds received for disadvantaged student supplemental funding shall be used,
25 consistent with the policies and procedures adopted by the State Board of Education,
26 only to:

- 27 (1) Provide instructional positions or instructional support positions and/or
28 professional development;
- 29 (2) Provide intensive in-school and/or after-school remediation;
- 30 (3) Purchase diagnostic software and progress-monitoring tools; and
- 31 (4) Provide funds for teacher bonuses and supplements. The State Board
32 of Education shall set a maximum percentage of the funds that may be
33 used for this purpose.

34 The State Board of Education may require districts receiving funding under
35 the Disadvantaged Student Supplemental Fund to purchase the Education Value Added
36 Assessment System in order to provide in-depth analysis of student performance and
37 help identify strategies for improving student achievement.

38 **SECTION 7.8.(b)** Funds are appropriated in this act to evaluate the
39 Disadvantaged Students Supplemental Funding Initiative. The State Board of Education
40 shall use these funds to:

- 41 (1) Evaluate the strategies implemented by local school administrative
42 units with Disadvantaged Student Supplemental Funds and other
43 supplemental funds and assess their impact on student performance;
44 and
- 45 (2) Evaluate the efficiency and effectiveness of the technical assistance
46 and support provided to local school administrative units by the
47 Department of Public Instruction.

48 The State Board of Education shall report the results of the evaluation to the
49 Office of State Budget and Management, the Joint Legislative Education Oversight
50 Committee, and the Fiscal Research Division by February 15, 2006, and by January 15
51 of each subsequent year.

52
53 Requested by: Representatives Jeffus, Tolson, Yongue

STUDENTS WITH LIMITED ENGLISH PROFICIENCY

SECTION 7.9.(a) The State Board of Education shall develop guidelines for identifying and providing services to students with limited proficiency in the English language.

The State Board shall allocate these funds to local school administrative units and to charter schools under a formula that takes into account the average percentage of students in the units or the charters over the past three years who have limited English proficiency. The State Board shall allocate funds to a unit or a charter school only if (i) average daily membership of the unit or the charter school includes at least 20 students with limited English proficiency or (ii) students with limited English proficiency comprise at least two and one-half percent (2.5%) of the average daily membership of the unit or charter school. For the portion of the funds that is allocated on the basis of the number of identified students, the maximum number of identified students for whom a unit or charter school receives funds shall not exceed ten and six-tenths percent (10.6%) of its average daily membership.

Local school administrative units shall use funds allocated to them to pay for classroom teachers, teacher assistants, tutors, textbooks, classroom materials/instructional supplies/equipment, transportation costs, and staff development of teachers for students with limited English proficiency.

A county in which a local school administrative unit receives funds under this section shall use the funds to supplement local current expense funds and shall not supplant local current expense funds.

SECTION 7.9.(b) The Department of Public Instruction shall prepare a current head count of the number of students classified with limited English proficiency by December 1 of each year.

Students in the head count shall be assessed at least once every three years to determine their level of English proficiency. A student who scores "superior" on the standard English language proficiency assessment instrument used in this State shall not be included in the head count of students with limited English proficiency.

Requested by: Representatives Jeffus, Tolson, Yongue

FLEXIBILITY FOR THE HIGHEST PRIORITY ELEMENTARY SCHOOLS

SECTION 7.10. The State Board of Education may allow high priority schools that have made high growth for three consecutive years to be removed from the list of high priority schools. If a local board of education chooses to have a school removed from the list of high priority schools, the additional high priority funding for that school shall be discontinued.

Requested by: Representatives Jeffus, Tolson, Yongue

AT-RISK STUDENT SERVICES/ALTERNATIVE SCHOOLS

SECTION 7.11. The State Board of Education may use up to two hundred thousand dollars (\$200,000) of the funds in the Alternative Schools/At-Risk Student allotment each year for the 2005-2006 fiscal year and for the 2006-2007 fiscal year to implement G.S. 115C-12(24).

Requested by: Representatives Jeffus, Tolson, Yongue

FUNDS FOR CHILDREN WITH DISABILITIES

SECTION 7.12. The State Board of Education shall allocate funds for children with disabilities on the basis of two thousand eight hundred thirty-eight dollars and thirty-nine cents (\$2,838.39) per child for a maximum of 168,602 children for the 2005-2006 school year. Each local school administrative unit shall receive funds for the lesser of (i) all children who are identified as children with disabilities or (ii) twelve and

1 five-tenths percent (12.5%) of the 2005-2006 allocated average daily membership in the
2 local school administrative unit.

3 The dollar amounts allocated under this section for children with disabilities
4 shall also adjust in accordance with legislative salary increments, retirement rate
5 adjustments, and health benefit adjustments for personnel who serve children with
6 disabilities.

7
8 Requested by: Representatives Jeffus, Tolson, Yongue

9 **FUNDS FOR ACADEMICALLY GIFTED CHILDREN**

10 **SECTION 7.13.** The State Board of Education shall allocate funds for
11 academically or intellectually gifted children on the basis of nine hundred twenty-six
12 dollars and fifty-five cents (\$926.55) per child. A local school administrative unit shall
13 receive funds for a maximum of four percent (4%) of its 2005-2006 allocated average
14 daily membership, regardless of the number of children identified as academically or
15 intellectually gifted in the unit. The State Board shall allocate funds for no more than
16 55,895 children for the 2005-2006 school year.

17 The dollar amounts allocated under this section for academically or
18 intellectually gifted children shall also adjust in accordance with legislative salary
19 increments, retirement rate adjustments, and health benefit adjustments for personnel
20 who serve academically or intellectually gifted children.

21
22 Requested by: Representatives Jeffus, Tolson, Yongue

23 **EXPENDITURE OF FUNDS TO IMPROVE STUDENT ACCOUNTABILITY**

24 **SECTION 7.14.(a)** Funds appropriated for the 2005-2006 and 2006-2007
25 fiscal years for Student Accountability Standards shall be used to assist students to
26 perform at or above grade level in reading and mathematics in grades 3-8 as measured
27 by the State's end-of-grade tests. The State Board of Education shall allocate these funds
28 to LEAs based on the number of students who score at Level I or Level II on either
29 reading or mathematics end-of-grade tests in grades 3-8. Funds in the allocation
30 category shall be used to improve the academic performance of (i) students who are
31 performing at Level I or II on either reading or mathematics end-of-grade tests in grades
32 3-8 or (ii) students who are performing at Level I or II on the writing tests in grades 4
33 and 7. These funds may also be used to improve the academic performance of students
34 who are performing at Level I or II on the high school end-of-course tests. These funds
35 shall not be transferred to other allocation categories or otherwise used for other
36 purposes. Except as otherwise provided by law, local boards of education may transfer
37 other funds available to them into this allocation category.

38 The principal of a school receiving these funds, in consultation with the
39 faculty and the site-based management team, shall implement plans for expending these
40 funds to improve the performance of students.

41 Local boards of education are encouraged to use federal funds such as Title I
42 Comprehensive School Reform Development Funds and to examine the use of State
43 funds to ensure that every student is performing at or above grade level in reading and
44 mathematics.

45 These funds shall be allocated to local school administrative units for the
46 2005-2006 fiscal year within 30 days of the date this act becomes law.

47 **SECTION 7.14.(b)** Funds appropriated for Student Accountability
48 Standards shall not revert at the end of each fiscal year but shall remain available for
49 expenditure until August 31 of the subsequent fiscal year.

50
51 Requested by: Representatives Jeffus, Tolson, Yongue

52 **LITIGATION RESERVE FUNDS**

1 **SECTION 7.15.** The State Board of Education may expend up to five
2 hundred thousand dollars (\$500,000) each year for the 2005-2006 and 2006-2007 fiscal
3 years from unexpended funds for certified employees' salaries to pay expenses related to
4 pending litigation.

5
6 Requested by: Representatives Jeffus, Tolson, Yongue

7 **BASE BUDGET REDUCTION TO DEPARTMENT OF PUBLIC**
8 **INSTRUCTION**

9 **SECTION 7.16.** Notwithstanding any other provision of law, the
10 Department of Public Instruction may use salary reserve funds and other funds and may
11 transfer funds within the Department's continuation budget to implement budget
12 reductions for the 2005-2006 fiscal year.

13
14 Requested by: Representatives Jeffus, Tolson, Yongue

15 **REPLACEMENT SCHOOL BUSES FUNDS**

16 **SECTION 7.17.(a)** The State Board of Education may impose any of the
17 following conditions on allotments to local boards of education for replacement school
18 buses:

- 19 (1) The local board of education shall use the funds only to make the first,
20 second, or third year's payment on a financing contract entered into
21 pursuant to G.S. 115C-528.
- 22 (2) The term of a financing contract entered into under this section shall
23 not exceed three years.
- 24 (3) The local board of education shall purchase the buses only from
25 vendors selected by the State Board of Education and on terms
26 approved by the State Board of Education.
- 27 (4) The Department of Administration, Division of Purchase and Contract,
28 in cooperation with the State Board of Education, shall solicit bids for
29 the direct purchase of school buses and activity buses and shall
30 establish a statewide term contract for use by the State Board of
31 Education. Local boards of education and other agencies shall be
32 eligible to purchase from the statewide term contract. The State Board
33 of Education shall also solicit bids for the financing of school buses.
- 34 (5) A bus financed pursuant to this section shall meet all federal motor
35 vehicle safety regulations for school buses.
- 36 (6) Any other condition the State Board of Education considers
37 appropriate.

38 **SECTION 7.17.(b)** Any term contract for the purchase or lease-purchase of
39 school buses or school activity buses shall not require vendor payment of the electronic
40 procurement transaction fee of the North Carolina E-Procurement Service.

41
42 Requested by: Representatives Jeffus, Tolson, Yongue

43 **EXPENDITURES FOR DRIVING ELIGIBILITY CERTIFICATES**

44 **SECTION 7.18.** G.S. 115C-12(28) reads as rewritten:

45 **"§ 115C-12. Powers and duties of the Board generally.**

46 The general supervision and administration of the free public school system shall be
47 vested in the State Board of Education. The State Board of Education shall establish
48 policy for the system of free public schools, subject to laws enacted by the General
49 Assembly. The powers and duties of the State Board of Education are defined as
50 follows:

- 51 ...
- 52 (28) Duty to Develop Rules for Issuance of Driving Eligibility Certificates.
53 – The State Board of Education shall adopt the following rules to assist

1 schools in their administration of procedures necessary to implement
 2 G.S. 20-11 and G.S. 20-13.2:

- 3 a. To define what is equivalent to a high school diploma for the
 4 purposes of G.S. 20-11 and G.S. 20-13.2. These rules shall
 5 apply to all educational programs offered in the State by public
 6 schools, charter schools, nonpublic schools, or community
 7 colleges.
- 8 b. To establish the procedures a person who is or was enrolled in a
 9 public school or in a charter school must follow and the
 10 requirements that person shall meet to obtain a driving
 11 eligibility certificate.
- 12 c. To require the person who is required under G.S. 20-11(n) to
 13 sign the driving eligibility certificate to provide the certificate if
 14 he or she determines that one of the following requirements is
 15 met:
 - 16 1. The person seeking the certificate is eligible for the
 17 certificate under G.S. 20-11(n)(1) and is not subject to
 18 G.S. 20-11(n1).
 - 19 2. The person seeking the certificate is eligible for the
 20 certificate under G.S. 20-11(n)(1) and G.S. 20-11(n1).
- 21 These rules shall apply to public schools and charter schools.
- 22 d. To provide for an appeal to an appropriate education authority
 23 by a person who is denied a driving eligibility certificate. These
 24 rules shall apply to public schools and charter schools.
- 25 e. To define exemplary student behavior and to define what
 26 constitutes the successful completion of a drug or alcohol
 27 treatment counseling program. These rules shall apply to public
 28 schools and charter schools.

29 The State Board also shall develop policies as to when it is
 30 appropriate to notify the Division of Motor Vehicles that a person who
 31 is or was enrolled in a public school or in a charter school no longer
 32 meets the requirements for a driving eligibility certificate.

33 The State Board shall develop a form for parents, guardians, or
 34 emancipated juveniles, as appropriate, to provide their written,
 35 irrevocable consent for a school to disclose to the Division of Motor
 36 Vehicles that the student no longer meets the conditions for a driving
 37 eligibility certificate under G.S. 20-11(n)(1) or G.S. 20-11(n1), if
 38 applicable, in the event that this disclosure is necessary to comply with
 39 G.S. 20-11 or G.S. 20-13.2. Other than identifying under which
 40 statutory subsection the student is no longer eligible, no other details
 41 or information concerning the student's school record shall be released
 42 pursuant to this consent. This form shall be used for students enrolled
 43 in public schools or charter schools.

44 The State Board of Education may use funds appropriated for
 45 drivers education to cover the costs of driving eligibility certificates."

46
 47 Requested by: Representatives Jeffus, Tolson, Yongue

48 **DISCREPANCIES BETWEEN ANTICIPATED AND ACTUAL ADM**

49 **SECTION 7.19.(a)** If the State Board of Education does not have sufficient
 50 resources in the ADM Contingency Reserve line item to make allotment adjustments in
 51 accordance with the Allotment Adjustments for ADM Growth provisions of the North
 52 Carolina Public Schools Allotment Policy Manual, the State Board of Education may
 53 use funds appropriated to State Aid for Public Schools for this purpose.

1 **SECTION 7.19.(b)** If the higher of the first or second month average daily
2 membership in a local school administrative unit is at least two percent (2%) or 100
3 students lower than the anticipated average daily membership used for allotments for
4 the unit, the State Board of Education shall reduce allotments for the unit. The reduced
5 allotments shall be based on the higher of the first or second month average daily
6 membership plus one-half of the number of students overestimated in the anticipated
7 average daily membership.

8 The allotments reduced pursuant to this subsection shall include only those
9 allotments that may be increased pursuant to the Allotment Adjustments for ADM
10 Growth provisions of the North Carolina Public Schools Allotment Policy Manual.

11
12 Requested by: Representatives Jeffus, Tolson, Yongue

13 **CHARTER SCHOOL ADVISORY COMMITTEE/CHARTER SCHOOL**
14 **EVALUATION**

15 **SECTION 7.20.** The State Board of Education may spend up to fifty
16 thousand dollars (\$50,000) a year from State Aid to Local School Administrative Units
17 for the 2005-2006 and 2006-2007 fiscal years to continue support of a charter school
18 advisory committee and to continue to evaluate charter schools.

19
20 Requested by: Representatives Jeffus, Tolson, Yongue

21 **MENTOR TEACHER FUNDS MAY BE USED FOR FULL-TIME MENTORS**

22 **SECTION 7.21.(a)** The State Board of Education shall grant flexibility to a
23 local board of education regarding the use of mentor funds to provide mentoring
24 support, provided the local board submits a detailed plan on the use of the funds to the
25 State Board and the State Board approves that plan. The plan shall include information
26 on how all mentors in the local school administrative unit have been or will be
27 adequately trained to provide mentoring support.

28 Local boards of education shall use funds allocated for mentor teachers to
29 provide mentoring support to all State-paid newly certified teachers, second-year
30 teachers who were assigned mentors during the prior school year, and entry-level
31 instructional support personnel who have not previously been teachers.

32 **SECTION 7.21.(b)** The State Board, after consultation with the Professional
33 Teaching Standards Commission, shall adopt standards for mentor training.

34 **SECTION 7.21.(c)** Each local board of education with a plan approved
35 pursuant to subsection (a) of this section shall report to the State Board on the impact of
36 its mentor program on teacher retention. The State Board shall analyze these reports to
37 determine the characteristics of mentor programs that are most effective in retaining
38 teachers and shall report its findings to the Joint Legislative Education Oversight
39 Committee by October 15, 2006.

40 **SECTION 7.21.(d)** In addition to the report required in subsection (c) of this
41 section, the State shall also evaluate the effectiveness of a representative sample of local
42 mentor programs and report on its findings to the Joint Legislative Education Oversight
43 Committee and the Fiscal Research Division by December 15, 2006. The evaluation
44 shall focus on quantitative evidence, quality of service delivery, and satisfaction of
45 those involved. The report shall include the results of the evaluation and
46 recommendations both for improving mentor programs generally and for an appropriate
47 level of State support for mentor programs.

48
49 Requested by: Representatives Jeffus, Tolson, Yongue

50 **VISITING INTERNATIONAL EXCHANGE TEACHERS**

51 **SECTION 7.22.(a)** G.S. 115C-105.25(b) is amended by adding a new
52 subdivision to read:

"(5a) Positions allocated for classroom teachers may be converted to dollar equivalents to contract for visiting international exchange teachers. These positions shall be converted at the statewide average salary for classroom teachers, including benefits. The converted funds shall be used only to cover the costs associated with bringing visiting international exchange teachers to the local school administrative unit through a State-approved visiting international exchange teacher program and supporting the visiting exchange teachers."

SECTION 7.22.(b) The Visiting International Faculty Program is a State-approved visiting international exchange teacher program.

Requested by: Representatives Jeffus, Tolson, Yongue

FUNDS TO IMPLEMENT THE ABCS OF PUBLIC EDUCATION

SECTION 7.23.(a) The State Board of Education shall use funds appropriated in this act for State Aid to Local School Administrative Units to provide incentive funding for schools that met or exceeded the projected levels of improvement in student performance during the 2004-2005 school year, in accordance with the ABCs of Public Education Program. In accordance with State Board of Education policy:

- (1) Incentive awards in schools that achieve higher than expected improvements may be:
 - a. Up to one thousand five hundred dollars (\$1,500) for each teacher and for certified personnel; and
 - b. Up to five hundred dollars (\$500.00) for each teacher assistant.
- (2) Incentive awards in schools that meet the expected improvements may be:
 - a. Up to seven hundred fifty dollars (\$750.00) for each teacher and for certified personnel; and
 - b. Up to three hundred seventy-five dollars (\$375.00) for each teacher assistant.

SECTION 7.23.(b) The State Board of Education may use funds appropriated to the State Public School Fund for assistance teams to low-performing schools.

Requested by: Representatives Jeffus, Tolson, Yongue

LEA ASSISTANCE PROGRAM

SECTION 7.24. Of the funds appropriated to the State Public School Fund, the State Board of Education shall use five hundred thousand dollars (\$500,000) for the 2005-2006 fiscal year and five hundred thousand dollars (\$500,000) for the 2006-2007 fiscal year to provide assistance to the State's low-performing Local School Administrative Units (LEAs) and to assist schools in meeting adequate yearly progress in each subgroup identified in the No Child Left Behind Act of 2001. The State Board of Education shall report to the Office of State Budget and Management, the Fiscal Research Division, and the Joint Legislative Education Oversight Committee on the expenditure of these funds by May 15, 2006, and by December 15, 2007. The report shall contain: (i) the criteria for selecting LEAs and schools to receive assistance, (ii) measurable goals and objectives for the assistance program, (iii) an explanation of the assistance provided, (iv) findings from the assistance program, (v) actual expenditures by category, (vi) recommendations for the continuance of this program, and (vii) any other information the State Board deems necessary. These funds shall not revert at the end of each fiscal year but shall remain available until expended for this purpose.

Requested by: Representatives Jeffus, Tolson, Yongue

FUNDS FOR THE TESTING AND IMPLEMENTATION OF THE NEW STUDENT INFORMATION SYSTEM

SECTION 7.25.(a) Funds appropriated for the Uniform Education Reporting System shall not revert at the end of the 2005-2006 and 2006-2007 fiscal years but shall remain available until expended.

SECTION 7.25.(b) This section becomes effective June 30, 2005.

Requested by: Representatives Jeffus, Tolson, Yongue
PUBLIC SCHOOL BUILDING CAPITAL AND TECHNOLOGY FUND

SECTION 7.26.(a) The title of Article 38A of Chapter 115C of the General Statutes reads as rewritten:

"Article 38A.

Public School Building Capital and Technology Fund."

SECTION 7.26.(b) G.S. 115C-546.1 reads as rewritten:

"§ 115C-546.1. **Creation of Fund; administration.**

(a) There is created the Public School Building Capital and Technology Fund. The Fund shall be used to assist county governments in meeting their public school building capital needs and their equipment needs under their local school technology plans.

(b) Each calendar quarter, the Secretary of Revenue shall remit to the State Treasurer ~~for credit to the Public School Building Capital Fund~~ an amount equal to ~~the applicable fraction provided in the table below~~ five sixty-ninths (5/69) of the net collections received during the previous quarter by the Department of Revenue under G.S. 105-130.3. Of these funds, two million eight hundred twelve thousand five hundred dollars (\$2,812,500) shall be for credit to the State Public School Fund, and the remainder shall be for credit to the Public School Capital and Technology Fund. All funds deposited in the Public School Building Capital and Technology Fund shall be invested as provided in G.S. 147-69.2 and G.S. 147-69.3.

Period	Fraction
10/1/97 to 9/30/98	One fifteenth (1/15)
10/1/98 to 9/30/99	Two twenty ninths (2/29)
10/1/99 to 9/30/00	One fourteenth (1/14)
After 9/30/00	Five sixty ninths (5/69)

(c) The Fund shall be administered by the Department of Public Instruction. "

SECTION 7.26.(c) Notwithstanding the provisions of G.S. 115C-546.1(b), as rewritten by subsection (a) of this section, for the first quarter of the 2005-2006 fiscal year only, the Secretary of Revenue shall remit to the State Treasurer an amount equal to five sixty-ninths of the net collections received during the previous quarter by the Department of Revenue under G.S. 105-130.3. Of these funds, four million eight hundred twelve thousand five hundred dollars (\$4,812,500) shall be for credit to the State Public School Fund, and the remainder shall be for credit to the Public School Capital and Technology Fund.

Requested by: Representatives Jeffus, Tolson, Yongue
LEA SALES TAX REFUND REPORTING

SECTION 7.27.(a) G.S. 105-164.14(c) reads as rewritten:

"(c) Certain Governmental Entities. – A governmental entity listed in this subsection is allowed an annual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and services, other than electricity and telecommunications service. Sales and use tax liability indirectly incurred by a governmental entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the governmental entity and is being erected, altered, or repaired for use by

1 the governmental entity is considered a sales or use tax liability incurred on direct
2 purchases by the governmental entity for the purpose of this subsection. A request for a
3 refund must be in writing and must include any information and documentation required
4 by the Secretary. A request for a refund is due within six months after the end of the
5 governmental entity's fiscal year. The Secretary shall make an annual report to the
6 Department of Public Instruction and the Fiscal Research Division of the General
7 Assembly by January 1 of the amount of refunds, identified by taxpayer, claimed under
8 subdivisions (2b) and (2c) of this subsection over the preceding year.

9 This subsection applies only to the following governmental entities:

- 10 (1) A county.
- 11 (2) A city as defined in G.S. 160A-1.
- 12 (2a) A consolidated city-county as defined in G.S. 160B-2.
- 13 (2b) A local school administrative unit.
- 14 (2c) A joint agency created by interlocal agreement among local school
15 administrative units pursuant to G.S. 160A-462 to jointly purchase
16 food service-related materials, supplies, and equipment on their behalf.
- 17 (3) A metropolitan sewerage district or a metropolitan water district in this
18 State.
- 19 (4) A water and sewer authority created under Chapter 162A of the
20 General Statutes.
- 21 (5) A lake authority created by a board of county commissioners pursuant
22 to an act of the General Assembly.
- 23 (6) A sanitary district.
- 24 (7) A regional solid waste management authority created pursuant to
25 G.S. 153A-421.
- 26 (8) An area mental health, developmental disabilities, and substance abuse
27 authority, other than a single-county area authority, established
28 pursuant to Article 4 of Chapter 122C of the General Statutes.
- 29 (9) A district health department, or a public health authority created
30 pursuant to Part 1A of Article 2 of Chapter 130A of the General
31 Statutes.
- 32 (10) A regional council of governments created pursuant to G.S. 160A-470.
- 33 (11) A regional planning and economic development commission or a
34 regional economic development commission created pursuant to
35 Chapter 158 of the General Statutes.
- 36 (12) A regional planning commission created pursuant to G.S. 153A-391.
- 37 (13) A regional sports authority created pursuant to G.S. 160A-479.
- 38 (14) A public transportation authority created pursuant to Article 25 of
39 Chapter 160A of the General Statutes.
- 40 (14a) A facility authority created pursuant to Part 4 of Article 20 of Chapter
41 160A of the General Statutes.
- 42 (15) A regional public transportation authority created pursuant to Article
43 26 of Chapter 160A of the General Statutes, or a regional
44 transportation authority created pursuant to Article 27 of Chapter 160A
45 of the General Statutes.
- 46 (16) A local airport authority that was created pursuant to a local act of the
47 General Assembly.
- 48 (17) A joint agency created by interlocal agreement pursuant to
49 G.S. 160A-462 to operate a public broadcasting television station.
- 50 (18) Repealed by Session Laws 2001-474, s. 7, effective November 29,
51 2001.
- 52 (19) Repealed by Session Laws 2001-474, s. 7, effective November 29,
53 2001.

1 (20) A constituent institution of The University of North Carolina, but only
 2 with respect to sales and use tax paid by it for tangible personal
 3 property or services that are eligible for refund under this subsection
 4 acquired by it through the expenditure of contract and grant funds.

5 (21) The University of North Carolina Health Care System.

6 (22) A regional natural gas district created pursuant to Article 28 of Chapter
 7 160A of the General Statutes."

8 **SECTION 7.27.(b)** G.S. 105-259(b) is amended by adding a new
 9 subdivision to read:

10 "(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State
 11 who has access to tax information in the course of service to or employment by the State
 12 may not disclose the information to any other person unless the disclosure is made for
 13 one of the following purposes:

14 ...
 15 (32) To provide the report required under G.S. 105-164.14(c) to the
 16 Department of Public Instruction and the Fiscal Research Division of
 17 the General Assembly."

18 **SECTION 7.27.(c)** In addition to the report required under
 19 G.S. 105-164.14(c), as amended by this section, the Secretary of Revenue shall make a
 20 report to the Department of Public Instruction and the Fiscal Research Division of the
 21 General Assembly within 30 days after this act becomes law of the amount of refunds,
 22 identified by taxpayer, claimed under subdivisions (2b) and (2c) of G.S. 105-164.14(c)
 23 during the 2002-2003, 2003-2004, and 2004-2005 fiscal years.

24
 25 Requested by: Representatives Jeffus, Tolson, Yongue

26 **REVIEW OF STANDARDS FOR MASTERS IN SCHOOL ADMINISTRATION**
 27 **PROGRAMS**

28 **SECTION 7.28.** The State Board of Education, in consultation with the
 29 Board of Governors of The University of North Carolina, shall review standards for
 30 Masters in School Administration programs to ensure that appropriate competencies
 31 related to teacher retention, teacher evaluations, teacher support programs, and teacher
 32 effectiveness are included and emphasized.

33
 34 Requested by: Representatives Jeffus, Tolson, Yongue

35 **EVALUATION OF SCHOOL PRINCIPALS**

36 **SECTION 7.29.** Chapter 115C of the General Statutes is amended by adding
 37 a new section to read:

38 **§ 115C-286.1. Evaluations of principals.**

39 Local school administrative units shall evaluate all principals and assistant principals
 40 at least once each year. Either the superintendent or the superintendent's designee shall
 41 conduct the evaluations.

42 The State Board shall determine the standards and criteria to be used in the
 43 evaluations. A local board shall use the performance standards and criteria adopted by
 44 the State Board unless the board develops an alternative evaluation that is properly
 45 validated and that includes standards and criteria similar to those adopted by the State
 46 Board."

47
 48 Requested by: Representatives Jeffus, Tolson, Yongue

49 **PLANNING TIME FOR TEACHERS**

50 **SECTION 7.30.** The State Board of Education shall report on best practices
 51 from North Carolina schools for providing a minimum of five hours per week within the
 52 instructional day for planning, collaborating with colleagues and parents, and
 53 professional development, especially within elementary school schedules. The State

1 Board shall submit its report to the Education Cabinet and to the Joint Legislative
2 Education Oversight Committee by January 15, 2006.

3 The State Board shall disseminate this information about best practices to
4 schools and school systems across the State.

5
6 Requested by: Representatives Jeffus, Tolson, Yongue

7 **LEARN AND EARN HIGH SCHOOLS**

8 **SECTION 7.32.(a)** Funds are appropriated in this act for the Learn and Earn
9 high school workforce development program. The purpose of the program is to create
10 rigorous and relevant high school options that provide students with the opportunity and
11 assistance to earn an associate degree or two years of college credit by the conclusion of
12 the year after their senior year in high school. The State Board of Education shall work
13 closely with the Education Cabinet and the New Schools Project in administering the
14 program.

15 **SECTION 7.32.(b)** These funds shall be used to establish new high schools
16 in which a local school administrative unit, two- and four-year colleges and universities,
17 and local employers work together to ensure that high school and postsecondary college
18 curricula operate seamlessly and meet the needs of participating employers.

19 Funds shall not be allotted until Learn and Earn high schools are certified as
20 operational.

21 **SECTION 7.32.(c)** During the first year of its operation, a high school
22 established under G.S. 115C-238.50 shall be allotted a principal regardless of the
23 number of State-paid teachers assigned to the school or the number of students enrolled
24 in the school. The budget flexibility authorized by G.S. 115C-105.25 does not apply to
25 these positions.

26 **SECTION 7.32.(d)** The State Board of Education, in consultation with the
27 State Board of Community Colleges and The University of North Carolina Board of
28 Governors, shall conduct an annual evaluation of this program. The evaluation shall
29 include measures as identified in G.S. 115C-238.55. It shall also include: (i) an
30 accounting of how funds and personnel resources were utilized and their impact on
31 student achievement, retention, and employability; (ii) recommended statutory and
32 policy changes; and (iii) recommendations for improvement of the program. The State
33 Board of Education shall report the results of this evaluation to the Office of State
34 Budget and Management, the Joint Legislative Education Oversight Committee, and the
35 Fiscal Research Division by January 15 of each fiscal year.

36
37 Requested by: Representatives Jeffus, Tolson, Yongue

38 **FLEXIBILITY FOR HIGH SCHOOL INNOVATION**

39 **SECTION 7.33.(a)** Part 9 of Article 16 of Chapter 115C of the General
40 Statutes reads as rewritten:

41 "Part 9. Cooperative Innovative High School Programs.

42 "**§ 115C-238.50. Purpose.**

43 (a) The purpose of this Part is to authorize ~~boards of trustees of community~~
44 ~~colleges and local boards of education to jointly establish~~ local boards of education to
45 jointly establish with one or more boards of trustees cooperative innovative programs in
46 high schools and ~~community colleges~~ or universities that will expand students'
47 opportunities for educational success through high quality instructional programming.
48 These cooperative innovative high school programs shall target:

- 49 (1) High school students who are at risk of dropping out of school before
50 attaining a high school diploma; or
51 (2) High school students who would benefit from accelerated academic
52 instruction.

1 (b) All the cooperative innovative high school programs established under this
2 Part shall:

- 3 (1) Prepare students adequately for future learning in the workforce or in
4 an institution of higher education.
- 5 (2) Expand students' educational opportunities within the public school
6 system.
- 7 (3) Be centered on the core academic standards represented by the college
8 preparatory or tech prep program of study as defined by the State
9 Board of Education.
- 10 (4) Encourage the cooperative or shared use of resources, personnel, and
11 facilities between public schools and ~~community colleges~~ colleges or
12 universities, or both.
- 13 (5) Integrate and emphasize both academic and technical skills necessary
14 for students to be successful in a more demanding and changing
15 workplace.
- 16 (6) Emphasize parental involvement and provide consistent counseling,
17 advising, and parent conferencing so that parents and students can
18 make responsible decisions regarding course taking and can track the
19 students' academic progress and success.
- 20 (7) Be held accountable for meeting measurable student achievement
21 results.
- 22 (8) Encourage the use of different and innovative teaching methods.
- 23 (9) Establish joint institutional responsibility and accountability for
24 support of students and their success.
- 25 (10) Effectively utilize existing funding sources for high school,
26 ~~community college~~, university, and vocational programs and actively
27 pursue new funding from other sources.
- 28 (11) Develop methods for early identification of potential participating
29 students in the middle grades and through high school.
- 30 (12) Reduce the percentage of students needing remedial courses upon their
31 initial entry from high school into a college or university.

32 (c) Programs developed under this Part that target students who are at risk of
33 dropping out of high school before attaining a high school diploma shall:

- 34 (1) Provide these students with the opportunity to graduate from high
35 school possessing the core academic skills needed for postsecondary
36 education and high-skilled employment.
- 37 (2) Enable students to complete a technical or academic program in a field
38 that is in high demand and has high wages.
- 39 (3) Set and achieve goals that significantly reduce dropout rates and raise
40 high school and ~~community college~~ retention, certification, and degree
41 completion rates.
- 42 (4) Enable students who complete these programs to pass employer
43 exams, if applicable.

44 (d) Cooperative innovative high school programs that offer accelerated learning
45 programs shall:

- 46 (1) Provide a flexible, customized program of instruction for students who
47 would benefit from accelerated, higher level coursework or early
48 graduation from high school.
- 49 (2) Enable students to obtain a high school diploma in less than four years
50 ~~and years, to begin or complete an associate degree program or~~
51 program, to master a certificate or vocational program-program, or to
52 earn up to two years of college credit.

1 (3) Offer a college preparatory academic core and in-depth studies in a
2 career or technical field that will lead to advanced programs or
3 employment opportunities in engineering, health sciences, or teaching.

4 (e) Cooperative innovative high school programs may include the creation of a
5 school within a school, a technical high school, or a high school or technical center
6 located on the campus of a ~~community college~~ college or university.

7 (f) Students are eligible to attend these programs as early as ninth grade.

8 **"§ 115C-238.50A. Definitions.**

9 The following definitions apply in this Part:

10 (1) Constituent institution. – A constituent institution as defined in
11 G.S. 116-2(4).

12 (2) Education partner. – An education partner as provided in
13 G.S. 115C-238.52.

14 (3) Governing board. – The State Board of Community Colleges, the
15 Board of Governors of The University of North Carolina, or the Board
16 of the North Carolina Independent Colleges and Universities.

17 (4) Local board of trustees. – The board of trustees of a community
18 college, constituent institution of The University of North Carolina, or
19 private college located in North Carolina.

20 **"§ 115C-238.51. Application process.**

21 (a) A local board of education and ~~a~~ at least one local board of trustees ~~of a~~
22 ~~community college~~ shall jointly apply to establish a cooperative innovative high school
23 program under this Part.

24 (b) The application shall contain at least the following information:

25 (1) A description of a program that implements the purposes in
26 G.S. 115C-238.50.

27 (2) A statement of how the program relates to the Economic Vision Plan
28 adopted for the economic development region in which the program is
29 to be located.

30 (3) The facilities to be used by the program and the manner in which
31 administrative services of the program are to be provided.

32 (4) A description of student academic and vocational achievement goals
33 and the method of demonstrating that students have attained the skills
34 and knowledge specified for those goals.

35 (5) A description of how the program will be operated, including
36 budgeting, curriculum, transportation, and operating procedures.

37 (6) The process to be followed by the program to ensure parental
38 involvement.

39 (7) The process by which students will be selected for and admitted to the
40 program.

41 (8) A description of the funds that will be used and a proposed budget for
42 the program. This description shall identify how the average daily
43 membership (ADM) and full-time equivalent (FTE) students are
44 counted.

45 (9) The qualifications required for individuals employed in the program.

46 (10) The number of students to be served.

47 (11) A description of how the program's effectiveness in meeting the
48 purposes in G.S. 115C-238.50 will be measured.

49 (c) The application shall be submitted to the State Board of Education and the
50 ~~State Board of Community Colleges~~ applicable governing Boards by November 1 of
51 each year. The ~~State Board of Education and the State Board of Community Colleges~~
52 Boards shall appoint a joint advisory committee to review the applications and to

1 recommend to the ~~State Boards~~ those programs that meet the requirements of this Part
2 and that achieve the purposes set out in G.S. 115C-238.50.

3 ~~(d) The State Board of Education and the State Board of Community Colleges~~
4 ~~shall approve two cooperative innovative high school programs in each of the State's~~
5 ~~economic development regions. The State Boards may approve programs recommended~~
6 ~~by the joint advisory committee or may approve other programs that were not~~
7 ~~recommended. The State Boards shall approve all applications by March 15 of each~~
8 ~~year. No application shall be approved unless the State Boards State Board of Education~~
9 ~~and the applicable governing Board find that the application meets the requirements set~~
10 ~~out in this Part and that granting the application would achieve the purposes set out in~~
11 ~~G.S. 115C-238.50. Priority shall be given to applications that are most likely to further~~
12 ~~State education policies, to address the economic development needs of the economic~~
13 ~~development regions in which they are located, and to strengthen the educational~~
14 ~~programs offered in the local school administrative units in which they are located.~~

15 **"§ 115C-238.52. Participation by other education partners.**

16 (a) Any or all of the following education partners may participate in the
17 development of a cooperative innovative program under this Part that is targeted to high
18 school students who would benefit from accelerated academic instruction:

- 19 (1) ~~A constituent institution of The University of North Carolina.~~
- 20 (2) ~~A private college or university located in North Carolina.~~
- 21 (3) A private business or organization.
- 22 (4) The county board of commissioners in the county in which the
23 program is located.

24 (b) Any or all of the education partners listed in subsection (a) of this section that
25 participate shall:

- 26 (1) Jointly apply with the local board of education and the local board of
27 trustees ~~of the community college~~ to establish a cooperative innovative
28 program under this Part.
- 29 (2) Be identified in the application.
- 30 (3) Sign the written agreement under G.S. 115C-238.53(b).

31 **"§ 115C-238.53. Program operation.**

32 (a) A program approved by the State ~~shall be~~ is accountable to the local board of
33 education.

34 (b) A program approved under this Part shall operate under the terms of a written
35 agreement signed by the local board of education, local board of ~~trustees of the~~
36 ~~community college, trustees, State Board of Education, and State Board of Community~~
37 ~~Colleges, applicable governing Board.~~ The agreement shall incorporate the information
38 provided in the application, as modified during the approval process, and any terms and
39 conditions imposed on the program by the State Board of Education and the ~~State Board~~
40 ~~of Community Colleges, applicable governing Board.~~ The agreement may be for a term
41 of no longer than five school years.

42 (c) A program may be operated in a facility owned or leased by the local board
43 of education, the local board of ~~trustees of the community college, trustees,~~ or the
44 education partner, if any.

45 (d) A program approved under this Part shall provide instruction each school
46 year for at least 180 days during nine calendar months, shall comply with laws and
47 policies relating to the education of students with disabilities, and shall comply with
48 Article 27 of this Chapter.

49 (e) A program approved under this Part may use State, federal, and local funds
50 allocated to the local school administrative unit, to the ~~State Board of Community~~
51 ~~Colleges, applicable governing Board,~~ and to the ~~community college or university~~ to
52 implement the program. If there is an education partner and if it is a public body, the
53 program may use State, federal, and local funds allocated to that body.

1 (f) Except as provided in this Part and ~~pursuant to~~ under the terms of the
2 agreement, a program is ~~exempt~~ may be exempted by the applicable governing Board
3 from laws and rules applicable to a local board of education, a local school
4 administrative unit, a community college, a constituent institution, or a local board of
5 ~~trustees of a community college trustees~~.

6 **"§ 115C-238.54. Funds for programs.**

7 (a) The Department of Public Instruction shall assign a school code for each
8 program that is approved under this Part. All positions and other State and federal
9 allotments that are generated for this program shall be assigned to that school code.
10 Notwithstanding G.S. 115C-105.25, once funds are assigned to that school code, the
11 local board of education may use these funds for the program and may transfer these
12 funds between funding allotment categories.

13 (b) The local board of trustees ~~of a community college~~ may allocate State and
14 federal funds for a program that is approved under this Part.

15 (c) An education partner under G.S. 115C-238.52 that is a public body may
16 allocate State, federal, and local funds for a program that is approved under this Part.

17 (d) If not an education partner under G.S. 115C-238.52, a county board of
18 commissioners in a county where a program is located may nevertheless appropriate
19 funds to a program approved under this Part.

20 (e) The local board of education and the local board of trustees ~~of the community~~
21 ~~college~~ are strongly encouraged to seek funds from sources other than State, federal,
22 and local appropriations. They are strongly encouraged to seek funds the Education
23 Cabinet identifies or obtains under G.S. 116C-4.

24 **"§ 115C-238.55. Evaluation of programs.**

25 The State Board of Education and the ~~State Board of Community Colleges~~
26 governing Boards shall evaluate the success of students in programs approved under this
27 Part. Success shall be measured by high school retention rates, high school completion
28 rates, high school dropout rates, certification and associate degree completion,
29 admission to four-year institutions, postgraduation employment in career or
30 study-related fields, and employer satisfaction of employees who participated in and
31 graduated from the programs. Beginning October 15, 2005, and annually thereafter, the
32 Boards shall jointly report to the Joint Legislative Education Oversight Committee on
33 the evaluation of these programs. If, by October 15, 2006, the Boards determine any or
34 all of these programs have been successful, they shall jointly develop a prototype plan
35 for similar programs that could be expanded across the State. This plan shall be
36 included in their report to the Joint Legislative Education Oversight Committee that is
37 due by October 15, 2007."

38 **SECTION 7.33.(b)** It is the intent of the General Assembly that three
39 cooperative innovative high school programs are established that emphasize the
40 educational development of high school students in the areas of science and
41 mathematics in a nonresidential setting. One of these programs shall be located in the
42 eastern region of the State, one shall be located in the central region of the State, and
43 one shall be located in the western region of the State. The State Board of Education
44 shall begin planning for the design and implementation of these programs and shall
45 report their plan to the Joint Legislative Education Oversight Committee and the Fiscal
46 Research Division of the General Assembly by March 15, 2006.

47 The plan shall include, but not be limited to, the following aspects of the
48 proposed programs:

- 49 (1) Programmatic design including location, curriculum, student access,
50 and calendar.
- 51 (2) Projected costs of operation, including instructional, administrative,
52 transportation, capital, and other costs.
- 53 (3) Any plans for coordination with institutes of higher education.

1 (4) Proposed implementation schedule.
2

3 Requested by: Representatives Jeffus, Tolson, Yongue

4 **FUNDS FOR EDUCATION OF STUDENTS AT ECKERD YOUTH**
5 **ALTERNATIVES THERAPEUTIC CAMP**

6 **SECTION 7.35.** Of the funds appropriated for at-risk student
7 services/alternative schools, the State Board shall transfer to the Department of Juvenile
8 Justice and Delinquency Prevention the sum of six hundred thousand dollars (\$600,000)
9 for the 2005-2006 fiscal year and the sum of six hundred thousand dollars (\$600,000)
10 for the 2006-2007 fiscal year to provide for the education of North Carolina students
11 referred by the public schools to Eckerd Youth Alternatives therapeutic camps.
12

13 Requested by: Representatives Jeffus, Tolson, Yongue

14 **MINIMIZE TIME DEVOTED TO STANDARDIZED TESTS**

15 **SECTION 7.37.** G.S. 115C-174.12(a) reads as rewritten:

16 "(a) The State Board of Education shall establish policies and guidelines
17 necessary for minimizing the time students spend taking tests administered through
18 State and local testing programs, for minimizing the frequency of field testing at any
19 one school, and for otherwise carrying out the provisions of this Article. These policies
20 and guidelines shall include the following:

21 (1) Schools shall devote no more than two days of instructional time per
22 year to the taking of practice tests that do not have the primary purpose
23 of assessing current student learning;

24 (2) Students in a school shall not be subject to field tests or national tests
25 during the two-week period preceding the administration of
26 end-of-grade tests, end-of-course tests, or the school's regularly
27 scheduled final exams; and

28 (3) No school shall participate in more than two field tests at any one
29 grade level during a school year unless that school volunteers, through
30 a vote of its school improvement team, to participate in an expanded
31 number of field tests.

32 These policies shall reflect standard testing practices to insure reliability and validity
33 of the sample testing. The results of the field tests shall be used in the final design of
34 each test. The State Board of Education's policies regarding the testing of children with
35 disabilities shall (i) provide broad accommodations and alternate methods of assessment
36 that are consistent with a child's individualized education program and section 504 (29
37 U.S.C. § 794) plans, (ii) prohibit the use of statewide tests as the sole determinant of
38 decisions about a child's graduation or promotion, and (iii) provide parents with
39 information about the Statewide Testing Program and options for students with
40 disabilities. The State Board shall report its proposed policies and proposed changes in
41 policies to the Joint Legislative Education Oversight Committee prior to adoption.

42 The State Board of Education may appoint an Advisory Council on Testing to assist
43 in carrying out its responsibilities under this Article."
44

45 Requested by: Representative McLawhorn

46 **TEACHER WORKING CONDITIONS SURVEY**

47 **SECTION 7.40.(a)** Funds in the amount of two hundred fifteen thousand
48 dollars (\$215,000) for the 2005-2006 fiscal year and two hundred ninety thousand
49 dollars (\$290,000) for the 2006-2007 fiscal year are appropriated in section 2.1 of this
50 act to administer the Governor's Teacher Working Conditions Survey Initiative. These
51 funds shall be used by the State Board of Education, in collaboration with the North
52 Carolina Professional Teaching Standards Commission to (i) administer the survey on a
53 biennial basis, (ii) establish an advisory board to oversee implementation of

1 recommendations from the survey, and (iii) support the NC Network in providing
2 customized analysis to incorporate in school improvement plans.

3 **SECTION 7.40.(b)** The State Board of Education may supplement these
4 funds with gifts or other private funds donated for this purpose.

5
6 Requested by: Representatives Jeffus, Tolson, Yongue

7 **PLAN AND FUNDING FOR A VIRTUAL HIGH SCHOOL**

8 **SECTION 7.41.(a)** The State Board of Education, the Board of Governors
9 of The University of North Carolina, the Independent Colleges and Universities, and the
10 State Board of Community Colleges shall develop E-learning standards and plans for
11 infrastructures that provide virtual learning opportunities accessible to students and
12 other citizens through all North Carolina schools, universities, and community colleges.
13 In developing the plan for the public schools, the State Board of Education shall focus
14 initially on high schools while also researching and developing, where appropriate,
15 E-learning for middle schools, junior high schools, and elementary schools. E-learning
16 programs shall support both teachers and students.

17 **SECTION 7.41.(b)** As used in this section, "E-learning" is electronic
18 learning that includes a wide set of applications and processes, such as Web-based
19 learning, computer-based learning, virtual classrooms, and digital collaboration. It
20 includes the delivery of content via Internet, intranet/extranet (LAN/WAN), audiotape,
21 videotape, satellite broadcast, interactive television, and CD-ROM.

22 **SECTION 7.41.(c)** It is the intent of the General Assembly to give public
23 schools the highest priority in funding for and development of E-learning. Funding for
24 E-learning should be a new appropriation and not come exclusively from existing funds.

25 **SECTION 7.41.(d)** The State Board of Education shall use funds
26 appropriated for a virtual high school to establish and implement a pilot virtual high
27 school during the 2005-2006 school year and the 2006-2007 school year.

28 The State Board of Education shall include in the pilot program instruction on
29 personal financial literacy. This instruction shall be designed to equip students with the
30 knowledge and skills they need, before they become self-supporting, to make critical
31 decisions regarding their personal finances. The components of instruction shall include,
32 at a minimum, consumer financial education, personal finance, and personal credit.

33 **SECTION 7.41.(e)** If the pilot program is successful, it is the intent of the
34 General Assembly to provide funding to implement a virtual high school on a statewide
35 basis for the 2006-2007 fiscal year.

36
37 Requested by: Representatives Jeffus, Tolson, Yongue

38 **FEASIBILITY STUDY FOR DEVELOPING REGIONAL EDUCATION**
39 **NETWORKS**

40 **SECTION 7.42.** The North Carolina Rural Economic Development Center
41 and the e-NC Authority, in collaboration with interested providers of broadband
42 services, representatives from local school administrative units, The University of North
43 Carolina, private colleges, the State Board of Education, the State Chief Information
44 Officer, and the Community College System shall perform a feasibility study on
45 developing regional education networks that provide and sustain broadband service
46 access to individual students and teachers in schools, community colleges, and
47 universities.

48 The study shall include (i) an evaluation of existing technology and service
49 applications such as the statewide infrastructure, the North Carolina Research and
50 Education Network, and networks such as Winston-Net and (ii) an evaluation of newer
51 technology such as wireless broadband access. It shall recommend ways to maximize
52 the use of these existing resources to support growth in broadband service access to the
53 State, including underserved regions.

1 The North Carolina Rural Economic Development Center and the e-NC
2 Authority shall report the results of the study to the 2006 Regular Session of the 2005
3 General Assembly.

4
5 Requested by: Representatives Jeffus, Tolson, Yongue

6 **ASSISTANCE WITH SCHOOL TECHNOLOGY NEEDS**

7 **SECTION 7.43.(a)** G.S. 115C-102.6A(c) is amended by adding a new
8 subdivision to read:

9 "(c) Components of the State school technology plan shall include at least the
10 following:

11 ...
12 (17) A baseline template for:

- 13 a. Technology and service application infrastructure, including
14 broadband connectivity, personnel recommendations, and other
15 resources needed to operate effectively from the classroom
16 desktop to local, regional, and State networks, and
17 b. An evaluation component that provides for local school
18 administrative unit accountability for maintaining quality
19 upgradeable systems."

20 **SECTION 7.43.(b)** No later than October 31, 2005, the Department of
21 Public Instruction shall hold regional workshops for local school administrative units to
22 provide guidance in developing local school system technology plans that meet the
23 criteria established in the State school technology plan, including the components added
24 under subsection (a) of this section.

25 **SECTION 7.43.(c)** G.S. 115C-102.7 is amended by adding the following
26 new subsection to read:

27 "(c) The Department of Public Instruction shall randomly check local school
28 system technology plans to ensure that local school administrative units are
29 implementing their plans as approved. The Department shall report to the State Board of
30 Education and the State Chief Information Officer on which local school administrative
31 units are not complying with their plans. The report shall include the reasons these local
32 school administrative units are out of compliance and a recommended plan of action to
33 support each of these local school administrative units in carrying out their plans."

34 **SECTION 7.43.(d)** The State Board of Education shall determine the total
35 amount of funds needed for the recurring total cost of ownership to implement,
36 maintain, and upgrade technology infrastructures and instructional technology as
37 specified in the revised local school system technology plans. This shall include
38 personnel costs for both technical and instructional needs so that a three- to five-year
39 budget plan can be developed for the General Assembly.

40 **SECTION 7.43.(e)** The State Board of Education shall also study and
41 identify the types of resources needed to operate schools designed to meet the needs of
42 twenty-first century learners.

43 The State Board shall report the results of this study to the 2006 Regular
44 Session of the 2005 General Assembly.

45 **SECTION 7.43.(f)** In order to provide assistance to local school
46 administrative units with E-rate applications, the Department of Public Instruction shall,
47 within existing funds, ensure that a minimum of one full-time coordinator is assigned
48 this responsibility. The Department shall notify local school administrative units about
49 the person or office assigned the responsibility of providing assistance with E-rate
50 applications.

51 The Department shall provide the State Board of Education with an annual
52 report on E-rate, including funding, commitments, and enrollment by local school
53 administrative units.

As used in this section, "E-rate" is the mechanism to provide discount rates to support universal telecommunications services for use by schools and libraries as provided in section 254 of the federal Telecommunications Act of 1996.

Requested by: Representatives Jeffus, Tolson, Yongue

SCHOOL EMPLOYEE SALARY STUDY

SECTION 7.47. The Joint Legislative Education Oversight Committee shall study the current salary structure for teachers and other school employees. In the course of the study, the Committee shall:

- (1) Develop a plan to get the State moving toward the national average in teacher salaries by 2008 and toward the top 10 states in the nation by 2010.
- (2) Consider strategies for maintaining the lead in teacher salaries in the Southeastern United States.
- (3) Consider the need to reduce the number of steps on the teacher salary schedule, increase the beginning teacher salary, and enable an individual to reach the maximum salary sooner.
- (4) Perform a market-sensitive analysis of the skills and knowledge needed to be a successful teacher to determine what it takes to make the schedule attractive and competitive.
- (5) Consider the placement of appropriate extraordinary increases on schedule for achievement of career status, teacher retention, and other purposes.
- (6) Determine the need to modify the masters schedule differential.
- (7) Determine the need to modify the alternative salary schedules to reward different levels of academic preparation and career accomplishments such as attainment of national certification.
- (8) Consider the appropriate relationship of the school counselor's and psychologist's schedules to the schedules for other members of the school-based staff.
- (9) Determine the need to modify the administrator salary schedule.
- (10) Consider how personal leave and other fringe benefits contribute to the compensation packages for employees.
- (11) Consider the need to modify pay scales for teacher assistants and other noncertified personnel.
- (12) Consider other matters the Committee deems appropriate.

The Committee shall report the results of its study to the 2006 Regular Session of the 2005 General Assembly.

Requested by: Representatives Jeffus, Tolson, Yongue

ZERO-BASED BUDGET REVIEW OF THE DEPARTMENT OF PUBLIC INSTRUCTION

SECTION 7.49.(a) There is created the Legislative Study Commission on the Budget of the Department of Public Instruction. The purpose of the Commission is to perform a zero-based budget review of the Department of Public Instruction.

SECTION 7.49.(b) The Commission shall consist of five members of the House of Representatives appointed by the Speaker of the House of Representatives and five members of the Senate appointed by the President Pro Tempore of the Senate.

The Speaker of the House of Representatives shall designate one Representative as cochair, and the President Pro Tempore shall designate one Senator as cochair. Vacancies on the Commission shall be filled by the same appointing authority as made the initial appointment.

1 **SECTION 7.49.(c)** In performing a zero-based budget review of the
2 Department of Public Instruction, the Commission shall:

- 3 (1) Consider the mission and goals of the Department, as set out in statutes
4 and in the rules, policies, and practices of the Department;
- 5 (2) Evaluate the mission and goals of the Department in view of the
6 Leandro decision, the No Child Left Behind Act of 2001, the academic
7 performance of students in the public schools, and the needs of the
8 State and its citizens, and propose any necessary revisions;
- 9 (3) Evaluate the efficiency and effectiveness of the Department of Public
10 Instruction in furthering the missions and goals of the Department,
11 including any proposed revisions. This evaluation shall include (i) the
12 role of the Department of Public Instruction, its administrative
13 structure, organization, and its statutory powers and duties; (ii) the role
14 of the State Board of Education as the head of the Department of
15 Public Instruction, its composition, organization, and constitutional
16 and statutory powers and duties; and (iii) the role of the State
17 Superintendent as secretary and chief administrative officer of the
18 State Board, the State Superintendent's selection, and the State
19 Superintendent's constitutional and statutory powers and duties;
- 20 (4) Evaluate each program within the Department to determine (i) whether
21 and to what extent it is required by State or federal law; (ii) what
22 extent it achieves the mission and goals of the Department; and (iii)
23 whether there are alternative ways to achieve the mission and goals of
24 the Department, including proposed revisions, in a more efficient and
25 effective manner;
- 26 (5) Assess the activities performed in each program, the major benefits
27 provided by the program, the current cost and staffing levels for the
28 program, the rationale for the cost and staffing levels, and the
29 administrative and other overhead costs of the program;
- 30 (6) Determine the level of funding and staff necessary to accomplish the
31 goals and missions of the Department, including proposed revisions,
32 without regard to past levels of funding.

33 **SECTION 7.49.(d)** The Commission, while in the discharge of its official
34 duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1
35 through G.S. 120-19.4. The Commission may meet at any time upon the joint call of the
36 cochairs. The Commission may meet in the Legislative Building or the Legislative
37 Office Building.

38 The Legislative Services Commission, through the Legislative Services
39 Officer, shall assign professional staff to assist the Commission in its work. The House
40 of Representatives' and the Senate's Supervisors of Clerks shall assign clerical staff to
41 the Commission, and the expenses relating to the clerical employees shall be borne by
42 the Commission. The Commission may contract for professional, clerical, or consultant
43 services as provided by G.S. 120-32.02. If the Commission hires a consultant, the
44 consultant shall not be a State employee or a person currently under contract with the
45 State to provide services.

46 All State departments and agencies and local governments and their
47 subdivisions shall furnish the Commission with any information in their possession or
48 available to them.

49 The Legislative Services Commission, through the Legislative Services
50 Officer, shall assign professional staff to assist the Commission in its work. The House
51 of Representatives' and the Senate's Supervisors of Clerks shall assign clerical staff to
52 the Commission, and the expenses relating to the clerical employees shall be borne by
53 the Commission.

1 **SECTION 7.49.(e)** The Commission shall report the results of its study and
2 its recommendations to the 2006 Regular Session of the 2005 General Assembly upon
3 its convening. The Commission shall terminate upon filing its final report or upon the
4 convening of the 2006 Regular Session of the 2005 General Assembly, whichever is
5 earlier.

6
7 Requested by: Representatives Jeffus, Tolson, Yongue

8 **FACILITATE HIRING OF TEACHERS**

9 **SECTION 7.50.** G.S. 115C-296 reads as rewritten:

10 **"§ 115C-296. ~~Board sets certification~~ Certification requirements.**

11 (a) State Board of Education Shall Certify Teachers. – The State Board of
12 Education shall have ~~entire~~ control of certifying all applicants for teaching positions in
13 all public elementary and high schools of North ~~Carolina; and it~~ Carolina, subject to
14 laws enacted by the General Assembly. An applicant must meet the requirements for a
15 highly qualified teacher under the No Child Left Behind Act of 2001, 20 U.S.C. § 6301,
16 et seq., to be certified in North Carolina. The State Board shall prescribe the rules and
17 regulations for the renewal and extension of all certificates and shall determine and fix
18 the salary for each grade and type of certificate ~~which~~ that it authorizes.

19 ~~The State Board of Education may require an applicant for an initial bachelors~~
20 ~~degree certificate or graduate degree certificate to demonstrate the applicant's academic~~
21 ~~and professional preparation by achieving a prescribed minimum score on a standard~~
22 ~~examination appropriate and adequate for that purpose. The~~

23 (a1) Certification of Beginning In-State and Out-of-State Teachers. – The
24 certification requirements for an initial bachelors degree certificate or masters degree
25 certificate for a beginning teacher who has completed an approved teacher education
26 program and who is an in-State applicant or an applicant from another state shall
27 include the following:

28 (1) An applicant for a certificate as an elementary education teacher or a
29 special education teacher shall demonstrate academic and professional
30 preparation by either (i) achieving a prescribed minimum score on a
31 standard examination appropriate and adequate for that purpose or (ii)
32 otherwise meeting the requirements for a highly qualified teacher
33 under the No Child Left Behind Act of 2001.

34 (2) An applicant for a certificate in all other areas of certification shall
35 demonstrate academic and professional preparation by either (i)
36 achieving a prescribed minimum score on a standard examination
37 appropriate and adequate for that purpose, (ii) completing an
38 appropriate academic major, graduate degree, or comparable
39 coursework, or (iii) otherwise meeting the requirements for a highly
40 qualified teacher under the No Child Left Behind Act of 2001.

41 (a2) Certification of Teachers From Other States With Less Than Three Years of
42 Experience. – A teacher from another state who (i) has less than three years of
43 experience as a full-time classroom teacher, (ii) is fully certified and highly qualified, as
44 provided in the No Child Left Behind Act of 2001 in that other state, and (iii) is
45 employed as a teacher by a local school administrative unit in North Carolina, is
46 deemed to have satisfied the academic and professional preparation required to receive
47 initial certification in North Carolina, except as otherwise provided in the No Child Left
48 Behind Act of 2001. The initial certification shall be granted for the period of time
49 necessary for the teacher to acquire three years of full-time teaching experience in North
50 Carolina and the other state combined, whichever is longer.

51 (a3) Certification of In-State and Out-of-State Teachers With at Least Three Years
52 of Experience. – A teacher from North Carolina or another state who (i) has three or
53 more years of experience as a full-time teacher, (ii) is fully certified and highly qualified

1 as provided in the No Child Left Behind Act of 2001 in North Carolina or in that other
2 state, and (iii) is employed as a teacher by a local school administrative unit in North
3 Carolina, is deemed to have satisfied the academic and professional preparation required
4 to receive continuing certification in North Carolina, except as otherwise provided in
5 the No Child Left Behind Act of 2001.

6 (a4) Certification of Visiting International Faculty. – The State Board of
7 Education shall issue an international faculty certificate to an individual on a cultural
8 exchange visa who (i) has a university degree and a teaching certificate in his or her
9 country, (ii) is qualified in his or her home country to teach the subjects he or she will
10 teach, (iii) speaks English proficiently, and (iv) meets the definition of highly qualified
11 under the No Child Left Behind Act of 2001. The certificate shall be granted for the
12 period of time during which the teacher holds a cultural exchange visa, not to exceed
13 three consecutive years.

14 An individual on a cultural exchange visa shall not be eligible to receive any other
15 teacher certificate.

16 (a5) Testing Requirements. – An applicant for teacher certification shall not be
17 required to take and pass a standard examination except as required by subsection (a1)
18 of this section or the No Child Left Behind Act of 2001.

19 The State Board of Education shall permit an applicant to fulfill any such testing
20 requirement before or during the applicant's second year of teaching provided the
21 applicant took the examination at least once during the first year of teaching. The State
22 Board of Education shall make any required standard initial certification exam
23 sufficiently rigorous and raise the prescribed minimum score as necessary to ensure that
24 each applicant has adequate academic and professional preparation to teach.

25 ~~(a1)~~ The State Board shall adopt policies that establish the minimum scores for
26 any required standard examinations and other measures necessary to assess the
27 qualifications of professional personnel as required under subsection ~~(a)~~(a1) of this
28 section or the No Child Left Behind Act of 2001. For purposes of this
29 subsection, the State Board shall not be subject to Article 2A of Chapter 150B of the
30 General Statutes. At least 30 days prior to changing any policy adopted under this
31 subsection, the State Board shall provide written notice to all North Carolina schools of
32 education and to all local boards of education. The written notice shall include the
33 proposed revised policy.

34 ~~(a2)~~ (a6) Fees for Teacher Certification. – The State Board of Education shall
35 impose the following schedule of fees for teacher certification and administrative
36 changes:

- 37 (1) Application for demographic or administrative changes to a certificate,
38 \$30.00.
- 39 (2) Application for a duplicate certificate or for copies of documents in the
40 certification files, \$30.00.
- 41 (3) Application for a renewal, extension, addition, upgrade, and variation
42 to a certificate, \$55.00.
- 43 (4) Initial application for New, In-State Approved Program Graduate,
44 \$55.00.
- 45 (5) Initial application for ~~Out of State certificate,~~ certificate for a teacher
46 from another state, \$85.00.
- 47 (6) All other applications, \$85.00.

48 The applicant must pay the fee at the time the application is submitted.

49 (b) Standards for Teacher and School Administrator Education Programs, Entry
50 Into Teacher Education Programs, and Continuing Certification. – It is the policy of the
51 State of North Carolina to maintain the highest quality teacher education programs and
52 school administrator programs in order to enhance the competence of professional
53 personnel certified in North Carolina. To the end that teacher preparation programs are

1 upgraded to reflect a more rigorous course of study, the State Board of Education, as
2 lead agency in coordination and cooperation with the University Board of Governors,
3 the Board of Community Colleges and such other public and private agencies as are
4 necessary, shall continue to refine the several certification requirements, standards for
5 approval of institutions of teacher education, standards for institution-based innovative
6 and experimental programs, standards for implementing consortium-based teacher
7 education, and standards for improved efficiencies in the administration of the approved
8 programs. The certification program shall provide for initial certification after
9 completion of preservice training, continuing certification after three years of teaching
10 experience, and certificate renewal every five years thereafter, until the retirement of the
11 teacher. The last certificate renewal received prior to retirement shall remain in effect
12 for five years after retirement.

13 The State Board of Education, as lead agency in coordination with the Board of
14 Governors of The University of North Carolina and any other public and private
15 agencies as necessary, shall continue to raise standards for entry into teacher education
16 programs.

17 The State Board of Education, in consultation with the Board of Governors of The
18 University of North Carolina, shall evaluate and develop enhanced requirements for
19 continuing certification. The new requirements shall reflect more rigorous standards for
20 continuing certification and to the extent possible shall be aligned with quality
21 professional development programs that reflect State priorities for improving student
22 achievement.

23 ~~The State Board of Education, in consultation with local boards of education and the~~
24 ~~Board of Governors of The University of North Carolina, shall reevaluate and enhance~~
25 ~~the requirements for renewal of teacher certificates. The State Board shall consider~~
26 ~~modifications in the certificate renewal achievement and to make it a mechanism for~~
27 ~~teachers to renew continually their knowledge and professional skills. The State Board~~
28 ~~shall adopt new standards for the renewal of teacher certificates by May 15, 1998.~~

29 The standards for approval of institutions of teacher education shall require that
30 teacher education programs for students who do not major in special education include
31 demonstrated competencies in the identification and education of children with learning
32 disabilities. The State Board of Education shall incorporate the criteria developed in
33 accordance with G.S. 116-74.21 for assessing proposals under the School Administrator
34 Training Program into its school administrator program approval standards.

35 All North Carolina institutions of higher education that offer teacher education
36 programs, masters degree programs in education, or masters degree programs in school
37 administration shall provide performance reports to the State Board of Education. The
38 performance reports shall follow a common format, shall be submitted according to a
39 plan developed by the State Board, and shall include the information required under the
40 plan developed by the State Board.

41 (b1) Performance Reports for Teacher and School Administrator Education
42 Programs. – The State Board of Education shall develop a plan to provide a focused
43 review of teacher education programs and the current process of accrediting these
44 programs in order to ensure that the programs produce graduates that are well prepared
45 to teach. The plan shall include the development and implementation of a school of
46 education performance report for each teacher education program in North Carolina.
47 The performance report shall include at least the following elements: (i) quality of
48 students entering the schools of education, including the average grade point average
49 and average score on preprofessional skills tests that assess reading, writing, math and
50 other competencies; (ii) graduation rates; (iii) time-to-graduation rates; (iv) average
51 scores of graduates on professional and content area examination for the purpose of
52 certification; (v) percentage of graduates receiving initial certification; (vi) percentage
53 of graduates hired as teachers; (vii) percentage of graduates remaining in teaching for

1 four years; (viii) graduate satisfaction based on a common survey; and (ix) employer
2 satisfaction based on a common survey. The performance reports shall follow a
3 common format. The performance reports shall be submitted annually. The State Board
4 of Education shall develop and implement a plan ~~to be implemented beginning in the~~
5 ~~1998-99 school year~~ to reward and sanction approved teacher education programs and
6 masters of education programs and to revoke approval of those programs based on the
7 performance reports and other criteria established by the State Board of Education.

8 The State Board also shall develop and implement a plan for annual performance
9 reports for all masters degree programs in education and school administration in North
10 Carolina. To the extent it is appropriated, the performance report shall include similar
11 indicators to those developed for the performance report for teacher education
12 programs. The performance reports shall follow a common format.

13 Both plans for performance reports also shall include a method to provide the annual
14 performance reports to the Board of Governors of The University of North Carolina, the
15 State Board of Education, and the boards of trustees of the independent colleges. The
16 State Board of Education shall review the schools of education performance reports and
17 the performance reports for masters degree programs in education and school
18 administration each year the performance reports are submitted. The State Board shall
19 submit the performance report for the 1999-2000 school year to the Joint Legislative
20 Education Oversight Committee by December 15, 2000. Subsequent performance
21 reports shall be submitted to the Joint Legislative Education Oversight Committee on an
22 annual basis by October 1.

23 (c) Lateral Entry. – It is the policy of the State of North Carolina to encourage
24 lateral entry into the profession of teaching by skilled individuals from the private
25 sector. To this end, before the 1985-86 school year begins, the State Board of Education
26 shall develop criteria and procedures to accomplish the employment of such individuals
27 as classroom teachers. ~~Regardless of credentials or competence, no one shall begin~~
28 ~~teaching above the middle level of differentiation.~~ Skilled individuals who choose to
29 enter the profession of teaching laterally may be granted a ~~provisional~~ alternative
30 teaching certificate for no more than five ~~three~~ years prior to completing the
31 requirements for lateral entry and shall be required to obtain certification before
32 contracting for a ~~sixth~~ fourth year of service with any local administrative unit in this
33 State.

34 It is further the policy of the State of North Carolina to ensure that local boards of
35 education can provide the strongest possible leadership for schools based upon the
36 identified and changing needs of individual schools. To this end, before the 1994-95
37 school year begins, the State Board of Education shall carefully consider a lateral entry
38 program for school administrators to ensure that local boards of education will have
39 sufficient flexibility to attract able candidates.

40 (d) Suspension and Revocation of Certificates. – The State Board shall adopt
41 rules to establish the reasons and procedures for the suspension and revocation of
42 certificates. The State Board shall revoke the certificate of a teacher or school
43 administrator if the State Board receives notification from a local board or the Secretary
44 of Health and Human Services that a teacher or school administrator has received an
45 unsatisfactory or below standard rating under G.S. 115C-333(d). In addition, the State
46 Board may revoke or refuse to renew a teacher's certificate when:

- 47 (1) The Board identifies the school in which the teacher is employed as
48 low-performing under G.S. 115C-105.37 or G.S. 143B-146.5; and
- 49 (2) The State Board shall automatically revoke the certificate of a teacher
50 or school administrator without the right to a hearing upon receiving
51 verification of the identity of the teacher or school administrator
52 together with a certified copy of a criminal record showing that the
53 teacher or school administrator has entered a plea of guilty or nolo

1 contendere to or has been finally convicted of any of the following
2 crimes: Murder in the first or second degree, G.S. 14-17; Conspiracy
3 or solicitation to commit murder, G.S. 14-18.1; Rape or sexual offense
4 as defined in Article 7A of Chapter 14 of the General Statutes.
5 Felonious assault with deadly weapon with intent to kill or inflicting
6 serious injury, G.S. 14-32; Kidnapping, G.S. 14-39; Abduction of
7 children, G.S. 14-41; Crime against nature, G.S. 14-177; Incest,
8 G.S. 14-178 or G.S. 14-179; Employing or permitting minor to assist
9 in offense against public morality and decency, G.S. 14-190.6;
10 Dissemination to minors under the age of 16 years, G.S. 14-190.7;
11 Dissemination to minors under the age of 13 years, G.S. 14-190.8;
12 Displaying material harmful to minors, G.S. 14-190.14; Disseminating
13 harmful material to minors, G.S. 14-190.15; First degree sexual
14 exploitation of a minor, G.S. 14-190.16; Second degree sexual
15 exploitation of a minor, G.S. 14-190.17; Third degree sexual
16 exploitation of a minor, G.S. 14-190.17A; Promoting prostitution of a
17 minor, G.S. 14-190.18; Participating in prostitution of a minor,
18 G.S. 14-190.19; Taking indecent liberties with children,
19 G.S. 14-202.1; Solicitation of child by computer to commit an
20 unlawful sex act, G.S. 14-202.3; Taking indecent liberties with a
21 student, G.S. 14-202.4; Prostitution, G.S. 14-204; and child abuse
22 under G.S. 14-318.4. The Board shall mail notice of its intent to act
23 pursuant to this subdivision by certified mail, return receipt requested,
24 directed to the teacher or school administrator at their last known
25 address. The notice shall inform the teacher or school administrator
26 that it will revoke the person's certificate unless the teacher or school
27 administrator notifies the Board in writing within 10 days after receipt
28 of the notice that the defendant identified in the criminal record is not
29 the same person as the teacher or school administrator. If the teacher or
30 school administrator provides this written notice to the Board, the
31 Board shall not revoke the certificate unless it can establish as a fact
32 that the defendant and the teacher or school administrator are the same
33 person.

34 (3) In addition, the State Board may revoke or refuse to renew a teacher's
35 certificate when:

- 36 a. The Board identifies the school in which the teacher is
37 employed as low-performing under G.S. 115C-105.37 or
38 G.S. 143B-146.5; and
- 39 b. The assistance team assigned to that school makes the
40 recommendation to revoke or refuse to renew the teacher's
41 certificate for one or more reasons established by the State
42 Board in its rules for certificate suspension or revocation.

43 The State Board may issue subpoenas for the purpose of obtaining documents or the
44 testimony of witnesses in connection with proceedings to suspend or revoke certificates.
45 In addition, the Board shall have the authority to contract with individuals who are
46 qualified to conduct investigations in order to obtain all information needed to assist the
47 Board in the proper disposition of allegations of misconduct by certificated persons.

48 (e) Mentor Program. – The State Board of Education shall develop a mentor
49 program to provide ongoing support for teachers entering the profession. In developing
50 the mentor program, the State Board shall conduct a comprehensive study of the needs
51 of new teachers and how those needs can be met through an orientation and mentor
52 support program. For the purpose of helping local boards to support new teachers, the
53 State Board shall develop and distribute guidelines which address optimum teaching

1 load, extracurricular duties, student assignment, and other working condition
2 considerations. These guidelines shall provide that initially certified teachers not be
3 assigned extracurricular activities unless they request the assignments in writing and
4 that other noninstructional duties of these teachers be minimized. The State Board shall
5 develop and coordinate a mentor teacher training program. The State Board shall
6 develop criteria for selecting excellent, experienced, and qualified teachers to be
7 participants in the mentor teacher training program.

8 (f) Masters/Advanced Competencies Certificate. – The State Board of Education,
9 after consultation with the Board of Governors of The University of North Carolina,
10 shall develop a new category of teacher certificate known as the "Masters/Advanced
11 Competencies" certificate. To receive this certificate, an applicant shall successfully
12 complete a masters degree program that includes rigorous academic preparation in the
13 subject area which the applicant will teach and in the skills and knowledge expected of
14 a master teacher or the applicant shall demonstrate to the satisfaction of the State Board
15 that the candidate has acquired the skills and knowledge expected of a master teacher.

16 Persons who qualify for a "G" certificate prior to September 1, 2000, shall be
17 awarded a "Masters/Advanced Competencies" certificate without meeting additional
18 requirements. On and after September 1, 2000, no additional "G" certificates shall be
19 awarded.

20 (g) Provisional Licenses, Temporary Permits, and Emergency Permits. –
21 Notwithstanding any other provision of this section, the State Board of Education shall
22 continue to issue provisional licenses, temporary permits, and emergency permits that
23 are valid through June 30, 2006, on the same basis as they were issued prior to July 1,
24 2005."

25 **SECTION 7.50.(b)** This section is effective when it becomes law and
26 applies to all persons initially employed as teachers by a local school administrative unit
27 in North Carolina beginning with the 2005-2006 school year.

28
29 Requested by: Representatives Jeffus, Tolson, Yongue

30 **REDIRECT REFUNDABLE SALES TO STATE PUBLIC SCHOOL FUND**

31 **SECTION 7.51.(a)** G.S. 105-164.14(c)(2b) and (2c) are repealed.

32 **SECTION 7.51.(b)** Part 8 of Article 5 of Chapter 105 of the General
33 Statutes is amended by adding a new section to read:

34 **"§ 105-164.44H. Transfer to State Public School Fund.**

35 Each fiscal year, the Secretary of Revenue shall transfer at the end of each quarter
36 from the State sales and use tax net collections received by the Department of Revenue
37 under Article 5 of Chapter 105 of the General Statutes to the State Treasurer for the
38 State Public School Fund, one-fourth of the amount transferred the preceding fiscal year
39 plus or minus the percentage of that amount by which the total collection of State sales
40 and use taxes increased or decreased during the preceding fiscal year."

41 **SECTION 7.51.(c)** Subsection (b) of this section becomes effective July 1,
42 2006. Notwithstanding the provisions of G.S. 105-164.44H, for the 2006-2007 fiscal
43 year, the amount transferred to the State Public School Fund each quarter shall equal
44 one-fourth of the amount refunded under G.S. 105-164.4(c)(2b) and (2c) during the
45 2005-2006 fiscal year plus or minus the percentage of that amount by which the total
46 collection of State sales and use tax increased or decreased during the preceding fiscal
47 year. The remainder of this section becomes effective July 1, 2005, and applies to sales
48 made on or after that date.

49
50 Requested by: Representatives Jeffus, Tolson, Yongue

51 **SMALL SPECIALTY HIGH SCHOOLS PILOT PROGRAM**

52 **SECTION 7.52.(a)** Funds are appropriated in this act for a pilot program to
53 create 11 small specialty high schools within existing schools. The purpose of the

1 program is to improve graduation rates and to achieve higher student performance as
2 measured by standard tests and postgraduate gainful employment or admission into an
3 institution of higher education. The State Board of Education shall work closely with
4 the Education Cabinet and the New Schools Project in administering the program.

5 **SECTION 7.52.(b)** The State Board of Education shall conduct an evaluation
6 of this program. The evaluation shall include measures as identified in
7 G.S. 115C-238.55. It shall also include: (i) an accounting of how funds and personnel
8 resources were utilized and their impact on student achievement, retention, and
9 employability; and (ii) recommendations for improvement of the program. The State
10 Board of Education shall report the results of this evaluation to the Office of State
11 Budget and Management, the Joint Legislative Education Oversight Committee, and the
12 Fiscal Research Division by November 15, 2006.

13
14 Requested by: Representatives Jeffus, Tolson, Yongue

15 **ENSURE DHHS SCHOOLS RECEIVE FEDERAL FUNDS**

16 **SECTION 7.54.(a)** It is the intent of the General Assembly that the schools
17 operated by the Department of Health and Human Services participate in federal
18 funding to the same degree as other public schools in the State. The Department of
19 Public Instruction shall ensure that the Department of Health and Human Services
20 schools receive a proportionate share of federal funds for public schools.

21 **SECTION 7.54.(b)** G.S. 115C-66 reads as rewritten:

22 **"§ 115C-66. Administrative units classified.**

23 Each county of the State shall be classified as a county school administrative unit,
24 the schools of which, except in city administrative units, shall be under the general
25 supervision and control of a county board of education with a county superintendent as
26 the administrative officer.

27 A city school administrative unit shall be classified as an area within a county or
28 adjacent parts of two or more contiguous counties which has been or may be approved
29 by the State Board of Education as such a unit for purposes of school administration.
30 The general administration and supervision of a city administrative unit shall be under
31 the control of a board of education with a city superintendent as the administrative
32 officer.

33 All local school administrative units, whether city or county, shall be dealt with by
34 the State school authorities in all matters of school administration in the same way.

35 For purposes of eligibility for federal grant funds, the Department of Health and
36 Human Services is hereby classified as a public authority, which is the school
37 administrative agency for the schools that it operates, and shall be considered as such by
38 the State school authorities in the administration and distribution of federal grant funds."

39 **SECTION 7.54.(c)** The Department of Health and Human Services shall
40 report on the use, type, and amount of funds received from federal funding and other
41 Department of Public Instruction funding under this section to the House of
42 Representatives Appropriations Subcommittee on Health and Human Services, the
43 Senate Appropriations Committee on Health and Human Services, and the Fiscal
44 Research Division by January 31, 2006.

45
46 Requested by: Representatives Jeffus, Tolson, Yongue

47 **ESTABLISH THE OFFICE OF SCHOOL READINESS IN THE DEPARTMENT**
48 **OF PUBLIC INSTRUCTION**

49 **SECTION 7.55.(a)** An Office of School Readiness shall be established in
50 the Department of Public Instruction to ensure school readiness for North Carolina's
51 children through increased coordination and effectiveness of the State's public
52 prekindergarten programs and through improved transitions for at-risk children into
53 kindergarten. The Office of School Readiness shall have oversight of public

1 prekindergarten programs serving three- and four-year-olds, which includes the More at
2 Four prekindergarten programs, exceptional children's preschool programs, Head Start
3 programs, and other public school prekindergarten programs funded through State and
4 federal sources. The position of Executive Director for the More at Four
5 prekindergarten program shall become an Associate Superintendent in the Department
6 of Public Instruction and will oversee and direct the Office of School Readiness. This
7 position shall report to the Deputy State Superintendent in the Department of Public
8 Instruction. The Office of School Readiness shall coordinate closely with the Division
9 of Child Development in the Department of Health and Human Services on standards,
10 licensing, training, and other issues related to school readiness programs. The Office of
11 School Readiness shall also work closely with the North Carolina Partnership for
12 Children, Inc., in coordinating programs at the local level and on other issues related to
13 prekindergarten education.

14 **SECTION 7.55.(b)** The More at Four prekindergarten program shall be
15 transferred from the Office of the Governor to the Department of Public Instruction and
16 will become part of the Office of School Readiness. This transfer shall have all the
17 elements of a Type I transfer, as defined in G.S. 143A-6.

18 **SECTION 7.55.(c)** The Head Start Collaboration Office shall be transferred
19 from the Department of Health and Human Services to the Office of School Readiness.

20 **SECTION 7.55.(d)** The More at Four Task Force shall be reconstituted and
21 renamed the North Carolina School Readiness Task Force. The Superintendent of
22 Public Instruction and the Secretary of the Department of Health and Human Services
23 shall appoint the members of the North Carolina School Readiness Task Force from
24 representatives of publicly funded prekindergarten programs and services, including the
25 More at Four prekindergarten program, preschool programs in the public schools, Head
26 Start, the North Carolina Partnership for the Children, Inc., as well as other
27 stakeholders, including Early Intervention and the Division of Child Development.

28 **SECTION 7.55.(e)** The State Board of Education, in consultation with the
29 Office of the Governor and the Department of Health and Human Services, shall
30 develop an organizational plan for the Office of School Readiness. The plan shall
31 include the staffing structure and budget of the Office of School Readiness, including
32 the role in the Office of School Readiness of current Department of Public Instruction
33 positions funded by Title I and IDEA Part B federal programs. The State Board of
34 Education shall submit a progress report by January 15, 2006, and a final report by
35 April 1, 2006, to the President Pro Tempore of the Senate, the Speaker of the House of
36 Representatives, and the Joint Legislative Education Oversight Committee.

37 **SECTION 7.55.(f)** This section becomes effective July 1, 2006, for
38 organizational and budgetary changes.
39

40 Requested by: Representatives Jeffus, Tolson, Yongue

41 **PURCHASES FOR THE STUDENT TRANSPORTATION SYSTEM**

42 **SECTION 7.56.** G.S. 115C-522(a) reads as rewritten:

43 "(a) It shall be the duty of local boards of education to purchase or exchange all
44 supplies, equipment, and materials, and these purchases shall be made in accordance
45 with Article 8 of Chapter 143 of the General Statutes. These purchases may be made
46 from contracts made by the Department of Administration. Title to instructional
47 supplies, office supplies, fuel and janitorial supplies, enumerated in the current expense
48 fund budget and purchased out of State funds, shall be taken in the name of the local
49 board of education which shall be responsible for the custody and replacement:
50 Provided, that no contracts shall be made by any local school administrative unit for
51 purchases unless provision has been made in the budget of the unit to pay for the
52 purchases, unless surplus funds are on hand to pay for the purchases, or unless the
53 contracts are made pursuant to G.S. 115C-47(28) and G.S. 115C-528 and adequate

1 funds are available to pay in the current fiscal year the sums obligated for the current
2 fiscal year.

3 Tires for the student transportation system shall be purchased from the statewide
4 term contract. The State Board of Education shall adopt rules regarding equipment
5 standards for other supplies, equipment, and materials related to student ~~transportation.~~
6 ~~The transportation.~~

7 The State Board may adopt guidelines for any commodity that needs safety features.
8 If a commodity that needs safety features is available on statewide term contract, any
9 guidelines adopted by the State Board must at a minimum meet the safety standards of
10 the statewide term contract. Compliance with Article 8 of Chapter 143 of the General
11 Statutes is not mandatory for the purchase of published books, manuscripts, maps,
12 pamphlets, and periodicals.

13 (1) Where competition is available, local school administrative units may
14 utilize the:

- 15 a. E-Quote service of the NC E-Procurement system as one means
16 of solicitation in seeking informal bids for purchases subject to
17 the bidding requirements of G.S. 143-131; and
18 b. Division of Purchase and Contract's electronic Interactive
19 Purchasing System as one means of advertising formal bids on
20 purchases subject to the bidding requirements of G.S. 143-129
21 and applicable rules regarding advertising. This sub-subdivision
22 does not prohibit a local school administrative unit from using
23 other methods of advertising.

24 (2) In order to provide an efficient transition of purchasing procedures, the
25 Secretary of the Department of Administration and the local school
26 administrative units shall establish a local school administrative unit
27 purchasing user group. The user group shall be comprised of a
28 proportionate number of representatives from the Department of
29 Administration and local school administrative unit purchasing and
30 finance officers. The user group shall examine any issues that may
31 arise between the Department of Administration and local school
32 administrative units, including the new relationship between the
33 Department and the local school administrative units, the appropriate
34 exchange of information, the continued efficient use of
35 E-Procurement, appropriate bid procedures, and any other technical
36 assistance that may be necessary for the purchase of supplies and
37 materials."
38

39 Requested by: Representative Dickson

40 **STUDY OF SCHOOL TRANSPORTATION**

41 **SECTION 7.57.** Of the funds appropriated for Low-Wealth Supplemental
42 Funding for the 2005-2006 fiscal year, the Department of Public Instruction shall use up
43 to two hundred thousand dollars (\$200,000) for a study of the current allotment formula
44 for school transportation. The study shall be conducted by an independent consultant.

45 In the course of the study, the consultant shall consider whether (i) the current
46 formula sufficiently encourages the efficient and effective use of school transportation
47 funds by urban and rural school systems, (ii) the formula is adequately and equitably
48 meeting the needs of school systems, and (iii) the formula is appropriate in light of the
49 Leandro litigation. The consultant shall also propose options for reducing the severe and
50 growing disparity in funding that exists under the formula among local school
51 administrative units.

52 The consultant shall report the results of its study to the State Board of
53 Education by December 1, 2005. The State Board of Education shall consider the

1 consultant's report and shall report its recommendations to the Joint Legislative
2 Education Oversight Committee by March 15, 2006.

3
4 Requested by: Representative Hilton

5 **AUTHORIZATION FOR ADDITIONAL CHARTER SCHOOLS**

6 **SECTION 7.58.(a)** G.S. 115C-238.29D(b) reads as rewritten:

7 "(b) The State Board shall authorize no more than five charter schools per year in
8 one local school administrative unit. The State Board shall authorize no more than ~~400~~
9 110 charter schools statewide for the 2005-2006 fiscal year, 120 for the 2006-
10 2007 fiscal year, and 130 for the 2007-2008 and subsequent fiscal years. If more than
11 five charter schools in one local school administrative unit or more than ~~400~~the
12 maximum number of schools permitted statewide meet the standards for final approval,
13 the State Board shall give priority to applications that are most likely to further State
14 education policies and to strengthen the educational program offered in the local school
15 administrative units in which they are located."

16 **SECTION 7.58.(b)** This section shall become effective only if North
17 Carolina receives a federal grant under the Public Charter Schools Program for start-up
18 funds for charter schools for the 2005-2006 fiscal year.

19
20 Requested by: Representative Daughtry

21 **SCHOOLS MUST SPEND UP TO 60% OF EXPANSION FUNDS IN THE**
22 **CLASSROOM**

23 **SECTION 7.59.** It is the intent of the General Assembly that each local
24 administrative unit spends at least sixty percent (60%) of the State expansion budget
25 funding it receives in the classroom. Expenditures in the classroom shall include
26 expenditures for instructional personnel and for supplies, equipment, textbooks, and
27 materials in the classroom.

28 The State Board of Education shall monitor these expenditures and report to
29 the Joint Legislative Education Oversight Committee prior to September 15, 2006, and
30 September 15, 2007, on local school administrative units that do not comply with this
31 intent.

32
33 Requested by: Representatives Crawford, Yongue

34 **TEACH FOR AMERICA**

35 **SECTION 7.60.** Funds in the amount of two hundred thousand dollars
36 (\$200,000) for the 2005-2006 fiscal year and two hundred thousand dollars (\$200,000)
37 for the 2006-2007 fiscal year are appropriated in section 2.1 of this act to recruit
38 additional teachers through the Teach for America Program.

39
40 **PART VIII. COMMUNITY COLLEGES**

41
42 Requested by: Representatives Jeffus, Tolson, Yongue

43 **USE OF FUNDS FOR THE COLLEGE INFORMATION SYSTEM PROJECT**

44 **SECTION 8.1.(a)** Funds appropriated to the Community Colleges System
45 Office for the College Information System Project shall not revert at the end of the
46 2004-2005 fiscal year but shall remain available until expended.

47 **SECTION 8.1.(b)** The Community Colleges System Office shall report on a
48 quarterly basis to the Joint Legislative Education Oversight Committee on the
49 implementation of the College Information System Project.

50 **SECTION 8.1.(c)** Subsection (a) of this section becomes effective June 30,
51 2005.

52
53 Requested by: Representatives Jeffus, Tolson, Yongue

CARRYFORWARD FOR EQUIPMENT

SECTION 8.2.(a) Subject to the approval of the Office of State Budget and Management and cash availability, the North Carolina Community Colleges System Office may carry-forward an amount not to exceed fifteen million dollars (\$15,000,000) of the operating funds that were not reverted in fiscal year 2004-2005 to be reallocated to the State Board of Community Colleges' Equipment Reserve Fund. These funds shall be distributed to colleges consistent with G.S. 115D-31.

SECTION 8.2.(b) This section becomes effective June 30, 2005.

Requested by: Representatives Jeffus, Tolson, Yongue

SALARIES OF COMMUNITY COLLEGE FACULTY AND PROFESSIONAL STAFF

SECTION 8.3.(a) The minimum salaries for community college faculty shall be based on the following education levels:

- (1) Vocational Diploma/Certificate or Less. – This education level includes faculty members who are high school graduates, have vocational diplomas, or have completed one year of college.
- (2) Associate Degree or Equivalent. – This education level includes faculty members who have an associate degree or have completed two or more years of college but have no degree.
- (3) Bachelors Degree.
- (4) Masters Degree or Education Specialist.
- (5) Doctoral Degree.

SECTION 8.3.(b) For the 2005-2006 school year, the minimum salaries for nine-month, full-time, curriculum community college faculty shall be as follows:

Education Level	Minimum Salary 2005-2006
Vocational Diploma/Certificate or Less	\$29,795
Associate Degree or Equivalent	\$30,246
Bachelors Degree	\$32,204
Masters Degree or Education Specialist	\$33,940
Doctoral Degree	\$36,443

No full-time faculty member shall earn less than the minimum salary for his or her education level.

The pro rata hourly rate of the minimum salary for each education level shall be used to determine the minimum salary for part-time faculty members.

SECTION 8.3.(c)

- (1) It is the intent of the General Assembly to encourage community colleges to make faculty salaries a priority and to reward colleges that have taken steps to achieve the national average, therefore:
 - a. If the average faculty salary at a community college is one hundred percent (100%) or more of the national average community college faculty salary, the college may transfer up to eight percent (8%) of the State funds allocated to it for faculty salaries.
 - b. If the average faculty salary at a community college is at least ninety-five percent (95%) but less than one hundred percent (100%) of the national average community college faculty salary, the college may transfer up to six percent (6%) of the State funds allocated to it for faculty salaries.
 - c. If the average faculty salary at a community college is at least ninety percent (90%) but less than ninety-five percent (95%) of the national average community college faculty salary, the

1 college may transfer up to five percent (5%) of the State funds
2 allocated to it for faculty salaries.

3 d. If the average faculty salary at a community college is at least
4 eighty-five percent (85%) but less than ninety percent (90%) of
5 the national average community college faculty salary, the
6 college may transfer up to three percent (3%) of the State funds
7 allocated to it for faculty salaries.

8 e. If the average faculty salary at a community college is
9 eighty-five percent (85%) or less of the national average
10 community college faculty salary, the college may transfer up
11 to two percent (2%) of the State funds allocated to it for faculty
12 salaries.

13 Except as provided by subdivision (2) of this subsection, a
14 community college shall not transfer a greater percentage of the State
15 funds allocated to it for faculty salaries than is authorized by this
16 subsection.

17 (2) With the approval of the State Board of Community Colleges, a
18 community college at which the average faculty salary is eighty-five
19 percent (85%) or less of the national average may transfer a greater
20 percentage of the State funds allocated to it for faculty salaries than is
21 authorized by sub-subdivision e. of subdivision (1) of this subsection.
22 The State Board shall approve the transfer only for purposes that
23 directly affect student services.

24 (3) A local community college may use all State funds allocated to it
25 except for Literacy Funds and Funds for New and Expanding Industry
26 Training to increase faculty salaries.

27 **SECTION 8.3.(d)** As used in this section:

28 (1) "Average faculty salary at a community college" means the total
29 nine-month salary from all sources of all nine-month, full-time,
30 curriculum faculty at the college, as determined by the North Carolina
31 Community College System on October 1 of each year.

32 (2) "National average community college faculty salary" means the
33 nine-month, full-time, curriculum salary average, as published by the
34 Integrated Postsecondary Education Data System (IPEDS), for the
35 most recent year for which data are available.

36 **SECTION 8.3.(e)** The State Board of Community Colleges shall adopt rules
37 to implement the provisions of this section.

38 **SECTION 8.3.(f)** The State Board of Community Colleges shall report to
39 the appropriations subcommittees on education, the Speaker of the House of
40 Representatives, the President Pro Tempore of the Senate, the Fiscal Research Division,
41 and the Office of State Budget and Management by December 1, 2005, and every year
42 thereafter through December 1, 2009, on the implementation of this section.

43 **SECTION 8.3.(g)** Funds appropriated in this act for salary increases shall be
44 used to increase faculty and professional staff salaries by an average of two percent
45 (2%). These increases are in addition to other salary increases provided for in this act
46 and shall be calculated on the average salaries prior to the issuance of the compensation
47 increase. Colleges may provide additional increases from funds available.

48 The State Board of Community Colleges shall adopt rules to ensure that these
49 funds are used only to move faculty and professional staff to the respective national
50 averages. These funds shall not be transferred by the State Board or used for any other
51 budget purpose by the community colleges.

52 Requested by: Representatives Jeffus, Tolson, Yongue

WORKFORCE DEVELOPMENT PROGRAMS

SECTION 8.4.(a) Article 1 of Chapter 115D of the General Statutes is amended by adding a new G.S. 115D-5.1 to be entitled "Workforce Development Programs"; G.S. 115D-5(d) is recodified as G.S. 115D-5.1(a); G.S. 115D-5(k) is recodified as G.S. 115D-5.1(b); and G.S. 115D-5(i) is recodified as G.S. 115D-5.1(c).

SECTION 8.4.(b) G.S. 115D-5.1, as enacted by subsection (a) of this section, reads as rewritten:

"§ 115D-5.1. Workforce Development Programs.

(a) Community colleges shall assist in the preemployment and in-service training of employees in industry, business, agriculture, health occupation and governmental agencies. Such training shall include instruction on worker safety and health standards and practices applicable to the field of employment. The State Board of Community Colleges shall make appropriate regulations including the establishment of maximum hours of instruction which may be offered at State expense in each in-plant training program. No instructor or other employee of a community college shall engage in the normal management, supervisory and operational functions of the establishment in which the instruction is offered during the hours in which the instructor or other employee is employed for instructional or educational purposes.

(b) The North Carolina Community College System's New and Expanding Industry Training (NEIT) Program Guidelines, which were adopted by the State Board of Community Colleges on April 18, 1997, apply to all funds appropriated for the Program after June 30, 1997. A project approved as an exception under these Guidelines, or these Guidelines as modified by the State Board of Community Colleges, shall be approved for one year only.

(c) The State Board of Community Colleges shall report to the Joint Legislative Education Oversight Committee on September 1 of each year on expenditures for the New and Expanding Industry Training Program each fiscal year. The report shall include, for each company or individual that receives funds for the New and Expanding Industry Training Program:

- (1) The total amount of funds received by the company or individual;
- (2) The amount of funds per trainee received by the company or individual;
- (3) The amount of funds received per trainee by the community college training the trainee;
- (4) The number of trainees trained by company and by community college; and
- (5) The number of years the companies or individuals have been funded.

(d) Funds available to the New and Expanding Industry Training Program shall not revert at the end of a fiscal year but shall remain available until expended.

(e) There is created within the North Carolina Community College System the Customized Industry Training (CIT) Program. The CIT Program shall offer programs and training services as new options for assisting existing business and industry to remain productive, profitable, and within the State. Before a business or industry qualifies to receive assistance under the CIT Program, the President of the North Carolina Community College System shall determine that:

- (1) The business is making an appreciable capital investment;
- (2) The business is deploying new technology; and
- (3) The skills of the workers will be enhanced by the assistance.

The State Board shall report on an annual basis to the Joint Legislative Education Oversight Committee on:

- (1) The total amount of funds received by a company under the CIT Program;
- (2) The amount of funds per trainee received by that company;

1 (3) The amount of funds received per trainee by the community college
2 delivering the training;

3 (4) The number of trainees trained by the company and community
4 college; and

5 (5) The number of years that company has been funded.

6 The State Board shall adopt rules and policies to implement this section."

7 **SECTION 8.4.(c)** Notwithstanding any other provision of law, the State
8 Board of Community Colleges may use funds appropriated to it for the New and
9 Expanding Industry Training Program to operate programs under the Customized
10 Industry Training Program.

11 **SECTION 8.4.(d)** G.S. 115D-5.1(d), as enacted by this section, becomes
12 effective June 30, 2005.

13
14 Requested by: Representatives Jeffus, Tolson, Yongue

15 **REPORT ON THE ADEQUACY OF MULTICAMPUS FUNDS**

16 **SECTION 8.5.** The General Assembly finds that additional data are needed
17 to determine the adequacy of multicampus and off-campus center funds; therefore,
18 multicampus colleges and colleges with off-campus centers shall report annually,
19 beginning September 1, 2005, to the Community Colleges System Office on all
20 expenditures by line item of funds used to support their multicampuses and off-campus
21 centers. The Community Colleges System Office shall report on these expenditures to
22 the Education Appropriation Subcommittees of the House of Representatives and the
23 Senate, the Office of State Budget and Management, and the Fiscal Research Division
24 by October 1 of each year.

25 Notwithstanding any other provision of law, funds appropriated to the
26 Community Colleges System Office for multicampus colleges or off-campus centers
27 shall be used only for the administration of the multicampus college or off-campus
28 center for which the funds were allotted. These funds shall not be transferred to any
29 other campus or center, or used for any other purpose.

30
31 Requested by: Representatives Jeffus, Tolson, Yongue

32 **EDUCATION PROGRAM AUDITING FUNCTION**

33 **SECTION 8.6.** G.S. 115D-5(m) reads as rewritten:

34 "(m) The State Board of Community Colleges shall require auditors of community
35 college programs to use a statistically valid sample size in performing program audits of
36 community colleges. The State Board of Community Colleges shall maintain an
37 education program auditing function that conducts an annual audit of each community
38 college operating under the provisions of this Chapter. The purpose of the annual audit
39 shall be to ensure that college programs and related fiscal operations comply with State
40 law, State regulations, State Board policies, and System Office guidance. The State
41 Board of Community Colleges shall require auditors of community college programs to
42 use a statistically valid sample size in performing program audits of community
43 colleges. All education program audit findings shall be forwarded to the college
44 president, local college board of trustees, the State Board of Community Colleges, and
45 the State Auditor. The State Board shall assess a twenty-five percent (25%) fiscal
46 penalty in addition to the audit exception on all audits of both dollars and student
47 membership hours excepted when the audit exceptions result from nonprocessing
48 errors."

49
50 Requested by: Representatives Jeffus, Tolson, Yongue

51 **FERRY BOAT OPERATOR TRAINING FEASIBILITY STUDY**

52 **SECTION 8.7.(a)** The State Board of Community Colleges, in consultation
53 with the Ferry Division of the Department of Transportation, shall study the need for

1 training for ferry boat operators. In conducting the study, the State Board shall consider
2 the following:

- 3 (1) Types of training needed and whether it is feasible for the community
4 colleges to provide this training.
- 5 (2) Estimated number of students.
- 6 (3) Estimated employment opportunities for the students.
- 7 (4) Start-up costs for the program and resources for those costs.
- 8 (5) Location of the training.

9 **SECTION 8.7.(b)** The State Board shall report to the Joint Legislative
10 Education Oversight Committee and the Joint Legislative Transportation Oversight
11 Committee on its findings and recommendations no later than December 1, 2005.
12

13 Requested by: Representatives Jeffus, Tolson, Yongue

14 **EXTEND THE SUNSET ON TRAINING AND REEMPLOYMENT**
15 **CONTRIBUTIONS MADE BY EMPLOYERS**

16 **SECTION 8.8.(a)** Section 8 of S.L. 1999-321, as amended by Section
17 30.5(f) of S.L. 2001-424, reads as rewritten:

18 "Section 8. Section 1 of this act is effective with respect to calendar quarters
19 beginning on or after April 1, 1999. Section 7 of this act becomes effective July 1, 1999.
20 The remainder of this act is effective with respect to calendar quarters beginning on or
21 after January 1, 2000. ~~G.S. 96-6.1, as enacted by Section 2 of this act, is repealed~~
22 ~~effective with respect to calendar quarters beginning on or after January 1, 2006."~~

23 **SECTION 8.8.(b)** G.S. 96-6.1 is amended by adding a new subsection to
24 read:

25 "(c) Sunset. – This section is repealed effective with respect to calendar quarters
26 beginning on or after January 1, 2011."
27

28 Requested by: Representatives Jeffus, Tolson, Yongue

29 **DEFENSE TECHNOLOGY INNOVATION CENTER**

30 **SECTION 8.11.** Funds appropriated in this act for North Carolina
31 Electronics and Information Technologies Association's Defense Technology
32 Innovation Center shall be used for the following:

- 33 (1) Site selection and acquisition, including the purchase or lease of real
34 property to house the Center; the construction of buildings or other site
35 structures; the improvement or refurbishment of existing structures to
36 provide appropriate laboratory and administrative space; and the
37 improvement of existing infrastructure at the facility, including
38 improvements to utility, telecommunications, and Internet
39 infrastructure.
- 40 (2) Equipment acquisition, including acquisition of laboratory equipment
41 and supplies and office furniture, equipment, and supplies.
- 42 (3) Employment of staff to support the mission of the Center and to
43 oversee day-to-day operations of the Center.
- 44 (4) Implementation of a comprehensive business and marketing plan for
45 the Center.
- 46 (5) Development of a tenant screening process and the recruitment of
47 appropriate tenants for the Center.
- 48 (6) Administration and operation of the Center and the development of a
49 sustainable business plan for the Center.
50

51 Requested by: Representatives Jeffus, Tolson, Yongue

52 **COMMUNITY COLLEGE CAPITAL FUNDS**

1 **SECTION 8.12.** Notwithstanding G.S. 115D-31 or any other provision of
 2 law, funds appropriated in this act for community college capital projects do not have to
 3 be matched by local funds.

4
 5 Requested by: Representatives Jeffus, Tolson, Yongue

6 **IMPLEMENT PROPRIETARY SCHOOLS LICENSING FEE INCREASE**

7 **SECTION 8.14.** The State Board of Community Colleges may implement an
 8 increase in fees for licensing of proprietary schools in accordance with the following fee
 9 schedule adopted by the State Board of Community Colleges on November 18, 2004:

11	Initial License Fee	\$2,500
12	License Renewal Fee	\$1,250 plus \$50.00 per program
13	Program Addition Fee	\$200.00
14	Single Course Addition Fee	\$200.00
15	Relocation/Site Visit Fee	\$400.00
16	Remote Site Initial Fee	\$1,000
17	Remote Site Renewal Fee	\$750.00
18	Site Assessment	\$200.00

19
 20 Requested by: Representatives Jeffus, Tolson, Yongue

21 **EXEMPT COMMUNITY COLLEGE MASSAGE AND BODYWORK**
 22 **THERAPY PROGRAMS FROM LICENSURE BY THE NORTH CAROLINA**
 23 **BOARD OF MASSAGE AND BODYWORK THERAPY**

24 **SECTION 8.15.** G.S. 90-631 reads as rewritten:

25 **"§ 90-631. Massage and bodywork therapy schools.**

26 (a) The Board shall establish rules for the approval of massage and bodywork
 27 therapy schools. These rules shall include:

- 28 (1) Basic curriculum standards that ensure graduates have the education
 29 and skills necessary to carry out the safe and effective practice of
 30 massage and bodywork therapy.
- 31 (2) Standards for faculty and learning resources.
- 32 (3) Requirements for reporting changes in instructional staff and
 33 curriculum.
- 34 (4) A description of the process used by the Board to approve a school.

35 Any school that offers a training program in massage and bodywork therapy may
 36 make application for approval to the Board. The Board shall grant approval to schools,
 37 whether in this State or another state, that meet the criteria established by the Board.
 38 The Board shall maintain a list of approved ~~schools~~-schools and a list of community
 39 college programs operating pursuant to subsection (b) of this section.

40 (b) A massage and bodywork therapy program operated by a North Carolina
 41 community college that is accredited by the Southern Association of Colleges and
 42 Schools is exempt from the approval process, licensure process, or both, established by
 43 the Board. The college shall certify annually to the Board that the program meets or
 44 exceeds the minimum standards for curriculum, faculty, and learning resources
 45 established by the Board. Students who complete the program shall qualify for licenses
 46 from the Board as if the program were approved, licensed, or both, by the Board.

47 (c) A massage and bodywork therapy program operated by a degree or diploma
 48 granting college or university that offers a degree or diploma in massage therapy and is
 49 accredited by any accrediting agency that is recognized by the United States Department
 50 of Education and is licensed by the North Carolina Community College System or The
 51 University of North Carolina Board of Governors is exempt from the approval process,
 52 licensure process, or both, established by the Board. The college or university shall
 53 certify annually to the Board that the program meets or exceeds the minimum standards

1 for curriculum, faculty, and learning resources established by the Board. Students who
2 complete the program shall qualify for licenses from the Board as if the program were
3 approved, licensed, or both, by the Board."
4

5 Requested by: Representatives Howard, Holliman

6 **DAVIDSON COUNTY COMMUNITY COLLEGE TRUCK DRIVER TRAINING**

7 **SECTION 8.16.** Of the funds appropriated to the Community College
8 System Office for the State Board Reserve in FY05-06, \$39,500 shall be used to start a
9 Truck Driver Training Program at the Davie Campus of Davidson County Community
10 College. Beginning in FY06-07, Davidson County Community College's Davie Campus
11 Truck Driver Training Program shall be included in the Special Allotments line item at
12 the same level as the other Truck Driver Training Programs. The State Board of
13 Community Colleges shall report the anticipated cost of the new program to the House
14 Appropriations Subcommittee on Education by May 15, 2006.
15

16 **PART IX. UNIVERSITIES**

17
18 Requested by: Representatives Jeffus, Tolson, Yongue

19 **UNC BUDGET REDUCTION REPORT**

20 **SECTION 9.1.** The Chancellor of each constituent institution shall report to
21 the Board of Governors of The University of North Carolina on the reductions made to
22 the General Fund budget codes in order to meet the reduction amounts for that
23 institution, including the positions eliminated and the actions taken on nonpersonnel
24 costs. The President of The University of North Carolina shall report to the Board of
25 Governors of The University of North Carolina on the reductions made to the General
26 Fund budget codes controlled by the Board in order to meet the reduction amounts for
27 those entities. The report shall include the positions eliminated and the actions taken on
28 nonpersonnel costs to achieve the reductions. The Board of Governors shall make a
29 summary report to the Office of State Budget and Management and the Fiscal Research
30 Division by December 31, 2005, on all reductions made by these entities and constituent
31 institutions in order to reduce the budgets by the targeted amounts. The report shall
32 include the positions eliminated and the actions taken on nonpersonnel costs to achieve
33 the reductions.
34

35 Requested by: Representatives Jeffus, Tolson, Yongue

36 **ENROLLMENT GROWTH FUND/ENCOURAGE PARTNERSHIPS FOR NEW**
37 **2 + 2 PROGRAMS**

38 **SECTION 9.2.(a)** Of the funds appropriated by this act to the Board of
39 Governors of The University of North Carolina, the sum of eighteen million
40 eighty-seven thousand four hundred sixty-three dollars (\$18,087,463) for the 2005-2006
41 fiscal year and the sum of eighteen million eighty-seven thousand four hundred
42 sixty-three dollars (\$18,087,463) for the 2006-2007 fiscal year shall be held in reserve
43 to be used for distance education programs for undergraduate and graduate students.
44 The Board of Governors shall apportion the funds among the programs, as it deems
45 appropriate.

46 The Board of Governors shall report to the Joint Legislative Education
47 Oversight Committee by February 1, 2006, regarding the implementation of this
48 subsection and shall include in its report the following: a list of each program receiving
49 funds under this subsection, the amount received by the program, and the purpose for
50 which the funds were used.

51 **SECTION 9.2.(b)** The University of North Carolina Board of Governors'
52 Task Force on Meeting Teacher Supply and Demand called for the President to develop
53 a plan for enrollment growth in the University System's teacher education programs to

1 respond to the State's shortage of teachers. In a presentation to the Joint Legislative
2 Education Oversight Committee and to the Board of Governors, a commitment was
3 made to increase the number of teacher education graduates in 2005-2006 and in
4 2006-2007. The Office of the President of The University of North Carolina shall obtain
5 plans from each campus as to how they will maintain their current enrollment in the
6 teacher education programs and achieve their growth targets to ensure such increases in
7 those programs occur. Plans may include using enrollment growth funds for targeted
8 admissions, enhanced student support, and advising, recruiting, increases in faculty in
9 necessary instructional areas that lead to certification, and other methods the Office of
10 the President believes will achieve those results. The Office of the President shall report
11 back to the Office of State Budget and Management and the Joint Legislative Education
12 Oversight Committee no later than December 30, 2005, on each campus's plan for
13 increasing teacher education graduates. No later than March 31, 2006, the Office of the
14 President shall submit a report on progress towards meeting this priority for the
15 2006-2007 academic year, based on each campus's current students in the education
16 programs, and the students who have been accepted for the 2006-2007 fiscal year who
17 are enrolling in the education programs. The report shall also explain the distribution of
18 enrollment growth funds by specific initiative.

19 **SECTION 9.2.(c)** The Board of Governors of The University of North
20 Carolina and the State Board of Community Colleges shall strongly encourage the
21 constituent institutions and the community colleges that do not currently have 2 + 2
22 programs that emphasize teacher education to design and enter into formal partnerships
23 to offer those 2 + 2 programs. The Board of Governors and the Board of Community
24 Colleges shall report to the Joint Legislative Education Oversight Committee by
25 February 1, 2006, regarding the status of existing 2 + 2 programs and any new
26 partnerships established.

27
28 Requested by: Representatives Jeffus, Tolson, Yongue

29 **ENROLLMENT GROWTH FUNDING MODEL**

30 **SECTION 9.4.** The Office of State Budget and Management, jointly with
31 The University of North Carolina and the Fiscal Research Division of the General
32 Assembly, shall conduct a comprehensive review of the enrollment funding model to
33 review the assumptions contained within each element of the formula, to obtain current
34 benchmark information related to specific elements within the formula, and to examine
35 the impact of alternative elements and assumptions. An alternative to the current model
36 shall be the result of this analysis. This alternative shall be used to prepare a request for
37 enrollment growth funding for the budget to be submitted for the 2007 Session of the
38 General Assembly and shall be shown in comparison to the use of the current formula.

39
40 Requested by: Representatives Jeffus, Tolson, Yongue

41 **UNC-NCCCS 2+2 E-LEARNING INITIATIVE**

42 **SECTION 9.5.** Funds appropriated in this act to The University of North
43 Carolina and the North Carolina Community College System for the UNC-NCCCS 2+2
44 E-Learning Initiative shall be used to fund further development of online courses for
45 2+2 programs. Based on a mutually agreed upon decision by the State Board of
46 Education Chairman, the President of the North Carolina Community College System,
47 and the President of The University of North Carolina as to the areas of greatest need,
48 funds are available to support joint technology development, systems to track student
49 progress and articulation between a North Carolina community college and a University
50 of North Carolina campus, and to develop technology to support online courses and 2+2
51 programs.

52
53 Requested by: Representatives Jeffus, Tolson, Yongue

USE OF ESCHEAT FUND FOR NEED-BASED FINANCIAL AID PROGRAMS

SECTION 9.6.(a) There is appropriated from the Escheat Fund income to the Board of Governors of The University of North Carolina the sum of sixty-seven million two hundred forty-eight thousand sixteen dollars (\$67,248,016) for fiscal year 2005-2006 and the sum of sixty-seven million six hundred thirty-eight thousand sixteen dollars (\$67,638,016) for fiscal year 2006-2007; and to the State Board of Community Colleges the sum of thirteen million nine hundred eighty-one thousand two hundred two dollars (\$13,981,202) for fiscal year 2005-2006 and the sum of thirteen million nine hundred eighty-one thousand two hundred two dollars (\$13,981,202) for fiscal year 2006-2007. These funds shall be allocated by the North Carolina State Educational Assistance Authority (SEAA) for need-based student financial aid in accordance with G.S. 116B-7.

The SEAA shall perform all of the administrative functions necessary to implement this program of financial aid. The SEAA shall conduct periodic evaluations of expenditures of the Scholarship Programs to determine if allocations are utilized to ensure access to institutions of higher learning and to meet the goals of the respective programs. The SEAA may make recommendations for redistribution of funds to The University of North Carolina and the President of the Community College System regarding their respective scholarship programs, who then may authorize redistribution of unutilized funds for a particular fiscal year.

SECTION 9.6.(b) There is appropriated from the Escheat Fund to the Board of Governors of The University of North Carolina the sum of seven hundred eighty thousand dollars (\$780,000) for the 2005-2006 fiscal year and the sum of one million one hundred seventy thousand dollars (\$1,170,000) for the 2006-2007 fiscal year to be allocated to the SEAA for need-based student financial aid to be used in accordance with G.S. 116B-7 and this act. The SEAA shall use these funds only to provide scholarship loans (known as the Millennium Teaching Scholarship Loan Program) to North Carolina high school seniors interested in preparing to teach in the State's public schools who also enroll at any of the Historically Black Colleges and Universities that do not have Teaching Fellows. An allocation of 20 grants of six thousand five hundred dollars (\$6,500) each shall be given to the three universities without any Teaching Fellows for the purposes specified in this subsection.

The SEAA shall administer these funds and shall establish any additional criteria needed to award these scholarship loans, the conditions for forgiving the loans, and the collection of the loan repayments when necessary.

SECTION 9.6.(c) If the interest income generated from the Escheat Fund is insufficient to pay the appropriations made in subsections (a) and (b) of this section, the difference may be taken from the Escheat Fund principal to reach the appropriations referenced in this section; however, under no circumstances shall the Escheat Fund principal be reduced below the sum of four hundred million dollars (\$400,000,000).

SECTION 9.6.(d) All obligations to students for uses of the funds set out in sections that were made before the date this act becomes law shall be fulfilled as to students who remain eligible under the provisions of the respective programs.

Requested by: Representatives Jeffus, Tolson, Yongue

STUDY OF DISTANCE EDUCATION

SECTION 9.7.(a) The Joint Legislative Education Oversight Committee shall contract with a consultant as provided by G.S. 120-70.82(c) to analyze the distance education programs at the institutions in The University System. The study shall identify any duplication in course and program offerings, leader courses and programs at campuses in a particular area of study, the cost of developing online courses, and determine which campuses are best suited to offer a particular course or program of

1 study. The findings of the study shall be reported to the Joint Legislative Education
2 Oversight Committee no later than April 30, 2006.

3 **SECTION 9.7.(b)** Of the funds appropriated by this act to the Board of
4 Governors of The University of North Carolina for General Administration, the sum of
5 one hundred fifty thousand dollars (\$150,000) for the 2005-2006 fiscal year shall be
6 transferred to the General Assembly to be allocated to the Joint Legislative Education
7 Oversight Committee to implement this section.

8
9 Requested by: Representatives Jeffus, Tolson, Yongue

10 **INFORMATION TECHNOLOGY PROCUREMENT**

11 **SECTION 9.8.** For purposes of purchasing hardware, software licenses, and
12 multiyear maintenance agreements, The University of North Carolina and its constituent
13 institutions may participate in the aggregation of purchasing administered by the Office
14 of State Technology Services, as defined in G.S. 147-33.72F. The Office of State
15 Budget and Management shall conduct a cost comparison study of hardware, software
16 license, and multiyear maintenance agreement purchases made by The University of
17 North Carolina and its constituent institutions and by the Office of State Technology
18 Services, to determine if further aggregation is cost-justified. The Study shall also
19 include an analysis of aggregated purchases by the University System and the effect of
20 educational discounts available to the University System. The report of comparative
21 unit costs shall be completed by December 31, 2005.

22
23 Requested by: Representatives Jeffus, Tolson, Yongue

24 **BOARD OF GOVERNORS' DENTAL SCHOLARSHIPS**

25 **SECTION 9.9.(a)** The current Board of Governors' Dental Scholarship
26 Program, under the purview of the Board of Governors of The University of North
27 Carolina, shall make any awards to students admitted after July 1, 2005, as scholarship
28 loan awards. The Board of Governors' Dental Scholarship Program is administered by
29 the Board of Governors of The University of North Carolina. The Board of Governors'
30 Dental Scholarship Program shall be used to provide a four-year scholarship loan of
31 relevant tuition and fees, mandatory medical insurance, required laptop computers for
32 first-year students, required dental equipment, and an annual payment of five thousand
33 dollars (\$5,000) per year to students who have been accepted for admission to the
34 School of Dentistry at the University of North Carolina at Chapel Hill. The Board may
35 adopt standards, including minimum grade point average and DAT scores, for awarding
36 these scholarship loans to ensure that only the most qualified students receive them.
37 The Board shall make an effort to identify and encourage minority and economically
38 disadvantaged youth to enter the program. All scholarship loans shall be evidenced by
39 notes made payable to the Board that shall bear interest at the rate of ten percent (10%)
40 per year beginning September 1 after completion of the program, or immediately after
41 termination of the scholarship loan, whichever is earlier. The scholarship loan may be
42 terminated by the recipient withdrawing from school or by the recipient not meeting the
43 standards set by the Board. The Board shall forgive the loan if, within seven years after
44 graduation, the recipient practices dentistry in North Carolina for four years. The Board
45 shall also forgive the loan if it finds that it is impossible for the recipient to practice
46 dentistry in North Carolina for four years, within seven years after graduation, because
47 of the death or permanent disability of the recipient. All unused funds appropriated to
48 or otherwise received by the Board for scholarships, all funds received as repayment of
49 scholarship loans, and all interest earned on these funds shall revert to the General Fund
50 at the end of each fiscal year.

51 **SECTION 9.9.(b)** Any dental scholarship awarded prior to July 1, 2005,
52 shall remain a scholarship and shall not be converted to a scholarship loan unless the
53 recipient agrees to the conversion.

1
2 Requested by: Representatives Jeffus, Tolson, Yongue

3 **BOARD OF GOVERNORS' MEDICAL SCHOLARSHIPS**

4 **SECTION 9.10.(a)** The current Board of Governors' Medical Scholarship
5 Program, under the purview of the Board of Governors of The University of North
6 Carolina, shall make any awards to students admitted after July 1, 2005, as scholarship
7 loan awards. The Board of Governors' Medical Scholarship Program is administered by
8 the Board of Governors of The University of North Carolina. The Board of Governors'
9 Medical Scholarship Program shall be used to provide a four-year scholarship loan of
10 relevant tuition and fees, mandatory medical insurance, required laptop computers, and
11 an annual payment of five thousand dollars (\$5,000) per year to students who have been
12 accepted for admission to either Duke University School of Medicine, Brody School of
13 Medicine at East Carolina University, the University of North Carolina at Chapel Hill
14 School of Medicine, or the Wake Forest University School of Medicine. The Board may
15 adopt standards, including minimum grade point average and MCAT scores, for
16 awarding these scholarship loans to ensure that only the most qualified students receive
17 them. The Board shall make an effort to identify and encourage minority and
18 economically disadvantaged youth to enter the program. All scholarship loans shall be
19 evidenced by notes made payable to the Board that shall bear interest at the rate of ten
20 percent (10%) per year beginning September 1 after completion of the program, or
21 immediately after termination of the scholarship loan, whichever is earlier. The
22 scholarship loan may be terminated by the recipient withdrawing from school or by the
23 recipient not meeting the standards set by the Board. The Board shall forgive the loan if,
24 within seven years after graduation, the recipient practices medicine in North Carolina
25 for four years. The Board shall also forgive the loan if it finds that it is impossible for
26 the recipient to practice medicine in North Carolina for four years, within seven years
27 after graduation, because of the death or permanent disability of the recipient. All
28 unused funds appropriated to or otherwise received by the Board for scholarships, all
29 funds received as repayment of scholarship loans, and all interest earned on these funds
30 shall revert to the General Fund at the end of each fiscal year.

31 **SECTION 9.10.(b)** Any medical scholarship awarded prior to July 1, 2005,
32 shall remain a scholarship and shall not be converted to a scholarship loan unless the
33 recipient agrees to the conversion.
34

35 Requested by: Representatives Jeffus, Tolson, Yongue

36 **TEACHER SCHOLARSHIPS FUNDS**

37 **SECTION 9.11.(a)** Article 23 of Chapter 116 of the General Statutes is
38 amended by adding the following new section:

39 **"§ 116-209.38. Future Teachers of North Carolina Scholarship Loan Fund.**

40 (a) There is established the Future Teachers of North Carolina Scholarship Loan
41 Fund. The purpose of the Fund is to provide a two-year scholarship loan of six thousand
42 five hundred dollars (\$6,500) per year for any North Carolina student pursuing a college
43 degree to teach in the public schools of the State. The scholarship loan shall be paid
44 only for the student's junior and senior years. The scholarship loan is available if the
45 student is enrolled in a State institution of higher education or a private institution of
46 higher education located in this State that has an accredited teacher preparation program
47 for students planning to become certified teachers in North Carolina. The State
48 Education Assistance Authority shall administer the Fund and shall award 100
49 scholarship loans annually.

50 (b) The Board of Governors of The University of North Carolina, in consultation
51 with the State Board of Education and the State Board of Community Colleges, shall
52 develop the criteria for awarding the scholarship loans under this section and shall adopt
53 very stringent standards for awarding these scholarship loans to ensure that only the best

1 students receive them. Additional criteria for awarding a scholarship loan under this
2 section shall include all of the following:

3 (1) The student is one who either: (i) maintained a "B" or better average in
4 college and is enrolled as a junior or senior in a teacher preparation
5 program at any of the institutions described by subsection (a) of this
6 section; or (ii) completed a college transfer curriculum at a community
7 college in the State's community college system, maintained a "B" or
8 better average in the community college courses, and is accepted and
9 enrolled in a teacher preparation program at one of the institutions
10 described by subsection (a) of this section.

11 (2) The student agrees to become certified in math, science, special
12 education, or English as a Second Language and teach full-time in that
13 subject area in a North Carolina public school for four years within
14 five years after graduation.

15 (3) Any additional criteria that the Board of Governors of The University
16 of North Carolina, in consultation with the State Board of Education
17 and the State Board of Community Colleges, considers necessary to
18 administer the Fund effectively.

19 (c) If a student who is awarded a scholarship loan under this section fails to
20 comply with the provisions of this section or the terms of the agreement awarding the
21 scholarship loan, then the student shall repay the full amount of the scholarship loan
22 provided to the student and the appropriate amount of interest as determined by the
23 State Education Assistance Authority.

24 (d) The Board of Governors of The University of North Carolina, the State Board
25 of Education, and the State Board of Community Colleges shall: (i) prepare a clear
26 written explanation of the Future Teachers of North Carolina Scholarship Fund and the
27 information regarding the availability and criteria for awarding the scholarship loans,
28 and (ii) shall provide that information to the appropriate counselors in each local school
29 system and the appropriate institutions of higher education and shall charge those
30 counselors to inform students about the scholarship loans and to encourage them to
31 apply for the scholarship loans.

32 (e) The Board of Governors of The University of North Carolina shall adopt
33 rules to implement this section.

34 (f) The Board of Governors of The University of North Carolina shall report to
35 the Joint Legislative Education Oversight Committee by March 1 each year regarding
36 the Fund and scholarship loans awarded from the Fund."

37 **SECTION 9.11.(b)** Of the funds appropriated in this act to the State
38 Education Assistance Authority, the sum of six hundred fifty thousand dollars
39 (\$650,000) for the 2005-2006 fiscal year and the sum of one million three hundred
40 thousand dollars (\$1,300,000) for the 2006-2007 fiscal year shall be used to implement
41 this act.

42
43 Requested by: Representatives Jeffus, Tolson, Yongue
44 **UNC-ASHEVILLE RETAIN SALE PROCEEDS**

45 **SECTION 9.12.** Notwithstanding any other provision of law, the University
46 of North Carolina at Asheville may retain the proceeds from the sale of its existing
47 chancellor's residence and appurtenant land. The University of North Carolina at
48 Asheville may use the proceeds from the sale of its existing chancellor's residence and
49 the appurtenant land to construct or otherwise acquire a new chancellor's residence.
50 Proceeds from the sale not used for that purpose within two fiscal years of the sale shall
51 revert to the General Fund.

52
53 Requested by: Representatives Jeffus, Tolson, Yongue

UNC BOND PROJECT MODIFICATIONS

SECTION 9.13.(a) Pursuant to Section 2(b) of S.L. 2000-3, the General Assembly finds that it is in the best interest of the State to respond to current educational and research program requirements at Elizabeth City State University by changing the scope of "Mitchell-Lewis Residence Hall-Comprehensive Renovation" to be a replacement project instead of a renovation. Section 2(a) of S.L. 2000-3 is therefore amended in the portion under Elizabeth City State University by replacing "Mitchell Lewis Residence Hall-Comprehensive Renovation" with "Mitchell Lewis Residence Hall-Replacement."

SECTION 9.13.(b) Pursuant to Section 2(b) of S.L. 2000-3, the General Assembly finds that it is in the best interest of the State to respond to current educational and research program requirements at North Carolina Central University by the cancellation of "Latham Residence Hall-Comprehensive Renovation". The unused monies from "Latham Residence Hall-Comprehensive Renovation" should be transferred to "Eagleson Residence Hall-Comprehensive Renovation". Section 2(a) of S.L. 2000-3 is therefore amended in the portion under North Carolina Central University by reducing the money allocated to "Latham Residence Hall-Comprehensive Renovation" by reducing that amount by two million three hundred seventy-three thousand four hundred fifty-seven dollars (\$2,373,457) to a total of one million thirty-eight thousand one hundred forty-three dollars (\$1,038,143) and by increasing the allocation to "Eagleson Residence Hall-Comprehensive Renovation" by two million three hundred seventy-three thousand four hundred fifty-seven dollars (\$2,373,457) to create a total allocation of nine million two hundred forty-two thousand nine hundred fifty-seven dollars (\$9,242,957).

SECTION 9.13.(c) Pursuant to Section 2(b) of S.L. 2000-3, the General Assembly finds that it is in the best interest of the State to respond to current educational and research program requirements at the University of North Carolina at Wilmington by the cancellation of "King Hall Classroom Building-Comprehensive Renovation" and by transferring the unused funds to the following projects listed under the portion entitled University of North Carolina at Wilmington: "Academic & Classroom Facilities," "General Classroom Bldg.", "Hinton James Hall Classroom Bldg.-Comprehensive Renovation," "Friday Hall Laboratory Bldg.-Comprehensive Renovation," "Kenan Auditorium-Comprehensive Renovation." Section 2(a) of S.L. 2000-3 is therefore amended in the portion under the University of North Carolina at Wilmington by:

- (1) Reducing the allocation to "King Hall Classroom Building-Comprehensive Renovation" by three million one hundred sixty-eight thousand six hundred eighty-nine dollars (\$3,168,689) to create a total allocation of three hundred fifty-eight thousand seven hundred eleven dollars (\$358,711).
- (2) Increasing the allocation to "General Classroom Building" by six hundred seventy-nine thousand seven hundred seventy-eight dollars (\$679,778) to create a total allocation of thirteen million three hundred twenty-six thousand seven hundred seventy-eight dollars (\$13,326,778).
- (3) Increasing the allocation to "Academic & Classroom Facilities" by nine hundred ninety-one thousand one hundred twenty-three dollars (\$991,123) to create a total allocation of thirty-four million twenty-three thousand two hundred twenty-three dollars (\$34,023,223).
- (4) Increasing the allocation to "Hinton James Hall Classroom Building-Comprehensive Renovation" by one hundred seventy-six thousand six hundred nine dollars (\$176,609) to create a total

1 allocation of two million eight hundred six thousand five hundred
2 sixty-one dollars (\$2,806,561).

3 (5) Increasing the allocation to "Kenan Auditorium-Comprehensive
4 Renovation" by one hundred fifty-one thousand seven hundred
5 forty-nine dollars (\$151,749) to create a total allocation of two million
6 seventy-three thousand seven hundred twenty-four dollars
7 (\$2,073,724).

8 (6) Increasing the allocation to "Friday Hall Laboratory
9 Building-Comprehensive Renovation" by one million one hundred
10 sixty-nine thousand four hundred thirty dollars (\$1,169,430) to create a
11 total allocation of eight million eight hundred sixty-two thousand eight
12 hundred thirty dollars (\$8,862,830).

13 **SECTION 9.13.(d)** Pursuant to Section 2(b) of S.L. 2000-3, the General
14 Assembly finds that it is in the best interest of the State to respond to current
15 educational and research program requirements at the University of North Carolina at
16 Pembroke by the cancellation of "West Residence Hall-Comprehensive Renovation"
17 and by transferring the unused funds to a new project, "North and Belk Residence
18 Halls-Fire Safety Improvements and Renovations" and by the cancellation of
19 "Campuswide Infrastructure Improvements" and by transferring those unused funds to a
20 new project, "Biotechnology Teaching Labs and Classroom Building". Section 2(a) of
21 S.L. 2000-3 is therefore amended in the portion under University of North Carolina at
22 Pembroke by:

23 (1) Reducing the allocation to "West Residence Hall-Comprehensive
24 Renovation" by eight hundred seventy-nine thousand three hundred
25 dollars (\$879,300) to a total allocation of ninety-eight thousand dollars
26 (\$98,000).

27 (2) Reducing the allocation to "Campuswide Infrastructure
28 Improvements" by one million seven hundred thirty thousand three
29 hundred eighty-two dollars (\$1,730,382) to a total allocation of two
30 hundred sixty-six thousand two hundred eighteen dollars (\$266,218).

31 (3) Adding a new project entitled "North and Belk Residence Halls-Fire
32 Safety Improvements and Renovations \$879,300".

33 (4) Adding a new project entitled "Biotechnology Teaching Labs and
34 Classroom Building \$1,730,382".

35 **SECTION 9.13.(e)** Pursuant to Section 2(b) of S.L. 2000-3, the General
36 Assembly finds that it is in the best interest of the State to respond to current
37 educational and research program requirements at Western Carolina University by the
38 cancellation of "Killian Education & Allied Professional Bldg.-Partial Renovation" and
39 "Conversion of Old Student Health Center to Residential & Academic Space" and by
40 transferring the unused funds to "Stillwell Lab Bldg.-Comprehensive Renovation".
41 Section 2(a) of S.L. 2000-3 is therefore amended in the portion under Western Carolina
42 University by:

43 (1) Reducing the allocation to "Killian Education & Allied Professional
44 Bldg.-Partial Renovation" by one million two hundred ninety-seven
45 thousand nine hundred twenty-four dollars (\$1,297,924) to a total
46 allocation of two hundred forty-eight thousand three hundred
47 seventy-six dollars (\$248,376).

48 (2) Reducing the allocation to "Conversion of Old Student Health Center
49 to Residential & Academic Space" by one million four hundred
50 ninety-six thousand nine hundred forty-five dollars (\$1,496,945) to a
51 total allocation of three hundred ninety thousand one hundred fifty-five
52 dollars (\$390,155).

- 1 (3) Increasing the allocation to "Stillwell Lab Bldg-Comprehensive
2 Renovation" by two million seven hundred ninety-four thousand eight
3 hundred sixty-nine dollars (\$2,794,869) to a total allocation of
4 seventeen million eight hundred fifty-two thousand three hundred
5 sixty-nine dollars (\$17,852,369).

6 **SECTION 9.13.(f)** Nothing in this section is intended to supersede any other
7 requirement of law or policy for approval of the substituted capital improvement
8 projects.
9

10 Requested by: Representatives Jeffus, Tolson, Yongue

11 **REPEAL NC SCHOOL OF SCIENCE AND MATH TUITION GRANT**

12 **SECTION 9.14.(a)** G.S. 116-238.1 is repealed.

13 **SECTION 9.14.(b)** This section becomes effective July 1, 2005, but shall
14 not apply to any student who was eligible for a legislative tuition grant under
15 G.S. 116-238.1 before the 2006-2007 academic year. A student who was eligible for the
16 legislative tuition grant before the 2006-2007 academic year shall continue to be eligible
17 for the legislative tuition grant provided the student continues to meet the criteria
18 provided by G.S. 116-238.1.
19

20 Requested by: Representatives Jeffus, Tolson, Yongue

21 **NORTH CAROLINA AGRICULTURAL AND TECHNICAL STATE**
22 **UNIVERSITY FUNDS**

23 **SECTION 9.16.** Of the funds appropriated by this act to the Board of
24 Governors of The University of North Carolina for the 2005-2006 fiscal year the sum of
25 one million eighty-eight thousand nine hundred forty-one dollars (\$1,088,941) shall be
26 allocated to North Carolina Agricultural and Technical State University for agricultural
27 and research extension programs. It is the intent of the General Assembly to fully fund
28 these programs for the 2006-2007 fiscal year.
29

30 Requested by: Representatives Jeffus, Tolson, Yongue

31 **TRANSFER PROSPECTIVE TEACHER SCHOLARSHIP LOAN AND**
32 **TEACHER ASSISTANT SCHOLARSHIP LOAN TO THE NC STATE**
33 **EDUCATION ASSISTANCE AUTHORITY**

34 **SECTION 9.17.(a)** The Scholarship Loan Fund for Prospective Teachers is
35 transferred from the Department of Public Instruction to the State Education Assistance
36 Authority. This transfer shall have all of the elements of a Type I transfer, as defined in
37 G.S. 143A-6.

38 **SECTION 9.17.(b)** G.S. 115C-468 is recodified as G.S. 116-209.33.
39 G.S. 115C-469, 115C-470, and 115C-472.1 are repealed. G.S. 115C-471 is recodified as
40 G.S. 116-209.34.

41 **SECTION 9.17.(c)** G.S. 115C-468 recodified by subsection (b) of this
42 section as G.S. 116-209.33 reads as rewritten:

43 "**§ 116-209.33. Establishment of fund, Scholarship Loan Fund for Prospective**
44 **Teachers.**

45 (a) There is established a revolving fund known as the "Scholarship Loan Fund
46 for Prospective Teachers". The purpose of the Fund is to provide scholarship loans to
47 qualified individuals who are pursuing college degrees to become teachers. The State
48 Education Assistance Authority shall administer the Fund.

49 (b) Criteria—The State Education Assistance Authority, in consultation with the
50 State Board of Education, shall develop criteria for awarding scholarship loans from the
51 fund shall include measures the Fund. These criteria shall include:

- 1 (1) Measures of academic performance including grade point averages,
 2 scores on standardized tests, class rank, and recommendations of
 3 guidance counselors and principals.
 4 (2) North Carolina residency. – For purposes of this section, residency
 5 shall be determined by the same standard as residency for tuition
 6 purposes pursuant to G.S. 116-143.1.
 7 (3) The geographic areas or subjects of instruction in which the demand
 8 for teachers is greatest.
 9 (4) To the extent practical, an equal number of scholarships shall be
 10 awarded in each of the State's Congressional Districts.
 11 (5) Any additional criteria that the State Education Assistance Authority
 12 considers necessary to administer the Fund effectively, including the
 13 following:
 14 a. Consideration of the appropriate numbers of minority applicants
 15 and applicants from diverse socioeconomic backgrounds to
 16 receive scholarships pursuant to this section.
 17 b. Consideration of the commitment an individual applying to
 18 receive funds demonstrates to the profession of teaching.

19 (c) ~~The Superintendent of Public Instruction~~State Education Assistance
 20 Authority may earmark each year up to twenty percent (20%) of the funds available for
 21 scholarship loans each year under this section for awards to applicants who have been
 22 employed for at least one year as teacher assistants and who are currently employed as
 23 teacher assistants. Preference for these scholarship loans from funds earmarked for
 24 teacher assistants shall be given first to applicants who worked as teacher assistants for
 25 at least five years and whose positions as teacher assistants were abolished and then to
 26 applicants who already hold a baccalaureate degree or who have already been formally
 27 admitted to an approved teacher education program in North Carolina. The criteria for
 28 awarding scholarship loans to applicants who worked as teacher assistants for at least
 29 five years and whose positions as teacher assistants were abolished shall include
 30 whether the teacher assistant has been admitted to an approved teacher education
 31 program in North Carolina for the Teacher Assistant Scholarship Fund established in
 32 G.S. 116-209.35.

33 ~~The Superintendent of Public Instruction may further earmark a portion of these~~
 34 ~~funds each year for two year awards to applicants who have been employed for at least~~
 35 ~~one year as teacher assistants to attend community colleges to get other skills of use in~~
 36 ~~public schools or to get an early childhood associate degree. The provisions of this~~
 37 ~~Article shall apply to these scholarship loans except that a recipient of one of these~~
 38 ~~scholarship loans may receive credit upon the amount due by reason of the loan as~~
 39 ~~provided in G.S. 115C 471(5) or by working in a nonteaching position in the North~~
 40 ~~Carolina public schools or by working in a licensed child care center in North Carolina."~~

41 **SECTION 9.17.(d)** ~~G.S. 115C-471 recodified by subsection (b) of this~~
 42 ~~section as G.S. 116-209.34 reads as rewritten:~~

43 "**§ 116-209.34. Fund administered by State Superintendent of Public Instruction;**
 44 **rules and regulations, State Education Assistance Authority; rule-making**
 45 **authority.**

46 (a) ~~The Scholarship Loan Fund for Prospective Teachers shall be administered~~
 47 ~~by the State Superintendent of Public Instruction, under rules adopted by the State~~
 48 ~~Board of Education and subject to the following directions and limitations: The State~~
 49 ~~Education Assistance Authority shall establish the terms and conditions for the~~
 50 ~~scholarship loans consistent with the following:~~

- 51 (1) ~~Any resident of North Carolina who is interested in preparing to teach~~
 52 ~~in the public schools of the State may apply in writing to the State~~
 53 ~~Superintendent of Public Instruction for a regular scholarship loan in~~

1 ~~the amount of not more than two thousand five hundred dollars~~
2 ~~(\$2,500) per academic school year. An applicant who has been~~
3 ~~employed for at least one year as a teacher assistant and who is~~
4 ~~currently employed as a teacher assistant may apply for a scholarship~~
5 ~~loan from funds earmarked for teacher assistants in the amount of not~~
6 ~~more than one thousand two hundred dollars (\$1,200) per academic~~
7 ~~school year. The loan amount shall be not more than four thousand~~
8 ~~dollars (\$4,000) per academic school year for a maximum of four~~
9 ~~years for applicants who are pursuing a college degree to become a~~
10 ~~teacher.~~

11 (2) ~~All scholarship loans shall be evidenced by notes made payable to the~~
12 ~~State Board of Education Authority that bear interest at the rate of ten~~
13 ~~percent (10%) per annum from and after September 1 following~~
14 ~~fulfillment by a prospective teacher of the requirements for a~~
15 ~~certificate based upon the entry level degree; or in the case of persons~~
16 ~~already teaching in the public schools who obtain scholarship loans,~~
17 ~~the notes shall bear interest at the prescribed rate from and after~~
18 ~~September 1 of the school year beginning immediately after the use of~~
19 ~~the scholarship loans; or in the event any such scholarship is~~
20 ~~terminated under the provisions of subdivision (3) of this section, the~~
21 ~~notes shall bear interest from the date of termination. A minor~~
22 ~~recipient who signs a note shall also obtain the endorsement thereon by~~
23 ~~a parent, if there be a living parent, unless the endorsement is waived~~
24 ~~by the Superintendent of Public Instruction. The minor recipient shall~~
25 ~~be obligated upon the note as fully as if the recipient were of age and~~
26 ~~shall not be permitted to plead such minority as a defense in order to~~
27 ~~avoid the obligations undertaken upon the notes. year, beginning~~
28 ~~September 1 after graduation, or immediately after termination of the~~
29 ~~scholarship loan, whichever is earlier.~~

30 (3) ~~Each recipient of a scholarship loan under the provisions of this~~
31 ~~program shall be eligible for scholarship loans each year until the~~
32 ~~recipient has qualified for a certificate based upon the entry level~~
33 ~~degree, but the recipient shall not be so eligible for more than the~~
34 ~~minimum number of years normally required for qualifying for the~~
35 ~~certificate. The permanent withdrawal of any recipient from college or~~
36 ~~failure of the recipient to do college work in a manner acceptable to~~
37 ~~the State Superintendent of Public Instruction shall immediately forfeit~~
38 ~~the recipient's right to retain the scholarship and subject the~~
39 ~~scholarship to termination by the State Superintendent of Public~~
40 ~~Instruction in the Superintendent's discretion. A scholarship loan shall~~
41 ~~be terminated upon the recipient's withdrawing from school or a~~
42 ~~finding by the Authority that the recipient fails to meet the standards~~
43 ~~set by the Authority. All terminated scholarships shall be regarded as~~
44 ~~vacant and subject to being awarded to other eligible persons.~~

45 (4) ~~Except under emergency conditions applicable to the State~~
46 ~~Superintendent of Public Instruction, recipients of scholarship loans~~
47 ~~shall enter the public school system of North Carolina at the beginning~~
48 ~~of the next school term after qualifying for a certificate based upon the~~
49 ~~entry level degree or, in case of persons already teaching in the public~~
50 ~~schools, at the beginning of the next school term after the use of the~~
51 ~~loan. All teaching service for which the recipient of any scholarship~~
52 ~~loan is obligated shall be rendered by August 31 of the seventh school~~
53 ~~year following graduation.~~

1 ~~(5)(4)~~ For each full school year taught in a North Carolina public school, the
2 recipient of a scholarship loan shall receive credit upon the amount due
3 by reason of the loan equal to the loan amount for a school year as
4 provided in the note plus credit for the total interest accrued on that
5 amount. Also, the recipient of the loan shall receive credit upon the
6 total amount due by reason of all four years of the loan if the recipient
7 teaches for three consecutive years, The Authority shall forgive a
8 four-year loan if, within seven years after graduation, the recipient
9 teaches for four years at a North Carolina public school or at a school
10 operated by the United States government in North Carolina. The
11 Authority shall also forgive a four-year loan if, within seven years
12 after graduation, the recipient teaches for three consecutive years, or
13 for three years interrupted only by an approved leave of absence, at a
14 North Carolina public school that is in a low-performing school system
15 or a school system on warning status at the time the recipient accepts
16 employment with the local school administrative unit. In lieu of
17 teaching in the public school, a recipient may elect to pay in cash the
18 full amount of scholarship loans received plus interest then due
19 thereon or any part thereof that has not been canceled by the State
20 Board of Education by reason of teaching service rendered. For loans
21 of less than four years, the Authority shall forgive one year for each
22 year the recipient teaches, within four years of graduation, at a North
23 Carolina public school or a school operated by the United States
24 government in North Carolina.

25 ~~(6)(5)~~ If any recipient of a scholarship loan dies during the period of
26 attendance at a college or university under a scholarship loan or before
27 the scholarship loan is satisfied by payment or teaching service, any
28 balance shall be automatically canceled.

29 If any recipient of a scholarship loan fails to fulfill the recipient's
30 obligations under subdivision (4) of this section, other than as
31 provided above, the amount of the loan and accrued interest, if any,
32 shall be due and payable from the time of failure to fulfill the
33 recipient's obligations. The Authority may forgive or reduce any loan
34 payment if the Authority considers that extenuating circumstances
35 exist that would make teaching or repayment impossible.

36 ~~(7)(6)~~ The State Superintendent of Public Instruction shall award scholarship
37 loans with due consideration to factors and circumstances such as
38 aptitude, purposefulness, scholarship, character, financial need, and
39 geographic areas or subjects of instruction in which the demands for
40 teachers are greatest. Since the primary purpose of this Article is to
41 attract worthy young people to the teaching profession, preference for
42 scholarship loans, except for the scholarship loans from funds
43 earmarked for teacher assistants, shall be given to high school seniors
44 in the awarding of scholarships. In awarding scholarship loans from
45 funds earmarked for teacher assistants, preference shall be given to
46 applicants who have already earned a baccalaureate degree or who
47 have been formally admitted to an approved teacher education
48 program in North Carolina. The Authority shall ensure that all
49 repayments, including the accrued interest, are placed in the Fund.

50 (b) The State Education Assistance Authority, in consultation with the State
51 Board of Education, shall adopt rules to implement G.S. 116-209.33, 116-209.34, and
52 116-209.35."

1 **SECTION 9.17.(e)** This section becomes effective January 1, 2006, and
2 applies to scholarship loans awarded on or after that date.

3
4 Requested by: Representatives Jeffus, Tolson, Yongue
5 **UNIVERSITY SYSTEM AND COMMUNITY COLLEGE SYSTEM JOINT**
6 **STUDY OF HIGHER EDUCATION STRATEGY/AMEND REPORTING**
7 **REQUIREMENT**

8 **SECTION 9.18.** Section 6.2 of S.L. 2004-179 reads as rewritten:
9 **"SECTION 6.2.** These studies shall be designed to provide information and
10 recommendations that will assist the General Assembly in setting priorities for funding
11 to address the strategic higher education needs of the State. The Board of Governors, the
12 State Board, and their consultant shall periodically report their findings to a higher
13 education programming subcommittee of the Joint Legislative Education Oversight
14 Committee. The two boards and their consultant shall report the preliminary results of
15 the study to the General Assembly and to the Joint Legislative Education Oversight
16 Committee by ~~April 15, 2005, June 15, 2005,~~ and shall file a final report and
17 recommendations with the General Assembly and the Joint Legislative Education
18 Oversight Committee no later than ~~December 31, 2005.~~December 31, 2006."

19
20 Requested by: Representatives Jeffus, Tolson, Yongue
21 **DISTINGUISHED PROFESSORS ENDOWMENT TRUST FUND**

22 **SECTION 9.21.(a)** G.S. 116-41.15 reads as rewritten:
23 **"§ 116-41.15. Distinguished Professors Endowment Trust Fund; allocation;**
24 **administration.**

25 (a) For constituent institutions other than focused growth institutions and special
26 needs institutions, the amount appropriated to the trust shall be allocated by the Board
27 as follows:

- 28 (1) On the basis of one three hundred thirty-four thousand dollar
29 (\$334,000) challenge grant for each six hundred sixty-six thousand
30 dollars (\$666,000) raised from private sources; or
- 31 (2) On the basis of one one hundred sixty-seven thousand dollar
32 (\$167,000) challenge grant for each three hundred thirty-three
33 thousand dollars (\$333,000) raised from private ~~sources.~~sources; or
- 34 (3) On the basis of one challenge grant of up to six hundred sixty-seven
35 thousand dollars (\$667,000) for funds raised from private sources in
36 twice the amount of the challenge grant.

37 If an institution chooses to pursue the use of the allocated challenge grant funds
38 described in either subdivision ~~(1) or (1),~~ subdivision ~~(2)–(2),~~ or subdivision (3) of this
39 subsection, the challenge grant funds shall be matched by funds from private sources on
40 a two to one basis.~~the basis of two dollars of private funds for every one dollar of State~~
41 funds.

42 (b) For focused growth institutions and special needs institutions, the amount
43 appropriated to the trust shall be allocated by the Board as follows:

- 44 (1) On the basis of one five hundred thousand dollar (\$500,000) challenge
45 grant for each five hundred thousand dollars (\$500,000) raised from
46 private sources; or
- 47 (2) On the basis of one two hundred fifty thousand dollar (\$250,000)
48 challenge grant for each two hundred fifty thousand dollars (\$250,000)
49 raised from private ~~sources.~~sources; or
- 50 (3) On the basis of one challenge grant of up to one million dollars
51 (\$1,000,000) for funds raised from private sources in the same amount
52 as the challenge grant.

1 If an institution chooses to pursue the use of the allocated challenge grant funds
2 described in either subdivision ~~(1) or~~(1), subdivision ~~(2)~~(2), or subdivision (3) of this
3 subsection, the challenge grant funds shall be matched by funds from private sources on
4 a one-to-one basis: the basis of one dollar of private funds for every dollar of State
5 funds.

6 (c) Matching funds shall come from contributions made after July 1, 1985, and
7 pledged for the purposes specified by G.S. 116-41.14. Each participating constituent
8 institution's board of trustees shall establish its own Distinguished Professors
9 Endowment Trust Fund, and shall maintain it pursuant to the provision of G.S. 116-36
10 to function as a depository for private contributions and for the State matching funds for
11 the challenge grants. The State matching funds shall be transferred to the constituent
12 institution's Endowment Fund upon notification that the institution has received and
13 deposited the appropriate amount required by this section in its own Distinguished
14 Professors Endowment Trust Fund. Only the net income from that account shall be
15 expended in support of the distinguished professorship thereby created."

16 **SECTION 9.21.(b)** G.S. 116-41.16 reads as rewritten:

17 "**§ 116-41.16. Distinguished Professors Endowment Trust Fund; contribution**
18 **commitments.**

19 (a) For constituent institutions other than focused growth institutions and special
20 needs institutions, contributions may also be eligible for matching if there is:

21 (1) A commitment to make a donation of at least six hundred sixty-six
22 thousand dollars (\$666,000), as prescribed by G.S. 143-31.4, and an
23 initial payment of one hundred eleven thousand dollars (\$111,000) to
24 receive a grant described in G.S. 116-41.15(a)(1); or

25 (2) A commitment to make a donation of at least three hundred
26 thirty-three thousand dollars (\$333,000), as prescribed by
27 G.S. 143-31.4, and an initial payment of fifty-five thousand five
28 hundred dollars (\$55,500) to receive a grant described in
29 G.S. 116-41.15(a)~~(2);~~(2); or

30 (3) A commitment to make a donation in excess of six hundred sixty-six
31 thousand dollars (\$666,000), as prescribed by G.S. 143-31.4, and an
32 initial payment of one-sixth of the committed amount to receive a
33 grant described in G.S. 116-41.15(a)(3);

34 and if the initial payment is accompanied by a written pledge to provide the balance
35 within five years after the date of the initial payment. Each payment on the balance shall
36 be no less than the amount of the initial payment and shall be made on or before the
37 anniversary date of the initial payment. Pledged contributions may not be matched prior
38 to the actual collection of the total funds. Once the income from the institution's
39 Distinguished Professors Endowment Trust Fund can be effectively used pursuant to
40 G.S. 116-41.17, the institution shall proceed to implement plans for establishing an
41 endowed chair.

42 (b) For focused growth institutions and special needs institutions, contributions
43 may also be eligible for matching if there is:

44 (1) A commitment to make a donation of at least five hundred thousand
45 dollars (\$500,000), as prescribed by G.S. 143-31.4, and an initial
46 payment of eighty-three thousand three hundred dollars (\$83,300) to
47 receive a grant described in G.S. 116-41.5(b)(1); or

48 (2) A commitment to make a donation of at least two hundred fifty
49 thousand dollars (\$250,000), as prescribed by G.S. 143-31.4, and an
50 initial payment of forty-one thousand six hundred dollars (\$41,600) to
51 receive a grant described in G.S. 116-41.15(b)~~(2);~~(2); or

52 (3) A commitment to make a donation in excess of five hundred thousand
53 dollars (\$500,000), as prescribed by G.S. 143-31.4, and an initial

1 payment of one-sixth of the committed amount to receive a grant
 2 described in G.S. 116-41.15(b)(3);
 3 and if the initial payment is accompanied by a written pledge to provide the balance
 4 within five years after the date of the initial payment. Each payment on the balance shall
 5 be no less than the amount of the initial payment. Pledged contributions may not be
 6 matched prior to the actual collection of the total funds. Once the income from the
 7 institution's Distinguished Professors Endowment Trust Fund can be effectively used
 8 pursuant to G.S. 116-41.17, the institution shall proceed to implement plans for
 9 establishing an endowed chair."

10 **SECTION 9.21.(c)** G.S. 116-41.17 reads as rewritten:

11 **"§ 116-41.17. Distinguished Professors Endowment Trust Fund; establishment of**
 12 **chairs.**

13 When the sum of the challenge grant and matching funds in the ~~Scholars'~~
 14 Distinguished Professors Endowment Trust Fund reaches:

- 15 (1) One million dollars (\$1,000,000), if the sum of funds described in
 16 G.S. 116-41.15(1); or G.S. 116-41.15(a)(1) or G.S. 116-41.15(b)(1); or
 17 (2) Five hundred thousand dollars (\$500,000), if the sum of funds
 18 described in G.S. 116-41.15(2); G.S. 116-41.15(a)(2) or
 19 G.S. 116-41.15(b)(2); or
 20 (3) An amount up to two million dollars (\$2,000,000), if the sum of funds
 21 described in G.S. 116-41.15(a)(3) or G.S. 116-41.15(b)(3);

22 the board of trustees may recommend to the Board, for its approval, the establishment of
 23 an endowed chair or chairs. The Board, in considering whether to approve the
 24 recommendation, shall include in its consideration the programs already existing in The
 25 University of North Carolina. If the Board approves the recommendation, the chair or
 26 chairs shall be established. The chair or chairs, the property of the constituent
 27 institution, may be named in honor of a donor, benefactor, or honoree of the institution,
 28 at the option of the board of trustees."
 29

30 Requested by: Representatives Jeffus, Tolson, Yongue

31 **UNC MAY ENCOURAGE THE ESTABLISHMENT OF PRIVATE,**
 32 **NONPROFIT CORPORATIONS TO SUPPORT THE UNIVERSITY**
 33 **SYSTEM AND ASSIGN UNC EMPLOYEES TO ASSIST WITH THOSE**
 34 **CORPORATIONS**

35 **SECTION 9.22.** Article 1 of Chapter 116 of the General Statutes is amended
 36 by adding a new Part to read:

37 "Part 2B. Private, Nonprofit Corporations.

38 **"§ 116-30.20. Establishment of private, nonprofit corporations.**

39 The Board of Governors of The University of North Carolina shall encourage the
 40 establishment of private, nonprofit corporations to support the constituent institutions of
 41 The University of North Carolina and The University System. The President of The
 42 University of North Carolina and the chancellors of the constituent institutions may
 43 assign employees to assist with the establishment and operation of a nonprofit
 44 corporation and may make available to the corporation office space, equipment,
 45 supplies, and other related resources; provided, the sole purpose of the corporation is to
 46 support The University of North Carolina or one or more of its constituent institutions.

47 The board of directors of each such private, nonprofit corporation shall secure and
 48 pay for the services of The University System's internal auditors or employ a certified
 49 public accountant to conduct an audit of the financial accounts of the corporation. The
 50 board of directors shall transmit to the Board of Governors a copy of the annual
 51 financial audit report of the private, nonprofit corporation."

52
 53 Requested by: Representatives Jeffus, Tolson, Yongue

1 **ELIMINATE REPORTING REQUIREMENT FOR SCHOOL**
2 **ADMINISTRATOR TRAINING PROGRAMS**

3 **SECTION 9.23.** G.S. 116-74.21 reads as rewritten:

4 **"§ 116-74.21. Establishment of a competitive proposal process for school**
5 **administrator programs.**

6 (a) The Board of Governors shall develop and implement a competitive proposal
7 process and criteria for assessing proposals to establish school administrator training
8 programs within the constituent institutions of The University of North Carolina. To
9 facilitate the development of the programs, program criteria, and the proposal process,
10 the Board of Governors may convene a panel of national school administrator program
11 experts and other professional training program experts to assist it in designing the
12 program, the proposal process, and criteria for assessing the proposals.

13 (b) No more than 12 school administrator programs shall be established under the
14 competitive proposal program. In selecting campus sites, the Board of Governors shall
15 be sensitive to the racial, cultural, and geographic diversity of the State. Special priority
16 shall be given to the following factors: (i) the historical background of the institutions in
17 training educators; (ii) the ability of the sites to serve the geographic regions of the
18 State, such as, the far west, the west, the triad, the piedmont, and the east; and, (iii)
19 whether the type of roads and terrain in a region make commuting difficult. A school
20 administrator program may provide for instruction at one or more campus sites.

21 (c) The Board of Governors shall study the issue of supply and demand of school
22 administrators to determine the number of school administrators to be trained in the
23 programs in each year of ~~each biennium. The Board of Governors shall report the~~
24 ~~results of this study to the Joint Legislative Education Oversight Committee no later~~
25 ~~than March 1, 1994, and annually thereafter the biennium and report the results of this~~
26 ~~study to the Joint Legislative Education Oversight Committee no later than March 1~~
27 annually.

28 (d) The Board of Governors shall develop a budget for the programs established
29 under subsection (a) of this section that reflects the resources necessary to establish and
30 operate school administrator programs that meet the vision of the report submitted to the
31 1993 General Assembly by the Educational Leadership Task Force.

32 ~~(e) The Board of Governors shall report annually on the implementation of the~~
33 ~~act no later than December 1 of each year."~~

34
35 Requested by: Representatives Jeffus, Tolson, Yongue

36 **CONTINUE ACADEMIC COMMON MARKET PROGRAM**

37 **SECTION 9.24.** Part 5 of Article 1 of Chapter 116 of the General Statutes is
38 amended by adding a new section to read:

39 **"§ 116-43.10. Academic Common Market program.**

40 (a) The Southern Regional Education Board operates an Academic Common
41 Market program. Under this program, qualified students from participating states may
42 apply to attend programs at public universities in participating states that are not
43 available in their home state's university system. North Carolina's participation for
44 graduate programs provides a cost-effective means of offering educational access for
45 North Carolina residents. North Carolinians are able to attend graduate programs that
46 are not available at The University of North Carolina at reduced rates, and the State
47 avoids the cost associated with the development of new academic programs.

48 (b) The Board of Governors of The University of North Carolina may continue
49 participation in the Southern Regional Education Board's Academic Common Market at
50 the graduate program level. The Board of Governors shall examine the graduate
51 programs offered in The University of North Carolina System and select for
52 participation only those graduate programs that are likely to be unique or are not
53 commonly available in other Southern Regional Education Board states. Out-of-state

1 tuition shall be waived for students who are residents of other Southern Regional
2 Education Board states and who are participating in the Academic Common Market
3 program. If accepted into The University of North Carolina graduate programs that are
4 part of the Academic Common Market, these students shall pay in-State tuition and
5 shall be treated for all purposes of The University of North Carolina as residents of
6 North Carolina.

7 (c) Once a student is enrolled in The University of North Carolina System under
8 the Academic Common Market program, the student shall be entitled to pay in-State
9 tuition as long as the student is enrolled in that graduate program. The Board of
10 Governors shall provide a report on the Academic Common Market program to the
11 Joint Legislative Education Oversight Committee by September 2007 and each
12 biennium thereafter."

13
14 Requested by: Representatives Jeffus, Tolson, Yongue

15 **BRODY SCHOOL OF MEDICINE AT ECU/MEDICARE RECEIPTS/FAMILY**
16 **MEDICINE CENTER**

17 **SECTION 9.26.(a) G.S. 116-36.6 reads as rewritten:**

18 **"§ 116-36.6. Brody School of Medicine at East Carolina University School of**
19 **Medicine; University; Medicare receipts.**

20 The Brody School of Medicine at East Carolina University School of Medicine shall
21 request, on a regular basis consistent with the State's cash management plan, funds
22 earned by the School from Medicare reimbursements for education costs. Upon receipt,
23 these funds shall be allocated as follows:

24 (1) The portion of the Medicare reimbursement generated through the
25 effort and expense of the Brody School of Medicine's Medical Faculty
26 Practice Plan shall be transferred to the appropriate Medical Faculty
27 Practice Plan account within the School of Medicine. The Medical
28 Faculty Practice Plan shall assume responsibility for any of these funds
29 that subsequently must be refunded due to final audit settlements.

30 (2) ~~The funds from this source budgeted by the General Assembly as part~~
31 ~~of the School of Medicine's General Fund budget code shall be~~
32 ~~credited to that code as a receipt.~~

33 (3) ~~The remainder of the funds shall be transferred to a special fund~~
34 ~~account on deposit with the State Treasurer. This special fund account~~
35 ~~shall be used for any necessary repayment of Medicare funds due to~~
36 ~~final audit settlements for funds allocated under subdivision (2) of this~~
37 ~~subsection. When the amount of these reimbursement funds has been~~
38 ~~finalized by audit for each year, those funds remaining in the special~~
39 ~~fund shall be available for specific capital improvement projects for~~
40 ~~the East Carolina University School of Medicine. Requests by East~~
41 ~~Carolina University for use of these funds shall be made to the Board~~
42 ~~of Governors of The University of North Carolina. Approval of~~
43 ~~projects by the Board of Governors shall be reported to the Joint~~
44 ~~Legislative Commission on Governmental Operations, and the reports~~
45 ~~shall include projected costs and sources of funds for operation of the~~
46 ~~approved projects.~~

47 (2a) Funds that were received pursuant to this section prior to July 1, 2005,
48 and that were transferred to a special fund account on deposit with the
49 State Treasurer are appropriated to the Brody School of Medicine at
50 East Carolina University and may be expended by the Brody School of
51 Medicine for the family medicine center and for purposes consistent
52 with its stated mission."

1 **SECTION 9.26.(b)** Subsections (b) and (c) of Section 87 of Chapter 321 of
2 the 1993 Session Laws are repealed.

3 **SECTION 9.26.(c)** Notwithstanding any other provisions of law, the Board
4 of Governors of The University of North Carolina may authorize the design and
5 construction of a new capital project, a family medicine center, on the Health Sciences
6 Campus of the Brody School of Medicine at East Carolina University, that would
7 replace the existing family medicine facility that has reached capacity. The family
8 medicine center is also used as a clinical teaching site for medical students, and the
9 existing facility is functionally outdated for this purpose. The cost of the facility is
10 estimated to be thirty million dollars (\$30,000,000). The Board of Governors of The
11 University of North Carolina may authorize the financing of the project with funds
12 available to the Brody School of Medicine at East Carolina University from Medicare
13 reimbursements for education costs, gifts, grants, receipts, self-liquidating indebtedness,
14 or other funds, or any combination of these funds, but not including funds appropriated
15 from the General Fund of the State.

16 **SECTION 9.26.(d)** Effective July 1, 2005, the Brody School of Medicine
17 Medical Faculty Practice Plan shall no longer be required to reimburse the General
18 Fund for use of outpatient facilities built with General Fund monies.

19
20 Requested by: Representatives Jeffus, Tolson, Yongue

21 **ENHANCE NUTRITION IN UNIVERSITY AND COMMUNITY COLLEGE**
22 **FOOD PROGRAMS**

23 **SECTION 9.28.(a)** For nutritional purposes, the Board of Governors of The
24 University of North Carolina and the State Board of Community Colleges shall adopt
25 policies governing any food programs operated by the constituent institutions or local
26 community colleges that prohibit: (i) the use of cooking oils in those food programs that
27 contain trans-fatty acids, or (ii) the sale of processed foods containing trans-fatty acids
28 that were formed during the commercial processing of the foods.

29 **SECTION 9.28.(b)** The policies adopted in compliance with this section
30 shall be implemented by August 1, 2007.

31
32 Requested by: Representatives Jeffus, Tolson, Yongue

33 **SCHOLARSHIP LOAN FOR PROSPECTIVE COACHES**

34 **SECTION 9.31.** Article 23 of Chapter 116 of the General Statutes is
35 amended by adding a new section to read:

36 **"§ 116-209.36. Coaching and Assistant Coaching Scholarship Fund.**

37 (a) There is established the Coaching and Assistant Coaching Scholarship Fund.
38 The purpose of the Fund is to provide scholarship loans to students who are pursuing
39 college degrees to become public schoolteachers and coaches. Coaching and Assistant
40 Coaching Fellows shall be offered a curriculum that advances coaching skills and that
41 instills a strong motivation not only to remain in the coaching profession but to provide
42 leadership in the schools where they coach. The State Education Assistance Authority
43 shall administer the Fund. The Fund shall provide 25 scholarship loans per year.

44 (b) Criteria for awarding the scholarship loans shall be developed by the State
45 Education Assistance Authority in consultation with the Board of Governors of The
46 University of North Carolina and shall include all of the following:

47 (1) An applicant shall be enrolled in an accredited bachelors degree
48 program in an institution of higher education in North Carolina.

49 (2) All students shall enter into a legal agreement and promissory note
50 with the Authority to accept employment as a coach or coaching
51 assistant in an elementary or secondary school in North Carolina in
52 exchange for receiving any funds, which agreement shall include

1 stipulation that the student agrees to accept employment in rural or
2 other need-based counties.

3 (3) An applicant shall be a resident of North Carolina. For purposes of this
4 section, residency shall be determined by the same standard as
5 residency for tuition purposes pursuant to G.S. 116-143.1.

6 (4) Any additional criteria that the State Education Assistance Authority
7 considers necessary to administer the Fund effectively, including all of
8 the following:

9 a. Consideration of the appropriate numbers of minority applicants
10 and applicants from diverse socioeconomic backgrounds to
11 receive scholarships pursuant to this section.

12 b. Consideration of the academic qualifications of the individuals
13 applying to receive funds.

14 c. Consideration of the commitment an individual applying to
15 receive funds demonstrates to the profession of coaching.

16 (c) The State Education Assistance Authority shall: (i) prepare a clear written
17 explanation of the Coaching and Assistant Coaching Scholarship Fund and the
18 information regarding the availability and criteria for awarding the scholarships, and (ii)
19 provide that information to the appropriate counselors in each local school system and
20 shall charge those counselors to inform students about the scholarships and to encourage
21 them to apply for the scholarships.

22 (d) The State Education Assistance Authority shall administer the Fund and shall
23 ensure that the loan amount is limited to four thousand dollars (\$4,000) per recipient per
24 year.

25 (e) The Authority shall ensure that the following loan cancellations and
26 repayment schedules apply to all funds distributed pursuant to this section:

27 (1) The individual who graduates with a bachelors degree and who works
28 as a school coach or coaching assistant in a rural or other need-based
29 area of North Carolina shall have that amount of the loan cancelled
30 that is based on the amount of time employed and the number of
31 academic years funds were received. One full year of employment
32 shall cancel one academic year's loan.

33 (2) The individual who graduates with a bachelors degree and who works
34 as a school coach or assistant coach in a rural or other need-based area
35 of North Carolina for the equivalent of the total number of academic
36 years funds were received shall have the entire loan cancelled.

37 (3) The individual who graduates with a bachelors degree and who does
38 not work as a school coach or assistant coach in a rural or other
39 need-based area of North Carolina for any or all of the equivalent of
40 the number of years funds were received shall repay the loan to the
41 Authority according to a schedule prescribed in the promissory note,
42 plus ten percent (10%) annual interest.

43 (4) The individual who does not graduate with a bachelors degree shall
44 repay the loan according to a schedule prescribed by the Authority, not
45 to exceed fifteen percent (15%) annual interest. In establishing a
46 schedule and interest rate, the Authority shall take into consideration
47 the reasons the individual did not graduate with a bachelors degree.

48 The Authority shall ensure that all repayments, including accrued interest, shall be
49 placed in the Fund.

50 The Authority may forgive or reduce any loan repayment if the Authority considers
51 that extenuating circumstances exist that would make repayment impossible.

(f) The State Education Assistance Authority, in consultation with the Board of Governors of The University of North Carolina, shall adopt rules to implement this section.

(g) The State Education Assistance Authority shall report to the Joint Legislative Education Oversight Committee by March 1 each year regarding the Fund and scholarships awarded from the Fund."

Requested by: Representatives Jeffus, Tolson, Yongue

LIMIT OUT-OF-STATE ENROLLMENT IN THE NORTH CAROLINA SCHOOL OF THE ARTS

SECTION 9.32. G.S. 116-64 reads as rewritten:

"§ 116-64. Establishment of school.

(a) There is hereby established, and there shall be maintained, a school for the professional training of students having exceptional talent in the performing arts which shall be defined as an educational institution of the State, to serve the students of North Carolina and other states, particularly other states of the South. The school shall be designated the "North Carolina School of the Arts".

(b) Beginning with the fall of 2007, the North Carolina School of the Arts shall limit the proportion of nonresident students as defined in G.S. 116-143.1 in the entering freshman class to forty percent (40%). By the fall of 2008, and continuing each academic year thereafter, the proportion of nonresident students as defined in G.S. 116-143.1 in the entering freshman class shall be limited to thirty-five percent (35%)."

Requested by: Representatives Jeffus, Tolson, Yongue

NURSING SCHOLARS PROGRAM

SECTION 9.33. G.S. 90-171.61 is amended by adding a new subsection to

read:

"(b1) If a recipient is awarded a scholarship loan under this program and is enrolled, or accepted for enrollment, in a baccalaureate nursing program, but is unable to pursue the course of study in nursing for a semester due to limited faculty resources at the institution for that semester, then the recipient shall continue to receive the scholarship loan for that semester and shall not be required to forfeit or repay the scholarship loan for that semester provided that the recipient remains otherwise eligible for the program. This waiver shall be valid for only one semester of study and may extend a recipient's eligibility for funding under the program by no more than one semester."

Requested by: Representatives Jeffus, Tolson, Yongue

PROFESSIONAL DEVELOPMENT PROGRAMS FOR PUBLIC SCHOOL EMPLOYEES

SECTION 9.34.(a) G.S. 115C-12(26) reads as rewritten:

"§ 115C-12. Powers and duties of the Board generally.

The general supervision and administration of the free public school system shall be vested in the State Board of Education. The State Board of Education shall establish policy for the system of free public schools, subject to laws enacted by the General Assembly. The powers and duties of the State Board of Education are defined as follows:

- ...
- (26) Duty to Monitor and Make Recommendations Regarding Professional Development Programs. – ~~The State Board of Education shall identify State and local needs for professional development for professional public school employees based upon the State's educational priorities~~

1 for improving student achievement. The State Board also shall
 2 recommend strategies for addressing these needs. The strategies must
 3 be research based, proven in practice, and designed for data driven
 4 evaluation. The State Board shall report its findings and
 5 recommendations to the Joint Legislative Education Oversight
 6 Committee, the President Pro Tempore of the Senate, the Speaker of
 7 the House of Representatives, and the Board of Governors of The
 8 University of North Carolina prior to January 15, 2002, and shall
 9 review, revise, and resubmit those findings and recommendations
 10 annually thereafter. The State Board shall evaluate the reports
 11 submitted by the Board of Governors under G.S. 116-11(12a) to
 12 determine whether the programs for professional development
 13 provided by the Center for School Leadership Development address
 14 the State and local needs identified by the State Board and whether the
 15 programs are using the strategies recommended by the State Board.
 16 Prior to January 15th of each year, the State Board shall report the
 17 results of its analysis to the Board of Governors and to the Joint
 18 Legislative Education Oversight Committee. Education, in
 19 collaboration with the Board of Governors of The University of North
 20 Carolina, shall identify and make recommendations regarding
 21 meaningful professional development programs for professional public
 22 school employees. The programs shall be aligned with State education
 23 goals and directed toward improving student academic achievement.
 24 The State Board shall annually evaluate and, after consultation with
 25 the Board of Governors, make recommendations regarding
 26 professional development programs based upon reports submitted by
 27 the Board of Governors under G.S. 116-11(12a)."

28 **SECTION 9.34.(b)** G.S. 116-11(12a) reads as rewritten:

29 **"§ 116-11. Powers and duties generally.**

30 The powers and duties of the Board of Governors shall include the following:

31 ...
 32 (12a) ~~Notwithstanding any other law, the~~The Board of Governors of The
 33 University of North Carolina shall implement, administer, and revise
 34 programs for meaningful professional development for professional
 35 public school employees ~~in accordance with~~based upon the
 36 evaluations and recommendations made by the State Board of
 37 Education under G.S. 115C-12(26). The programs shall be aligned
 38 with State education goals and directed toward improving student
 39 academic achievement. ~~The Board of Governors shall submit to the~~
 40 ~~State Board of Education an annual written report that uses data to~~
 41 ~~assess and evaluate the effectiveness of the programs for professional~~
 42 ~~development offered by the Center for School Leadership~~
 43 ~~Development. The report shall clearly document how the programs~~
 44 ~~address the State needs identified by the State Board of Education and~~
 45 ~~whether the programs are utilizing the strategies recommended by the~~
 46 ~~State Board. The Board of Governors also shall submit this report to~~
 47 ~~the Joint Legislative Education Oversight Committee, the President~~
 48 ~~Pro Tempore of the Senate, and the Speaker of the House of~~
 49 ~~Representatives prior to September 15th of each year.~~The Board of
 50 ~~Governors shall submit to the State Board of Education an annual~~
 51 ~~report evaluating the professional development programs administered~~
 52 ~~by the Board of Governors."~~

1 Requested by: Representatives Jeffus, Tolson, Yongue

2 **STUDY IN-STATE TEACHER TUITION BENEFIT**

3 **SECTION 9.35.** The Joint Legislative Education Oversight Committee shall
4 study the current law regarding the in-State tuition rate available to certain teachers for
5 courses relevant to teacher certification or professional development as a teacher. In its
6 study, the Committee shall consider the difficulty some teachers have in establishing
7 North Carolina as their domicile, the fact that school systems on the borders of the State
8 often recruit nonresidents who commute from their homes to teach in the North
9 Carolina public school system and so are unable to establish this State as their domicile
10 and any other relevant issues. The Committee shall make an interim report regarding its
11 findings and recommendations to the 2005 General Assembly by May 30, 2007, and
12 shall make a final report of its findings and recommendations to the 2007 General
13 Assembly.
14

15 Requested by: Representatives Jeffus, Tolson, Yongue

16 **PRORATE LEGISLATIVE TUITION GRANT FOR PART-TIME STUDENTS**
17 **IN EDUCATION AND NURSING**

18 **SECTION 9.36.** G.S. 116-21.2 reads as rewritten:

19 "**§ 116-21.2. Legislative tuition grants to aid students attending private institutions**
20 **of higher education.**

21 (a) In addition to any funds appropriated pursuant to G.S. 116-19 and in addition
22 to all other financial assistance made available to institutions, or to students attending
23 these institutions, there is granted to each full-time North Carolina undergraduate
24 student attending an approved institution as defined in G.S. 116-22, a sum, to be
25 determined by the General Assembly for each academic year which shall be distributed
26 to the student as provided by this subsection.

27 (a1) In addition to any funds appropriated pursuant to G.S. 116-19 and in addition
28 to all other financial assistance made available to institutions, or to students attending
29 these institutions, there is granted to each North Carolina student who is enrolled as a
30 part-time undergraduate in a course of study for nursing or teaching at an approved
31 institution as defined in G.S. 116-22, a pro rata share of the tuition grant provided for by
32 subsection (a) of this section.

33 (b) The tuition grants provided for in this section shall be administered by the
34 State Education Assistance Authority pursuant to rules adopted by the State Education
35 Assistance Authority not inconsistent with this section. The State Education Assistance
36 Authority shall not approve any grant until it receives proper certification from an
37 approved institution that the student applying for the grant is an eligible student. Upon
38 receipt of the certification, the State Education Assistance Authority shall remit at the
39 times as it prescribes the grant to the approved institution on behalf, and to the credit, of
40 the student.

41 (c) In-Except as provided in subsection (a1) of this section, in the event a student
42 on whose behalf a grant has been paid is not enrolled and carrying a minimum academic
43 load as of the tenth classroom day following the beginning of the school term for which
44 the grant was paid, the institution shall refund the full amount of the grant to the State
45 Education Assistance Authority. Each approved institution shall be subject to
46 examination by the State Auditor for the purpose of determining whether the institution
47 has properly certified eligibility and enrollment of students and credited grants paid on
48 behalf of the students.

49 (d) In the event there are not sufficient funds to provide each eligible student
50 with a full ~~grant~~ grant or a pro rata grant as provided by subsections (a) and (a1) of this
51 section:

52 (1) The Board of Governors of The University of North Carolina, with the
53 approval of the Office of State Budget and Management, may transfer

- 1 available funds to meet the needs of the programs provided by
2 subsections (a) and (b) of this section; and
3 (2) Each eligible student shall receive a pro rata share of funds then
4 available for the remainder of the academic year within the fiscal
5 period covered by the current appropriation.
6 (e) Any remaining funds shall revert to the General Fund."

7
8 Requested by: Representatives Jeffus, Tolson, Yongue
9 **CENTER FOR CRAFT, CREATIVITY, AND DESIGN**

10 **SECTION 9.37.** Of the funds appropriated by this act to the Board of
11 Governors of The University of North Carolina for the Center for Craft, Creativity, and
12 Design at the University of North Carolina at Asheville, the sum of two hundred
13 thousand dollars (\$200,000) in recurring funds for the 2005-2006 fiscal year shall be
14 held in reserve for the Center for Craft, Creativity, and Design at the University of
15 North Carolina at Asheville. The funds shall be disbursed to the University of North
16 Carolina at Asheville when the Center receives the interest earnings from an endowment
17 for graduate scholarships at the Center.

18
19 Requested by: Representative McLawhorn
20 **FUNDS FOR THE NORTH CAROLINA CENTER ON THE ADVANCEMENT**
21 **OF TEACHING**

22 **SECTION 9.38.** Funds in the amount of one million two hundred eighty-five
23 thousand dollars (\$1,285,000) for the 2005-2006 fiscal year and one million two
24 hundred ten thousand dollars (\$1,210,000) for the 2006-2007 fiscal year are
25 appropriated in section 2.1 of this act in expansion funds for the North Carolina Center
26 on the Advancement of Teaching.

27
28 **PART X. DEPARTMENT OF HEALTH AND HUMAN SERVICES**

29
30 Requested by: Representatives Insko, Barnhart
31 **INFORMATION TECHNOLOGY**

32 **SECTION 10.1.(a)** To support its information technology initiatives, the
33 Department of Health and Human Services shall develop the following:

- 34 (1) A detailed business plan.
35 (2) An information technology plan directly tied to business requirements.
36 (3) An IT architecture.

37 The Department of Health and Human Services shall ensure that the planning
38 documents extend three to five years and include detailed shortfall analyses and
39 associated cost assessments. The Department of Health and Human Services shall
40 forward the documents to the Office of Information Technology Services, the Senate
41 Appropriations Committee on Health and Human Services, the House of
42 Representatives Appropriations Subcommittee on Health and Human Services, and the
43 Fiscal Research Division by December 1, 2005. The Office of Information Technology
44 Services shall review the documents and report its findings and recommendations to the
45 Senate Appropriations Committee on Health and Human Services, the House of
46 Representatives Appropriations Subcommittee on Health and Human Services, and the
47 Fiscal Research Division by January 31, 2006.

48 **SECTION 10.1.(b)** The Department of Health and Human Services shall
49 develop a project plan for each of its information technology projects. These plans shall
50 include the following:

- 51 (1) A detailed description of the project.
52 (2) A description of how the project improves Department operations and
53 service to customers.

- 1 (3) The projected cost of the project by year and phase.
- 2 (4) Deliverables required to implement each phase of the system.
- 3 (5) The date that each deliverable is to be implemented.
- 4 (6) The cost of implementing each deliverable.
- 5 (7) What capabilities each deliverable adds to the project.

6 **SECTION 10.1.(c)** The Department of Health and Human Services shall
7 provide the plans to the Senate Appropriations Committee on Health and Human
8 Services, the House of Representatives Appropriations Subcommittee on Health and
9 Human Services, and the Fiscal Research Division no later than October 1, 2005, with
10 subsequent updates provided quarterly. The Department of Health and Human Services
11 shall notify the Division of Fiscal Research within 10 days when costs, completion
12 dates, or system capabilities change and provide a report detailing the impact of the
13 change.

14 **SECTION 10.1.(d)** The Department of Health and Human Services shall not
15 spend more than the amounts appropriated by the General Assembly for information
16 technology projects and may not allocate funds appropriated for one information
17 technology project to any other information technology project.

18 **SECTION 10.1.(e)** The Department of Health and Human Services shall use
19 funds appropriated for the 2005-2006 and 2006-2007 fiscal years for the North Carolina
20 Families Accessing Services through Technology (NC FAST) program only for
21 program-specific development, deliverables, and maintenance costs associated with the
22 NC FAST program.

23
24 Requested by: Representatives Insko, Barnhart

25 **OFFICE OF POLICY AND PLANNING**

26 **SECTION 10.2.** Article 3 of Chapter 143B is amended by adding the
27 following new Part to read:

28 "Part 34. Office of Policy and Planning.

29 **§ 143B-216.70. Office of Policy and Planning.**

30 (a) To promote coordinated policy development and strategic planning for the
31 State's health and human services systems, the Secretary of Health and Human Services
32 shall establish an Office of Policy and Planning from existing resources across the
33 Department. The Director of the Office of Policy and Planning shall report directly to
34 the Secretary and shall have the following responsibilities:

- 35 (1) Coordinate the development of departmental policies, plans, and rules,
36 in consultation with the Divisions of the Department.
- 37 (2) Development of a departmental process for the development and
38 implementation of new policies, plans, and rules.
- 39 (3) Development of a departmental process for the review of existing
40 policies, plans, and rules to ensure that departmental policies, plans,
41 and rules are relevant.
- 42 (4) Coordination and review of all departmental policies before
43 dissemination to ensure that all policies are well-coordinated within
44 and across all programs.
- 45 (5) Implementation of ongoing strategic planning that integrates budget,
46 personnel, and resources with the mission and operational goals of the
47 Department.
- 48 (6) Review, disseminate, monitor, and evaluate best practice models.

49 (b) Under the direction of the Secretary of Health and Human Services, the
50 Director of the Office of Policy and Planning shall have the authority to direct
51 Divisions, offices, and programs within the Department to conduct periodic reviews of
52 policies, plans, and rules and shall advise the Secretary when it is determined to be
53 appropriate or necessary to modify, amend, and repeal departmental policies, plans, and

1 rules. All policy and management positions within the Office of Policy and Planning are
 2 exempt positions as that term is defined in G.S. 126-5."
 3

4 Requested by: Representatives Insko, Barnhart
 5 **SENIOR CARES PROGRAM ADMINISTRATION**

6 **SECTION 10.4.(a)** The Department of Health and Human Services may
 7 administer the "Senior Cares" prescription drug access program approved by the Health
 8 and Wellness Trust Fund Commission and funded from the Health and Wellness Trust
 9 Fund.

10 **SECTION 10.4.(b)** This section expires December 31, 2005.

11
 12 Requested by: Representatives Insko, Barnhart
 13 **NONMEDICAID REIMBURSEMENT CHANGES**

14 **SECTION 10.5.** Providers of medical services under the various State
 15 programs, other than Medicaid, offering medical care to citizens of the State shall be
 16 reimbursed at rates no more than those under the North Carolina Medical Assistance
 17 Program.

18 The Department of Health and Human Services may reimburse hospitals at
 19 the full prospective per diem rates without regard to the Medical Assistance Program's
 20 annual limits on hospital days. When the Medical Assistance Program's per diem rates
 21 for inpatient services and its interim rates for outpatient services are used to reimburse
 22 providers in non-Medicaid medical service programs, retroactive adjustments to claims
 23 already paid shall not be required.

24 Notwithstanding the provisions of paragraph one, the Department of Health
 25 and Human Services may negotiate with providers of medical services under the various
 26 Department of Health and Human Services programs, other than Medicaid, for rates as
 27 close as possible to Medicaid rates for the following purposes: contracts or agreements
 28 for medical services and purchases of medical equipment and other medical supplies.
 29 These negotiated rates are allowable only to meet the medical needs of its non-Medicaid
 30 eligible patients, residents, and clients who require such services which cannot be
 31 provided when limited to the Medicaid rate.

32 Maximum net family annual income eligibility standards for services in these
 33 programs shall be as follows:

<u>Family Size</u>	<u>Medical Eye Care Adults</u>	<u>Rehabilitation Except DSB Over 55 Grant</u>	<u>Other</u>
34 1	\$4,860	\$8,364	\$4,200
35 2	5,940	10,944	5,300
36 3	6,204	13,500	6,400
37 4	7,284	16,092	7,500
38 5	7,821	18,648	7,900
39 6	8,220	21,228	8,300
40 7	8,772	21,708	8,800
41 8	9,312	22,220	9,300

42 The eligibility level for children in the Medical Eye Care Program in the
 43 Division of Services for the Blind shall be one hundred percent (100%) of the federal
 44 poverty guidelines, as revised annually by the United States Department of Health and
 45 Human Services and in effect on July 1 of each fiscal year. The eligibility level for
 46 adults 55 years of age or older who qualify for services through the Division of Services
 47 for the Blind, Independent Living Rehabilitation Program, shall be two hundred percent
 48 (200%) of the federal poverty guidelines, as revised annually by the United States
 49 Department of Health and Human Services and in effect on July 1 of each fiscal year.
 50 The eligibility level for adults in the Atypical Antipsychotic Medication Program in the
 51 Division of Mental Health, Developmental Disabilities, and Substance Abuse Services
 52
 53

1 shall be one hundred fifty percent (150%) of the federal poverty guidelines, as revised
 2 annually by the United States Department of Health and Human Services and in effect
 3 on July 1 of each fiscal year. Additionally, those adults enrolled in the Atypical
 4 Antipsychotic Medication Program who become gainfully employed may continue to be
 5 eligible to receive State support, in decreasing amounts, for the purchase of atypical
 6 antipsychotic medication and related services up to three hundred percent (300%) of the
 7 poverty level.

8 State financial participation in the Atypical Antipsychotic Medication
 9 Program for those enrollees who become gainfully employed is as follows:

10 <u>Income</u>	11 <u>State Participation</u>	12 <u>Client Participation</u>
13 (% of poverty)		
14 0-150%	15 100%	16 0%
17 151-200%	18 75%	19 25%
20 201-250%	21 50%	22 50%
23 251-300%	24 25%	25 75%
26 300% and over	27 0%	28 100%

29 The Department of Health and Human Services shall contract at, or as close
 30 as possible to, Medicaid rates for medical services provided to residents of State
 31 facilities of the Department.

32 Requested by: Representatives Insko, Barnhart

33 **PHYSICIAN SERVICES**

34 **SECTION 10.6.** With the approval of the Office of State Budget and
 35 Management, the Department of Health and Human Services may use funds
 36 appropriated in this act for across-the-board salary increases and performance pay to
 37 offset similar increases in the costs of contracting with private and independent
 38 universities for the provision of physician services to clients in facilities operated by the
 39 Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.
 40 This offsetting shall be done in the same manner as is currently done with the
 41 constituent institutions of The University of North Carolina.

42 Requested by: Representatives Insko, Barnhart

43 **LIABILITY INSURANCE**

44 **SECTION 10.7.(a)** The Secretary of the Department of Health and Human
 45 Services, the Secretary of the Department of Environment and Natural Resources, and
 46 the Secretary of the Department of Correction may provide medical liability coverage
 47 not to exceed one million dollars (\$1,000,000) per incident on behalf of employees of
 48 the Departments licensed to practice medicine or dentistry, on behalf of all licensed
 49 physicians who are faculty members of The University of North Carolina who work on
 50 contract for the Division of Mental Health, Developmental Disabilities, and Substance
 51 Abuse Services for incidents that occur in Division programs, and on behalf of
 52 physicians in all residency training programs from The University of North Carolina
 53 who are in training at institutions operated by the Department of Health and Human
 Services. This coverage may include commercial insurance or self-insurance and shall
 cover these individuals for their acts or omissions only while they are engaged in
 providing medical and dental services pursuant to their State employment or training.

SECTION 10.7.(b) The coverage provided under this section shall not cover
 any individual for any act or omission that the individual knows or reasonably should
 know constitutes a violation of the applicable criminal laws of any state or the United
 States or that arises out of any sexual, fraudulent, criminal, or malicious act or out of
 any act amounting to willful or wanton negligence.

SECTION 10.7.(c) The coverage provided pursuant to this section shall not
 require any additional appropriations and shall not apply to any individual providing

1 contractual service to the Department of Health and Human Services, the Department of
2 Environment and Natural Resources, or the Department of Correction, with the
3 exception that coverage may include physicians in all residency training programs from
4 The University of North Carolina who are in training at institutions operated by the
5 Department of Health and Human Services and licensed physicians who are faculty
6 members of The University of North Carolina who work for the Division of Mental
7 Health, Developmental Disabilities, and Substance Abuse Services.

8
9 Requested by: Representatives Insko, Barnhart

10 **DHHS PAYROLL DEDUCTION FOR CHILD CARE SERVICES**

11 **SECTION 10.8.** Part 1 of Article 3 of Chapter 143B of the General Statutes
12 is amended by adding the following new section to read:

13 **"§ 143B-139.6B. Department of Health and Human Services; authority to deduct**
14 **payroll for child care services.**

15 Notwithstanding G.S. 143-3.3 and pursuant to rules adopted by the State Controller,
16 an employee of the Department of Health and Human Services may, in writing,
17 authorize the Department to periodically deduct from the employee's salary or wages
18 paid for employment by the State, a designated lump sum to be paid to satisfy the cost
19 of services received for child care provided by the Department."

20
21 Requested by: Representatives Insko, Barnhart

22 **COMMUNITY HEALTH CENTERS FUNDS**

23 **SECTION 10.9.(a)** Of the funds appropriated in this act for Community
24 Health Grants, the sum of two million dollars (\$2,000,000) in recurring funds for the
25 2005-2006 fiscal year and the sum of two million dollars (\$2,000,000) in recurring
26 funds for the 2006-2007 fiscal year shall be used for State-designated rural health
27 centers and public health departments and other clinics to:

- 28 (1) Increase access to preventative and primary care services by uninsured
29 or medically indigent patients in existing or new health center
30 locations;
- 31 (2) Establish community health center services in counties where no such
32 services exist;
- 33 (3) Create new services or augment existing services provided to
34 uninsured or medically indigent patients, including primary care and
35 preventative medical services, dental services, pharmacy, and
36 behavioral health; and
- 37 (4) Increase capacity necessary to serve the uninsured by enhancing or
38 replacing facilities, equipment, or technologies.

39 Grant funds may not be used to enhance or increase compensation or other
40 benefits of personnel, administrators, directors, consultants, or any other parties. Grant
41 funds may not be used to finance or satisfy any existing debt.

42 **SECTION 10.9.(b)** The Office shall work with the North Carolina
43 Community Health Center Association (hereafter "NCCHCA") and the North Carolina
44 Public Health Association (hereafter "NCPHA") to establish an advisory committee to
45 develop an objective and equitable process for awarding grant funds. The Office shall
46 also develop auditing and accountability procedures. Not more than one percent (1%) of
47 the funds appropriated in this section may be used to reimburse the Office for
48 administering the grant program in collaboration with the NCCHCA and the NCPHA.

49 **SECTION 10.9.(c)** Recipients of grant funds shall provide to the Office
50 annually a written report detailing the number of additional uninsured and medically
51 indigent patients that are cared for, the types of services that were provided, and any
52 other information requested by the Office as necessary for evaluating the success of the
53 grant program.

1 **SECTION 10.9.(d)** The Office shall work with the NCCHCA and NCPHA
2 to study and present recommendations for continuing funds to support the expansion of
3 community health centers, State-designated rural health centers, and public health
4 departments to serve more of the State's uninsured and indigent population. The Office
5 shall submit the report to the 2006 Regular Session of the 2005 General Assembly upon
6 its convening.

7
8 Requested by: Representatives Insko, Barnhart

9 **PROVIDER REIMBURSEMENT RATES**

10 **SECTION 10.10.** Except for rate increases funded in this act, the
11 Department of Health and Human Services shall maintain reimbursement rates paid to
12 service providers at fiscal year 2004-2005 levels during the 2005-2006 fiscal year.
13 Exceptions made by the Department shall be made on a case-by-case basis and must be
14 approved by the Office of the Secretary. Changes in rate structures that result in lower
15 payments to the providers are exempted from this requirement. As used in this section,
16 "service providers" includes subcontractors, such as counties, area agencies on aging,
17 departments of social services, departments of public health, child developmental
18 services agencies, and local management entities.

19
20 Requested by: Representatives Insko, Barnhart

21 **MEDICAID**

22 **SECTION 10.11.(a)** Funds appropriated in this act for services provided in
23 accordance with Title XIX of the Social Security Act (Medicaid) are for both the
24 categorically needy and the medically needy. Funds appropriated for these services shall
25 be expended in accordance with the following schedule of services and payment bases.
26 All services and payments are subject to the language at the end of this subsection.

27 Services and payment bases:

- 28 (1) Hospital inpatient. – Payment for hospital inpatient services will be
29 prescribed in the State Plan as established by the Department of Health
30 and Human Services.
- 31 (2) Hospital outpatient. – Eighty percent (80%) of allowable costs or a
32 prospective reimbursement plan as established by the Department of
33 Health and Human Services.
- 34 (3) Nursing facilities. – Payment for nursing facility services will be
35 prescribed in the State Plan as established by the Department of Health
36 and Human Services. Nursing facilities providing services to Medicaid
37 recipients who also qualify for Medicare must be enrolled in the
38 Medicare program as a condition of participation in the Medicaid
39 program. State facilities are not subject to the requirement to enroll in
40 the Medicare program. Residents of nursing facilities who are eligible
41 for Medicare coverage of nursing facility services must be placed in a
42 Medicare-certified bed. Medicaid shall cover facility services only
43 after the appropriate services have been billed to Medicare. The
44 Division of Medical Assistance shall allow nursing facility providers
45 sufficient time from the effective date of this act to certify additional
46 Medicare beds if necessary. In determining the date that the
47 requirements of this subdivision become effective, the Division of
48 Medical Assistance shall consider the regulations governing
49 certification of Medicare beds and the length of time required for this
50 process to be completed.
- 51 (4) Intermediate care facilities for the mentally retarded. – As prescribed
52 in the State Plan as established by the Department of Health and
53 Human Services.

- 1 (5) Drugs. – Drug costs as allowed by federal regulations plus a
2 professional services fee per month, excluding refills for the same drug
3 or generic equivalent during the same month. Reimbursement shall be
4 available for up to five brand-name prescription drugs per recipient per
5 month, including refills, and for an unlimited number of generic
6 prescription drugs per recipient, per month. Payments for drugs are
7 subject to the provisions of subsection (h) of this section and to the
8 provisions at the end of this subsection or in accordance with the State
9 Plan adopted by the Department of Health and Human Services,
10 consistent with federal reimbursement regulations. Payment of the
11 professional services fee shall be made in accordance with the State
12 Plan adopted by the Department of Health and Human Services,
13 consistent with federal reimbursement regulations. The professional
14 services fee shall be five dollars and sixty cents (\$5.60) per
15 prescription for generic drugs and four dollars (\$4.00) per prescription
16 for brand-name drugs. Adjustments to the professional services fee
17 shall be established by the General Assembly. In addition to the
18 professional services fee, the Department may pay an enhanced fee for
19 pharmacy services. As used in this subsection, "brand name" means
20 the proprietary name the manufacturer places upon a drug product or
21 on its container, label, or wrapping at the time of packaging; and
22 "established name" has the same meaning as in section 502(e)(3) of the
23 Federal Food, Drug, and Cosmetic Act as amended, 21 U.S.C. §
24 352(e)(3).
- 25 (6) Physicians, chiropractors, podiatrists, optometrists, dentists, certified
26 nurse midwife services, nurse practitioners. – Fee schedules as
27 developed by the Department of Health and Human Services.
28 Payments for dental services are subject to the provisions of subsection
29 (g) of this section.
- 30 (7) Community Alternative Program, EPSDT screens. – Payment to be
31 made in accordance with the rate schedule developed by the
32 Department of Health and Human Services.
- 33 (8) Home health and related services, private duty nursing, clinic services,
34 prepaid health plans, durable medical equipment. – Payment to be
35 made according to reimbursement plans developed by the Department
36 of Health and Human Services.
- 37 (9) Medicare Buy-In. – Social Security Administration premium.
- 38 (10) Ambulance services. – Uniform fee schedules as developed by the
39 Department of Health and Human Services. Public ambulance
40 providers will be reimbursed at cost.
- 41 (11) Hearing aids. – Wholesale cost plus a dispensing fee to the provider.
- 42 (12) Rural health clinic services. – Provider-based, reasonable cost;
43 nonprovider-based, single-cost reimbursement rate per clinic visit.
- 44 (13) Family planning. – Negotiated rate for local health departments. For
45 other providers, see specific services, for instance, hospitals,
46 physicians.
- 47 (14) Independent laboratory and X-ray services. – Uniform fee schedules as
48 developed by the Department of Health and Human Services.
- 49 (15) Optical supplies. – Payment for materials is made to a contractor in
50 accordance with 42 C.F.R. § 431.54(d). Fees paid to dispensing
51 providers are negotiated fees established by the State agency based on
52 industry charges.

- 1 (16) Ambulatory surgical centers. – Payment as prescribed in the
2 reimbursement plan established by the Department of Health and
3 Human Services.
- 4 (17) Medicare crossover claims. – By not later than October 1, 2005, the
5 Department shall apply Medicaid medical policy to Medicare claims
6 for dually eligible recipients. The Department shall pay an amount up
7 to the actual coinsurance or deductible or both, in accordance with the
8 State Plan, as approved by the Department of Health and Human
9 Services.
- 10 (18) Physical therapy and speech therapy. – Services limited to
11 EPSDT-eligible children. Payments are to be made only to qualified
12 providers at rates negotiated by the Department of Health and Human
13 Services. Physical therapy (including occupational therapy) and speech
14 therapy services are subject to prior approval and utilization review.
- 15 (19) Personal care services. – Payment in accordance with the State Plan
16 approved by the Department of Health and Human Services.
- 17 (20) Case management services. – Reimbursement in accordance with the
18 availability of funds to be transferred within the Department of Health
19 and Human Services.
- 20 (21) Hospice. – Services may be provided in accordance with the State Plan
21 developed by the Department of Health and Human Services.
- 22 (22) Other mental health services. – Unless otherwise covered by this
23 section, coverage is limited to:
- 24 a. Services as defined by the Division of Mental Health,
25 Developmental Disabilities, and Substance Abuse Services and
26 approved by the Centers for Medicare and Medicaid Services
27 (CMS) when provided in agencies meeting the requirements of
28 the rules established by the Commission for Mental Health,
29 Developmental Disabilities, and Substance Abuse Services, and
30 reimbursement is made in accordance with a State Plan
31 developed by the Department of Health and Human Services
32 not to exceed the upper limits established in federal regulations,
33 and
- 34 b. For children eligible for EPSDT services provided by:
- 35 1. Licensed or certified psychologists, licensed clinical
36 social workers, certified clinical nurse specialists in
37 psychiatric mental health advanced practice, nurse
38 practitioners certified as clinical nurse specialists in
39 psychiatric mental health advanced practice, licensed
40 psychological associates, licensed professional
41 counselors, licensed marriage and family therapists,
42 certified clinical addictions specialists, and certified
43 clinical supervisors, when Medicaid-eligible children are
44 referred by the Community Care of North Carolina
45 primary care physician, a Medicaid-enrolled psychiatrist,
46 or the area mental health program or local management
47 entity, and
- 48 2. Institutional providers of residential services as defined
49 by the Division of Mental Health, Developmental
50 Disabilities, and Substance Abuse Services and approved
51 by the Centers for Medicare and Medicaid Services
52 (CMS) for children and Psychiatric Residential

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- Treatment Facility services that meet federal and State requirements as defined by the Department.
- c. For Medicaid-eligible adults, services provided by licensed or certified psychologists, licensed clinical social workers, certified clinical nurse specialists in psychiatric mental health advanced practice, and nurse practitioners certified as clinical nurse specialists in psychiatric mental health advanced practice, licensed psychological associates, licensed professional counselors, licensed marriage and family therapists, certified clinical addictions specialists, and certified clinical supervisors, Medicaid-eligible adults may be self-referred.
 - d. Payments made for services rendered in accordance with this subdivision shall be to qualified providers in accordance with approved policies and the State Plan. Nothing in sub-subdivision b. or c. of this subdivision shall be interpreted to modify the scope of practice of any service provider, practitioner, or licensee, nor to modify or attenuate any collaboration or supervision requirement related to the professional activities of any service provider, practitioner, or licensee. Nothing in sub-subdivision b. or c. of this subdivision shall be interpreted to require any private health insurer or health plan to make direct third-party reimbursements or payments to any service provider, practitioner, or licensee.
 - e. The Department of Health and Human Services shall not enroll licensed psychological associates, licensed professional counselors, licensed marriage and family therapists, certified clinical addiction specialists, and certified clinical supervisors until all of the following conditions have been met:
 1. The fiscal impact of payments to these qualified providers has been projected;
 2. Funding for any projected requirements in excess of budgeted Division of Medical Assistance funding has been identified from within State funds appropriated to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services to support area mental health programs or county programs, or identified from other sources; and
 3. Approval has been obtained from the Office of State Budget and Management to transfer these State or other source funds from the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services to the Division of Medical Assistance. Upon approval and implementation, the Department of Health and Human Services shall, on a quarterly basis, provide a status report to the Office of State Budget and Management and the Fiscal Research Division.
- Notwithstanding G.S. 150B-21.1(a), the Department of Health and Human Services may adopt temporary rules in accordance with Chapter 150B of the General Statutes further defining the qualifications of providers and referral procedures in order to implement this subdivision. Coverage policy for services defined by the Division of Mental Health, Developmental Disabilities, and

- 1 Substance Abuse Services under sub-subdivisions a. and b.2. of this
2 subdivision shall be established by the Division of Medical Assistance.
- 3 (23) Medically necessary prosthetics or orthotics. – Reimbursement in
4 accordance with the State Plan approved by the Department of Health
5 and Human Services, except that in order to be eligible for
6 reimbursement, providers must be Board certified not later than July 1,
7 2005. Medically necessary prosthetics and orthotics are subject to prior
8 approval and utilization review.
- 9 (24) Health insurance premiums. – Payments to be made in accordance
10 with the State Plan adopted by the Department of Health and Human
11 Services consistent with federal regulations.
- 12 (25) Medical care/other remedial care. – Services not covered elsewhere in
13 this section include related services in schools; health professional
14 services provided outside the clinic setting to meet maternal and infant
15 health goals; and services to meet federal EPSDT mandates. Services
16 addressed by this subdivision are limited to those prescribed in the
17 State Plan as established by the Department of Health and Human
18 Services.
- 19 (26) Pregnancy-related services. – Covered services for pregnant women
20 shall include nutritional counseling, psychosocial counseling, and
21 predelivery and postpartum home visits by maternity care coordinators
22 and public health nurses.

23 Services and payment bases may be changed with the approval of the Director of the
24 Budget.

25 Payment is limited to Medicaid-enrolled providers that purchase a
26 performance bond in an amount not to exceed one hundred thousand dollars (\$100,000)
27 naming as beneficiary the Department of Health and Human Services, Division of
28 Medical Assistance, or provide to the Department a validly executed letter of credit or
29 other financial instrument issued by a financial institution or agency honoring a demand
30 for payment in an equivalent amount. The Department may waive or limit the
31 requirements of this paragraph for one or more classes of Medicaid-enrolled providers
32 based on the provider's dollar amount of monthly billings to Medicaid or the length of
33 time the provider has been licensed in this State to provide services. In waiving or
34 limiting requirements of this paragraph, the Department shall take into consideration the
35 potential fiscal impact of the waiver or limitation on the State Medicaid Program. The
36 Department may adopt temporary rules in accordance with G.S. 150B-21.1 as necessary
37 to implement this provision.

38 Reimbursement is available for up to 24 visits per recipient per year to any
39 one or a combination of the following: physicians, clinics, hospital outpatient,
40 optometrists, chiropractors, and podiatrists. Prenatal services, all EPSDT children,
41 emergency rooms, and mental health services subject to independent utilization review
42 are exempt from the visit limitations contained in this paragraph. Exceptions may be
43 authorized by the Department of Health and Human Services where the life of the
44 patient would be threatened without such additional care.

45 **SECTION 10.11.(b)** Allocation of Nonfederal Cost of Medicaid. – The State
46 shall pay eighty-five percent (85%); the county shall pay fifteen percent (15%) of the
47 nonfederal costs of all applicable services listed in this section. In addition, the State
48 shall pay eighty-five percent (85%); the county shall pay fifteen percent (15%) of the
49 federal Medicare Part D clawback payments under the Medicare Modernization Act of
50 2004.

51 **SECTION 10.11.(c)** Co-Payment for Medicaid Services. – The Department
52 of Health and Human Services may establish co-payments up to the maximum

permitted by federal law and regulation and required by this subsection in order to achieve reductions in the budget in fiscal years 2005-2006 and 2006-2007.

SECTION 10.11.(d) Medicaid and Work First Family Assistance, Income Eligibility Standards. – The maximum net family annual income eligibility standards for Medicaid and Work First Family Assistance and the Standard of Need for Work First Family Assistance shall be as follows:

Family Size	<u>Categorically Needy</u>	<u>Medically Needy</u>	
	<u>WFFA*</u>	<u>Standard of Need</u>	<u>Families and Children Income Level</u>
1	\$4,344	\$2,172	\$2,900
2	5,664	2,832	3,800
3	6,528	3,264	4,400
4	7,128	3,564	4,800
5	7,776	3,888	5,200
6	8,376	4,188	5,600
7	8,952	4,476	6,000
8	9,256	4,680	6,300

*Work First Family Assistance (WFFA); Aid to the Aged (AA); Aid to the Blind (AB); and Aid to the Disabled (AD).

The payment level for Work First Family Assistance shall be fifty percent (50%) of the standard of need.

These standards may be changed with the approval of the Director of the Budget with the advice of the Advisory Budget Commission.

SECTION 10.11.(e) The Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to all elderly, blind, and disabled people who have incomes equal to or less than one hundred percent (100%) of the federal poverty guidelines, as revised each April 1.

SECTION 10.11.(f) ICF and ICF/MR Work Incentive Allowances. – The Department of Health and Human Services may provide an incentive allowance to Medicaid-eligible recipients of ICF and ICF/MR facilities who are regularly engaged in work activities as part of their developmental plan and for whom retention of additional income contributes to their achievement of independence. The State funds required to match the federal funds that are required by these allowances shall be provided from savings within the Medicaid budget or from other unbudgeted funds available to the Department. The incentive allowances may be as follows:

<u>Monthly Net Wages</u>	<u>Monthly Incentive Allowance</u>
\$1.00 to \$100.99	Up to \$50.00
\$101.00 to \$200.99	\$80.00
\$201.00 to \$300.99	\$130.00
\$301.00 and greater	\$212.00.

SECTION 10.11.(g) Dental Coverage Limits. – Dental services shall be provided on a restricted basis in accordance with rules adopted by the Department to implement this subsection.

SECTION 10.11.(h) The Department of Health and Human Services shall not impose prior authorization requirements under the State Medical Assistance Program on medications prescribed for Medicaid recipients for the treatment of: (i) mental illness, including, but not limited to, medications for schizophrenia, bipolar disorder, and major depressive disorder, or (ii) HIV/AIDS.

SECTION 10.11.(i) Exceptions to Service Limitations, Eligibility Requirements, and Payments. – Service limitations, eligibility requirements, and

1 payments bases in this section may be waived by the Department of Health and Human
2 Services, with the approval of the Director of the Budget, to allow the Department to
3 carry out pilot programs for prepaid health plans, contracting for services, managed care
4 plans, or community-based services programs in accordance with plans approved by the
5 United States Department of Health and Human Services or when the Department
6 determines that such a waiver will result in a reduction in the total Medicaid costs for
7 the recipient. The Department of Health and Human Services may proceed with
8 planning and development work on the Program of All-Inclusive Care for the Elderly.

9 **SECTION 10.11.(j)** Volume Purchase Plans and Single Source
10 Procurement. – The Department of Health and Human Services, Division of Medical
11 Assistance, may, subject to the approval of a change in the State Medicaid Plan,
12 contract for services, medical equipment, supplies, and appliances by implementation of
13 volume purchase plans, single source procurement, or other contracting processes in
14 order to improve cost containment.

15 **SECTION 10.11.(k)** Cost-Containment Programs. – The Department of
16 Health and Human Services, Division of Medical Assistance, may undertake
17 cost-containment programs, including contracting for services, preadmissions to
18 hospitals, and prior approval for certain outpatient surgeries before they may be
19 performed in an inpatient setting.

20 **SECTION 10.11.(l)** For all Medicaid eligibility classifications for which the
21 federal poverty level is used as an income limit for eligibility determination, the income
22 limits will be updated each April 1 immediately following publication of federal poverty
23 guidelines.

24 **SECTION 10.11.(m)** The Department of Health and Human Services shall
25 provide Medicaid to 19-, 20-, and 21-year-olds in accordance with federal rules and
26 regulations.

27 **SECTION 10.11.(n)** The Department of Health and Human Services shall
28 provide coverage to pregnant women and to children according to the following
29 schedule:

- 30 (1) Pregnant women with incomes equal to or less than one hundred
31 eighty-five percent (185%) of the federal poverty guidelines as revised
32 each April 1 shall be covered for Medicaid benefits.
- 33 (2) Infants under the age of one with family incomes equal to or less than
34 one hundred eighty-five percent (185%) of the federal poverty
35 guidelines as revised each April 1 shall be covered for Medicaid
36 benefits.
- 37 (3) Children aged one through five with family incomes equal to or less
38 than one hundred thirty-three percent (133%) of the federal poverty
39 guidelines as revised each April 1 shall be covered for Medicaid
40 benefits.
- 41 (4) Children aged six through 18 with family incomes equal to or less than
42 the federal poverty guidelines as revised each April 1 shall be covered
43 for Medicaid benefits.
- 44 (5) The Department of Health and Human Services shall provide Medicaid
45 coverage for adoptive children with special or rehabilitative needs
46 regardless of the adoptive family's income.

47 Services to pregnant women eligible under this subsection continue
48 throughout the pregnancy but include only those related to pregnancy and to those other
49 conditions determined by the Department as conditions that may complicate pregnancy.
50 In order to reduce county administrative costs and to expedite the provision of medical
51 services to pregnant women, to infants, and to children described in subdivisions (3) and
52 (4) of this subsection, no resources test shall be applied.

1 **SECTION 10.11.(o)** Medicaid enrollment of categorically needy families
2 with children shall be continuous for one year without regard to changes in income or
3 assets.

4 **SECTION 10.11.(p)** The Division of Medical Assistance, Department of
5 Health and Human Services, may provide incentives to counties that successfully
6 recover fraudulently spent Medicaid funds by sharing State savings with counties
7 responsible for the recovery of the fraudulently spent funds.

8 **SECTION 10.11.(q)** If first approved by the Office of State Budget and
9 Management, the Division of Medical Assistance, Department of Health and Human
10 Services, may use funds that are identified to support the cost of development and
11 acquisition of equipment and software through contractual means to improve and
12 enhance information systems that provide management information and claims
13 processing. The Department of Health and Human Services shall identify adequate
14 funds to support the implementation and first year's operational costs that exceed the
15 currently allocated funds for the new contract for the fiscal agent for the Medicaid
16 Management Information System.

17 **SECTION 10.11.(r)** The Department of Health and Human Services may
18 adopt temporary or emergency rules according to the procedures established in
19 G.S. 150B-21.1 and G.S. 150B-21.1A when it finds that these rules are necessary to
20 maximize receipt of federal funds within existing State appropriations, to reduce
21 Medicaid expenditures, and to reduce fraud and abuse. Prior to the filing of these
22 temporary or emergency rules with the Rules Review Commission and the Office of
23 Administrative Hearings, the Department shall consult with the Office of State Budget
24 and Management on the possible fiscal impact of the temporary or emergency rule and
25 its effect on State appropriations and local governments.

26 **SECTION 10.11.(s)** The Department shall report to the Fiscal Research
27 Division of the Legislative Services Office and to the House of Representatives
28 Appropriations Subcommittee on Health and Human Services and the Senate
29 Appropriations Committee on Health and Human Services or the Joint Legislative
30 Health Care Oversight Committee on any change it anticipates making in the Medicaid
31 program that impacts the type or level of service, reimbursement methods, or waivers,
32 any of which require a change in the State Plan or other approval by the Centers for
33 Medicare and Medicaid Services (CMS). The reports shall be provided at the same time
34 they are submitted to CMS for approval.

35 **SECTION 10.11.(t)** The Department of Health and Human Services shall
36 provide Medicaid coverage for family planning services to men and women of
37 childbearing age with family income equal to or less than one hundred eighty-five
38 percent (185%) of the federal poverty level under the family planning demonstration
39 waiver approved by the federal government. Implementation shall be made by October
40 1, 2005. The Department may use up to six hundred seventy-five thousand dollars
41 (\$675,000) of funds in the Women's Health Services Fund to provide State matching
42 funds for the family-planning demonstration waiver. The remainder of the funds in the
43 Women's Health Services Fund shall be used for community-based organizations that
44 are currently receiving these funds in accordance with the purposes of the Fund.

45 **SECTION 10.11.(u)** The Department of Health and Human Services may
46 apply federal transfer of assets policies, as described in Title XIX, section 1917(c) of the
47 Social Security Act, including the attachment of liens, to real property excluded as
48 "income producing", tenancy-in-common, or as nonhomesite property made "income
49 producing" under Title XIX, section 1902(r)(2) of the Social Security Act. The transfer
50 of assets policy shall apply only to an institutionalized individual or the individual's
51 spouse as defined in Title XIX, section 1917(c) of the Social Security Act. This
52 subsection becomes effective no earlier than October 1, 2001. Federal transfer of asset
53 policies and attachment of liens to properties excluded as tenancy-in-common or as

1 nonhomesite property made "income producing" in accordance with this subsection
2 shall become effective not earlier than November 1, 2002.

3 **SECTION 10.11.(v)** When implementing the Supplemental Security Income
4 (SSI) method for considering equity value of income-producing property, the
5 Department shall, to the maximum extent possible, employ procedures to mitigate the
6 hardship to Medicaid enrollees occurring from application of the Supplemental Security
7 Income (SSI) method.

8 **SECTION 10.11.(w)** Unless required for compliance with federal law, the
9 Department shall not change medical policy affecting the amount, sufficiency, duration,
10 and scope of health care services and who may provide services until the Division of
11 Medical Assistance has prepared a five-year fiscal analysis documenting the increased
12 cost of the proposed change in medical policy and submitted it for Departmental review.
13 If the fiscal impact indicated by the fiscal analysis for any proposed medical policy
14 change exceeds three million dollars (\$3,000,000) in total requirements for a given
15 fiscal year, then the Department shall submit the proposed policy change with the fiscal
16 analysis to the Office of State Budget and Management and the Fiscal Research
17 Division. The Department shall not implement any proposed medical policy change
18 exceeding three million dollars (\$3,000,000) in total requirements for a given fiscal year
19 unless the source of State funding is identified and approved by the Office of State
20 Budget and Management. The Department shall provide the Office of State Budget and
21 Management and the Fiscal Research Division a quarterly report itemizing all medical
22 policy changes with total requirements of less than three million dollars (\$3,000,000).

23 **SECTION 10.11.(x)** The Department shall develop, amend, and adopt
24 medical coverage policy in accordance with the following:

- 25 (1) During the development of new medical coverage policy or
26 amendment to existing medical coverage policy, consult with and seek
27 the advice of the Physician Advisory Group of the North Carolina
28 Medical Society and other organizations the Secretary deems
29 appropriate. The Secretary shall also consult with and seek the advice
30 of officials of the professional societies or associations representing
31 providers who are affected by the new medical coverage policy or
32 amendments to existing medical coverage policy.
- 33 (2) At least 45 days prior to the adoption of new or amended medical
34 coverage policy, the Department shall:
 - 35 a. Publish the proposed new or amended medical coverage policy
36 on the Department's Web site;
 - 37 b. Notify all Medicaid providers of the proposed, new, or amended
38 policy; and
 - 39 c. Upon request, provide persons copies of the proposed medical
40 coverage policy.
- 41 (3) During the 45-day period immediately following publication of the
42 proposed new or amended medical coverage policy, accept oral and
43 written comments on the proposed new or amended policy.
- 44 (4) If, following the comment period, the proposed new or amended
45 medical coverage policy is modified, then the Department shall, at
46 least 15 days prior to its adoption:
 - 47 a. Notify all Medicaid providers of the proposed policy;
 - 48 b. Upon request, provide persons notice of amendments to the
49 proposed policy; and
 - 50 c. Accept additional oral or written comments during this 15-day
51 period.

52 **SECTION 10.11.(y)** For the purposes of investigating and reducing client
53 fraud and abuse, the Department of Health and Human Services, Division of Medical

1 Assistance, shall, unless prohibited by federal law, include in the Medicaid enrollment
2 process the requirement that the applicant for Medicaid consent to or authorize in
3 writing the release of the applicant's medical records for the three years immediately
4 preceding the application for Medicaid benefits. The Department shall obtain and use
5 information from the applicant's medical records in a manner and form that complies
6 with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), P.L.
7 104-191, as amended, and that protects the privacy of the information as required by
8 other applicable federal or State law. In addition to fraud and abuse detection, the
9 Department may require the applicant's consent for other purposes permitted by HIPAA
10 and required or authorized by other applicable federal or State law.

11
12 Requested by: Representatives Insko, Barnhart

13 **DISPOSITION OF DISPROPORTIONATE SHARE RECEIPTS**

14 **SECTION 10.12.(a)** Disproportionate share receipts reserved at the end of
15 the 2005-2006 and 2006-2007 fiscal years shall be deposited with the Department of
16 State Treasurer as nontax revenue for each of those fiscal years.

17 **SECTION 10.12.(b)** For each year of the 2005-2007 fiscal biennium, as it
18 receives funds associated with Disproportionate Share Payments from State hospitals,
19 the Department of Health and Human Services, Division of Medical Assistance, shall
20 deposit up to one hundred million dollars (\$100,000,000) of these Disproportionate
21 Share Payments to the Department of State Treasurer for deposit as nontax revenue.
22 Any Disproportionate Share Payments collected in excess of one hundred million
23 dollars (\$100,000,000) shall be reserved by the State Treasurer for future
24 appropriations.

25
26 Requested by: Representatives Insko, Barnhart

27 **COUNTY MEDICAID COST SHARE**

28 **SECTION 10.13.(a)** Effective July 1, 2000, the county share of the cost of
29 Medicaid services currently and previously provided by area mental health authorities
30 shall be increased incrementally each fiscal year until the county share reaches fifteen
31 percent (15%) of the nonfederal share by State fiscal year 2009-2010.

32 **SECTION 10.13.(b)** Effective July 1, 2000, the county share of the cost of
33 Medicaid Personal Care Services paid to adult care homes shall be decreased
34 incrementally each fiscal year until the county share reaches fifteen percent (15%) of
35 the nonfederal share by State fiscal year 2009-2010.

36
37 Requested by: Representatives Insko, Barnhart

38 **MEDICAID COST CONTAINMENT ACTIVITIES**

39 **SECTION 10.14.** The Department of Health and Human Services may use
40 not more than three million dollars (\$3,000,000) in the 2005-2006 fiscal year and not
41 more than three million dollars (\$3,000,000) in the 2006-2007 fiscal year in Medicaid
42 funds budgeted for program services to support the cost of administrative activities
43 when cost-effectiveness and savings are demonstrated. The funds shall be used to
44 support activities that will contain the cost of the Medicaid Program, including
45 contracting for services or hiring additional staff. Medicaid cost-containment activities
46 may include prospective reimbursement methods, incentive-based reimbursement
47 methods, service limits, prior authorization of services, periodic medical necessity
48 reviews, revised medical necessity criteria, service provision in the least costly settings,
49 plastic magnetic stripped Medicaid identification cards for issuance to Medicaid
50 enrollees, fraud detection software or other fraud detection activities, technology that
51 improves clinical decision making, credit balance recovery and data mining services,
52 and other cost-containment activities. Funds may be expended under this section only
53 after the Office of State Budget and Management has approved a proposal for the

1 expenditure submitted by the Department. Proposals for expenditure of funds under this
2 section shall include the cost of implementing the cost-containment activity and
3 documentation of the amount of savings expected to be realized from the
4 cost-containment activity. The Department shall provide a copy of proposals for
5 expenditures under this section to the Fiscal Research Division.

6
7 Requested by: Representatives Insko, Barnhart

8 **MEDICAID RESERVE FUND TRANSFER**

9 **SECTION 10.15.** Of the funds transferred to the Department of Health and
10 Human Services for Medicaid programs pursuant to G.S. 143-23.2, the sum of fifty
11 million dollars (\$50,000,000) for the 2005-2006 fiscal year and the sum of fifty million
12 dollars (\$50,000,000) for the 2006-2007 fiscal year shall be allocated as prescribed by
13 G.S. 143-23.2(b) for Medicaid programs. Notwithstanding the prescription in
14 G.S. 143-23.2(b) that these funds not reduce State general revenue funding, these funds
15 shall replace the reduction in general revenue funding effected in this act.

16
17 Requested by: Representatives Insko, Barnhart

18 **EXPAND COMMUNITY CARE OF NORTH CAROLINA MANAGEMENT TO**
19 **ADDITIONAL MEDICAID RECIPIENTS**

20 **SECTION 10.17.(a)** The Department of Health and Human Services shall
21 expand the scope of Community Care of NC, Inc., care management model to recipients
22 of Medicaid and dually eligible individuals with a chronic condition and long-term care
23 needs. In expanding the scope, the Department shall focus on the Aged, Blind, and
24 Disabled, and CAP-DA populations for improvement in management,
25 cost-effectiveness, and local coordination of services through Community Care of NC,
26 Inc., and in collaboration with local providers of care. The Department shall target
27 personal care services, private duty nursing, home health, durable medical equipment,
28 ancillary professional services, specialty care, residential services, including skilled
29 nursing facilities, home infusion therapy, pharmacy, and other services determined
30 target-worthy by the Department. The Department shall pilot communitywide
31 initiatives and shall expand statewide successful models.

32 **SECTION 10.17.(b)** The Department of Health and Human Services may
33 work with the federal government to attain the necessary regulatory and policy relief to
34 better align policy and economic incentives to improve care in the most cost-effective
35 manner and attain savings through controlled utilization of services.

36 **SECTION 10.17.(c)** The Department of Health and Human Services may
37 pay network and primary care providers an enhanced PMPM care management fee and
38 shall also provide additional block grant funds for start-up during the pilot phase.

39 **SECTION 10.17.(d)** Community Care of NC, Inc., and the Department of
40 Health and Human Services shall review the prescribing of diagnostic testing by
41 physicians to determine if overutilization is occurring. The Department shall include
42 the results of the review in the report required under subsection (e) of this section. If the
43 Department finds that overutilization is occurring, it shall implement a plan to reduce or
44 eliminate the overutilization.

45 **SECTION 10.17.(e)** The Department of Health and Human Services shall
46 report on the implementation of this section, including resulting savings and quality
47 improvement benchmarks, to the Senate Appropriations Committee on Health and
48 Human Services, the House of Representatives Appropriations Subcommittee on Health
49 and Human Services, and the Fiscal Research Division not later than March 1, 2007.

50
51 Requested by: Representatives Insko, Barnhart

52 **TICKET TO WORK/MEDICAID ELIGIBILITY STUDY**

1 **SECTION 10.18.** The Department of Health and Human Services shall
2 study and develop a plan for the implementation of the Ticket to Work Program. The
3 Department shall report to the House of Representatives Appropriations Subcommittee
4 on Health and Human Services, the Senate Appropriations Committee on Health and
5 Human Services, and the Fiscal Research Division not later than March 1, 2006, on the
6 results of its study. The report shall include what system changes need to be made to
7 implement the Ticket to Work Program, how soon the changes can be made, and an
8 analysis of the five-year fiscal impact of the Program.

9
10 Requested by: Representatives Insko, Barnhart

11 **MEDICAID PERSONAL CARE SERVICES LIMITATIONS**

12 **SECTION 10.19.(a)** The Department of Health and Human Services,
13 Division of Medical Assistance, shall reduce the cost of providing personal care
14 services under the Medicaid program by six million dollars (\$6,000,000) for the
15 2005-2006 fiscal year and by eight million dollars (\$8,000,000) for the 2006-2007 fiscal
16 year. The Department shall accomplish the reduction by implementing a utilization
17 management system for personal care services. The Division of Medical Assistance
18 shall work with Community Care of North Carolina (CCNC) to determine how CCNC
19 can help with the review of the need for and utilization of personal care services.

20 **SECTION 10.19.(b)** The Division of Medical Assistance shall study and
21 determine additional utilization/prior authorization systems for personal care services
22 and other home- and community-based services that can be provided to individuals who
23 meet medical criteria and that can be implemented when the new MMIS goes into
24 effect. The Department of Health and Human Services, Division of Medical Assistance,
25 shall report the plan for implementation of this section, including costs, not later than
26 May 1, 2006, to the Senate Appropriations Committee on Health and Human Services,
27 the House of Representatives Appropriations Subcommittee on Health and Human
28 Services, and the Fiscal Research Division.

29
30 Requested by: Representative Insko

31 **DDA GROUP HOME FUNDING**

32 **SECTION 10.19A.(a)** The Department of Health and Human Services may
33 develop a plan to use State funds appropriated to support group homes for persons with
34 developmental disabilities to expand the funding available under the CAP-MR/DD
35 waiver and to use the increased waiver funds, in part, to pay for group home services.
36 In developing this plan, the Department shall ensure that the total funding available to
37 the group homes is not reduced.

38 **SECTION 10.19A.(b)** The Department of Health and Human Services may
39 submit a progress report on implementation of this section not later than February 1,
40 2006, and a final report not later than May 1, 2006, to the House of Representatives
41 Appropriations Subcommittee on Health and Human Services, the Senate
42 Appropriations Committee on Health and Human Services, the Joint Legislative
43 Oversight Committee on Mental Health, Developmental Disabilities, and Substance
44 Abuse Services, and the Fiscal Research Division.

45
46 Requested by: Representative Nye

47 **IMPLEMENT ELECTRONIC QUALITY PRESCRIPTION MANAGEMENT**
48 **PROGRAM**

49 **SECTION 10.19B.** The Department of Health and Human Services,
50 Division of Medical Assistance, shall implement an Electronic Quality Prescription
51 Management program for prescription drugs through the use of personal data assistance
52 (PDA) technology.
53

1 Requested by: Representatives Insko, Barnhart

2 **COMMUNITY ALTERNATIVE PROGRAMS REIMBURSEMENT SYSTEM**

3 **SECTION 10.20.(a)** The Department of Health and Human Services,
4 Division of Medical Assistance, shall study developing a new system for reimbursing
5 the Community Alternatives Programs. The new system shall:

- 6 (1) Use a case-mix reimbursement system, similar to the one used by
7 nursing facilities and home health agencies, to determine the level of
8 care provided and the amount paid for the care provided;
9 (2) Incorporate into the case-mix system, the home environment and
10 social support systems; and
11 (3) Use the Resource Utilization Groups-III (RUG-III) to determine the
12 level of need for Community Alternatives Programs services.

13 **SECTION 10.20.(b)** Not later than May 1, 2006, the Department of Health
14 and Human Services, Division of Medical Assistance, shall report on the development
15 of the new system, including an implementation schedule. Full implementation of the
16 new system shall be not later than January 1, 2007. The Department shall submit the
17 report to the Senate Appropriations Committee on Health and Human Services, the
18 House of Representatives Appropriations Subcommittee on Health and Human
19 Services, and the Fiscal Research Division.

20
21 Requested by: Representatives Insko, Barnhart

22 **DMA ACCESS TO HEALTH INSURANCE INFORMATION TO ENSURE**
23 **RECOUPMENT OF MEDICAID FUNDS SPENT ON MEDICAL CARE**
24 **COVERED BY INSURANCE**

25 **SECTION 10.21.(a)** Part 1 of Article 50 of Chapter 58 of the General
26 Statutes is amended by adding the following new section to read:

27 **"§ 58-50-46. Insurers to provide certain information to Department of Health and**
28 **Human Services.**

29 (a) As used in this section, the terms:

- 30 (1) 'Department' means the Department of Health and Human Services.
31 (2) 'Division' means the Division of Medical Assistance of the Department
32 of Health and Human Services.
33 (3) 'Health benefit plan' and 'insurer' have the meaning applicable under
34 G.S. 58-3-167.
35 (4) 'Medical assistance' means medical assistance benefits provided under
36 the State Medical Assistance Plan.

37 (b) Every insurer issuing a health benefit plan shall provide to the Department of
38 Health and Human Services, upon its request, information, including automated data
39 matches conducted under the direction of the Department of Health and Human
40 Services, Division of Medical Assistance, as necessary for the purpose of identifying
41 individuals covered under the insurer's health benefit plans who are also recipients of
42 medical assistance. To facilitate the Division in obtaining this and other related
43 information, every insurer shall:

- 44 (1) Cooperate with the Division to determine whether a named individual
45 who is a recipient of medical assistance may be covered under the
46 insurer's health benefit plan and eligible to receive benefits under the
47 health benefit plan for services provided under the State Medical
48 Assistance Plan;
49 (2) Accept the Division's authorization for the provision of medical
50 services on behalf of the recipient of medical assistance as the insurer's
51 authorization for the provision of services covered under the insurer's
52 health benefit plan; and

1 (3) Respond to the request for information within 30 working days after
 2 receipt of written proof of loss or claim for payment for health care
 3 services provided to a recipient of medical assistance who is covered
 4 by the insurer's health benefit plan.

5 (c) An insurer that complies with this section shall not be liable on that account
 6 in any civil or criminal action or proceedings brought by an individual covered under
 7 the insurer's health benefit plan, or the individual's beneficiaries."

8 **SECTION 10.21.(b)** G.S. 108A-70 reads as rewritten:

9 "**§ 108A-70. Recoupment of amounts spent on medical care.**

10 (a) The Department may garnish the wages, salary, or other employment income
 11 of, and the Secretary of Revenue shall withhold amounts from State tax refunds to, any
 12 person who:

13 (1) Is required by court or administrative order to provide health benefit
 14 plan coverage for the cost of health care services to a child eligible for
 15 medical assistance under Medicaid; and

16 (2) Has received payment from a third party for the costs of such services;
 17 but

18 (3) Has not used such payments to reimburse, as appropriate, either the
 19 other parent or guardian of the child or the provider of the services;

20 to the extent necessary to reimburse the Department for expenditures for such costs
 21 under this Part; provided, however, claims for current and past due child support shall
 22 take priority over any such claims for the costs of such services.

23 (b) To the extent that payment for covered services has been made under
 24 G.S. 108A-55 for health care items or services furnished to an individual, in any case
 25 where a third party has a legal liability to make payments, the Department of Health and
 26 Human Services is considered to have acquired the rights of the individual to payment
 27 by any other party for those health care items or services.

28 (c) The Department of Health and Human Services, Division of Medical
 29 Assistance, may request, receive, and use information obtained pursuant to
 30 G.S. 58-50-46 in order to enforce this section."

31
 32 Requested by: Representatives Nye, Barnhart

33 **VERIFICATION OF STATE RESIDENCY FOR MEDICAL ASSISTANCE**

34 **SECTION 10.21A.(a)** G.S. 108A-24(6) reads as rewritten:

35 "(6) "Resident," unless otherwise defined by federal regulation, is a person
 36 who is living in North Carolina at the time of application with the
 37 intent to remain permanently or for an indefinite period; or who is a
 38 person who enters North Carolina seeking employment or with a job
 39 commitment. For purposes of Part 6 of this Article, a person is not a
 40 resident of this State if the person is determined ineligible for medical
 41 assistance benefits under G.S. 108A-55.3."

42 **SECTION 10.21A.(b)** Part 6 of Article 2 of Chapter 108A of the General
 43 Statutes is amended by adding the following new section to read:

44 "**§ 108A-55.3. Verification of State residency required for medical assistance.**

45 (a) At the time of application for medical assistance benefits, the applicant shall
 46 provide satisfactory proof that the applicant is a resident of North Carolina and that the
 47 applicant is not maintaining a temporary residence or abode incident to receiving
 48 medical assistance under this Part.

49 (b) An applicant may meet the requirements of subsection (a) of this section by
 50 providing at least two of the following documents:

51 (1) A valid North Carolina drivers license.

52 (2) A current North Carolina rent or mortgage payment receipt or utility
 53 bill in the applicant's name with the applicant's current address.

- (3) A valid North Carolina motor vehicle registration in the applicant's name and showing the applicant's current address.
- (4) A document showing that the applicant is employed in this State.
- (5) One or more documents proving that the applicant's domicile in a prior state of residency has been terminated.
- (6) Tax records.
- (7) A document showing that the applicant has registered with a public or private employment service in this State.
- (8) Evidence that the applicant has enrolled the applicant's children in a public or private school or child care facility located in this State.
- (9) Evidence that the applicant is receiving public assistance other than medical assistance in this State.
- (10) Records from a health department located in this State.
- (11) Evidence of other social or economic relationships with the State.

(c) For applicants, including those who are homeless, who declare under penalty of perjury that they do not have one of the verifying documents in subsection (b) of this section, any other evidence that verifies residence may be considered. However, a declaration, affidavit, or other statement from the applicant or another person that the applicant is a resident is insufficient in the absence of other credible evidence.

(d) The Division of Medical Assistance shall not provide payment for medical assistance provided to an applicant unless or until the applicant has met the requirements of this section.

(e) Unless otherwise provided for under Title 19 of the Social Security Act, a child under age 18 is a resident of the state where the child's parent or legal guardian is domiciled.

(f) This section does not apply to an applicant whose eligibility for medical assistance is excepted from State residency requirements under federal law."

Requested by: Representatives Nye, Insko, Barnhart

MEDICAID TRANSFER OF ASSETS POLICY APPLICABLE TO TRANSFER OF LIFE ESTATES

SECTION 10.21B. For the purposes of determining eligibility for Medical Assistance, the Department of Health and Human Services may apply federal transfer of assets policies, as described in Title XIX, Section 1917(c) of the Social Security Act, to (i) life estates purchased by or on behalf of the recipient, other than life estates excluded from countable resources under this section, and (ii) to real property excluded as "income producing", tenancy-in-common, or as nonhomesite property made "income producing" under Title XIX, Section 1902(r)(2) of the Social Security Act. The Department shall exclude from countable resources any life estate in real property that is in the recipient's home, is measured by the recipient's life, and is the result of the transfer of a remainder interest.

Federal transfer of assets policies to "income producing" real property under Title XIX, Section 1902(r)(2) of the Social Security Act shall become effective not earlier than October 1, 2001. Federal transfer of asset policies applied to real property excluded as tenancy-in-common, or as nonhomesite property made "income producing" in accordance with this subsection shall become effective not earlier than November 1, 2002. Federal transfer of asset policies applied to life estates in accordance with this subsection shall become effective not earlier than October 1, 2005.

Requested by: Representative Nye

MEDICAID ESTATE RECOVERY TO INCLUDE LIENS ON REAL PROPERTY

SECTION 10.21C.(a) G.S. 108A-70.5 reads as rewritten:

1 **"§ 108A-70.5. Medicaid Estate Recovery Plan.**

2 (a) There is established in the Department of Health and Human Services, the
3 Medicaid Estate Recovery Plan, as required by the Omnibus Budget Reconciliation Act
4 of 1993, ~~to recover from the estates of recipients of medical assistance an equitable~~
5 ~~amount of the State and federal shares of the cost paid the recipient.~~1993. The
6 Department shall administer the program in accordance with applicable federal law and
7 regulations, including those under Title XIX of the Social Security Act, 42 U.S.C. §
8 1396(p). To the extent allowed by section 1396(p) of Title XIX of the Social Security
9 Act, the Department may impose liens against real property, including the home, of a
10 recipient of medical assistance.

11 (b) As used in this section:

12 (1) "Medical assistance" means medical care services paid for by the
13 North Carolina Medicaid Program on behalf of the recipient:

- 14 a. If the recipient of any age is receiving ~~these~~ medical care
15 services as an inpatient in a nursing facility, intermediate care
16 facility for the mentally retarded, or other medical institution,
17 and cannot reasonably be expected to be discharged to return
18 home; or
19 b. If the recipient is 55 years of age or older and is receiving ~~these~~
20 ~~medical care services, including related hospital care and~~
21 ~~prescription drugs, for nursing facility services, personal care~~
22 ~~services, or home and community-based services.~~one or more
23 of the following medical care services:

- 24 1. Nursing facility services.
25 2. Home and community-based services.
26 3. Hospital care and prescription drugs related to nursing
27 facility services or home and community-based services.
28 4. Personal care services.
29 5. Medicare premiums.
30 6. Private duty nursing.
31 7. Home health aide services.
32 8. Home health therapy.
33 9. Speech pathology services.
34 10. Hospice services.

35 (2) "Estate" means all the real and personal property considered assets of
36 the estate available for the discharge of debt pursuant to
37 G.S. 28A-15-1.

38 (3) 'Home' means property in which a recipient has, or had immediately
39 before or at the time of the recipient's death, an ownership interest or
40 legal title to, consisting of the recipient's dwelling and the land used
41 and operated in connection with the dwelling.

42 (c) The amount the Department recovers from the estate of any recipient shall not
43 exceed the amount of medical assistance made on behalf of the recipient and shall be
44 recoverable only for medical care services prescribed in subsection (b) of this section.
45 ~~The~~ To the extent that allowable Medicaid claims are not satisfied as a result of the
46 execution of any liens held by the Department, the Department is a fifth-class creditor,
47 as prescribed in G.S. 28A-19-6, for purposes of determining the order of claims against
48 an estate; provided, however, that judgments in favor of other fifth-class creditors
49 docketed and in force before the Department seeks recovery for medical assistance shall
50 be paid prior to recovery by the Department.

51 (d) The Department of Health and Human Services shall adopt rules pursuant to
52 Chapter 150B of the General Statutes to implement the Plan, including rules to waive
53 whole or partial recovery ~~when this recovery would be inequitable because it would~~

1 ~~work an undue hardship~~ or because it would not be administratively cost-effective and
2 rules to ensure that all recipients are notified that their estates are subject to recovery at
3 the time they become eligible to receive medical assistance.

4 (e) Regarding trusts that contain the assets of an individual who is disabled as
5 defined in Title 19 of Section 1014(a)(3) of the Social Security Act, as amended, if the
6 trust is established and managed by a nonprofit association, to the extent that amounts
7 remaining in the beneficiary's account upon the death of the beneficiary are not retained
8 by the nonprofit association, the trust pays to the Department from these remaining
9 amounts in the account an amount equal to the total amount of medical assistance paid
10 on behalf of the beneficiary under the North Carolina Medicaid Program."

11 **SECTION 10.21C.(b)** Part 6 of Article 2 of Chapter 108A of the General
12 Statutes is amended by adding the following new sections to read:

13 **"§ 108A-70.6. Postponement of estate recovery required in cases of undue**
14 **hardship.**

15 (a) The Department shall postpone or waive estate recovery, including the
16 execution of a lien in whole or in part, when the Department determines that the estate
17 recovery or the execution of the lien would work an undue hardship to an heir or a
18 beneficiary of the Medicaid recipient.

19 (b) A claim of undue hardship to an heir or beneficiary shall be made in writing
20 to the Department within 30 days after the receipt of notification of the Medicaid lien or
21 claim. The claim for hardship shall describe the financial circumstance of the heir or
22 beneficiary and the basis for the claim.

23 (c) An undue hardship exists if:

24 (1) The property subject to the lien has a tax value less than or equal to
25 thirty thousand dollars (\$30,000);

26 (2) The property subject to the lien is the sole source of income for a
27 surviving heir or beneficiary, and the loss of the net income derived
28 from the property would result in the heir's or beneficiary's annual
29 gross income to fall below one hundred percent (100%) of the federal
30 poverty guidelines in the year in which the hardship is claimed; or

31 (3) The sale of the property would be required to satisfy the Department's
32 claim, and all of the following conditions are met:

33 a. The heir or beneficiary resided in the decedent's home on a
34 continual basis for at least 24 months immediately prior to the
35 date of the recipient's death and the heir or beneficiary was
36 using the property as a principal place of residence on the date
37 of the recipient's death;

38 b. The heir or beneficiary has, from the time the Department first
39 presents its claim for recovery against the deceased recipient's
40 estate and after, annual gross income in the amount not
41 exceeding one hundred fifty percent (150%) of the federal
42 poverty income standard;

43 c. The heir or beneficiary owns no other real property or agrees to
44 sell other real property in partial payment of the Department's
45 claim; and

46 d. The heir or beneficiary owns other assets not exceeding a net
47 value of thirty thousand dollars (\$30,000).

48 **"§ 108A-70.7. Notice of claim or lien.**

49 (a) The Department shall provide each applicant for medical assistance, or the
50 applicant's representative, written notice that:

51 (1) Receipt of medical assistance may result in a Medicaid claim or lien
52 upon the recipient's estate, including the recipient's home, to recover

1 costs paid on behalf of the recipient for medical assistance in
2 accordance with G.S. 108A-70.5; and

3 (2) Receipt of medical assistance as an inpatient in a nursing facility,
4 intermediate care facility for the mentally retarded, or other medical
5 institution, when the recipient cannot reasonably be expected to be
6 discharged to return home may result in a lien upon the recipient's
7 home prior to the recipient's death in accordance with G.S. 108A-70.5.

8 (b) Notice under this section shall also explain the hardship conditions under
9 which estate recovery, including the execution of a lien, may be postponed or waived.

10 **"§ 108A-70.8. County departments of social services to provide information.**

11 The Department may require the county department of social services administering
12 medical assistance to gather and provide the Department with the information and
13 administrative or legal assistance needed to recover medical assistance under
14 G.S. 108A-70.5. The Department shall pay to the county department of social services
15 an amount equal to twenty percent (20%) of the State share of recovery collected by the
16 Department. The Department may withhold payments under this section for a county
17 department's failure to comply with the Department's requirements under this section."
18

19 Requested by: Representatives Wright, Stam

20 **MEDICAID WAIVER/TRANSFER OF ASSETS LOOK-BACK**

21 **SECTION 10.21D.** The Department of Health and Human Services,
22 Division of Medical Assistance, shall request a waiver from the Centers for Medicare
23 and Medicaid Services (CMS) such that the look-back period for determining transfer of
24 assets for the purpose of establishing or retaining eligibility for Medicaid may be
25 increased from three years to five years and from five to eight years for purposes of
26 estate recovery. If the waiver is granted, the Department shall implement the waiver. If
27 the waiver is implemented, the increased look-back period shall apply to applications
28 for establishing or retaining eligibility submitted on and after the effective date of the
29 waiver. The Department shall report on the status of the waiver to the House of
30 Representatives Appropriations Subcommittee on Health and Human Services, the
31 Senate Appropriations Committee on Health and Human Services, and the Fiscal
32 Research Division not later than April 1, 2006.
33

34 Requested by: Representatives Insko, Barnhart

35 **NC HEALTH CHOICE APPROPRIATIONS/CLAIMS PROCESSING**

36 **SECTION 10.22.(a)** The total amount of State funds expended for the
37 Health Insurance Program for Children (NC Health Choice) in the 2005-2006 fiscal year
38 and the 2006-2007 fiscal year shall not exceed the amount of State funds appropriated to
39 match federal funds for the Program for the 2003-2004 fiscal year and the 2004-2005
40 fiscal year. The Department shall manage program enrollment in a way that maximizes
41 the number of children served within existing funds.

42 **SECTION 10.22.(b)** The Department of Health and Human Services shall
43 either (i) amend an existing contract, or (ii) issue a Request for Proposal to contract for
44 administration and claims processing of the NC Health Choice Program. The contract
45 shall provide for applying Medicaid rates for service providers as provided by law. The
46 Department shall schedule the review process for proposals received such that the
47 Department has signed a contract with the selected contractor not later than July 1,
48 2006. The contract shall provide for full implementation of administration and claims
49 processing, including the application of Medicaid rates for service providers other than
50 prescription drug and dental care providers, not later than July 1, 2007. The Department
51 shall study the impact of paying dental care providers at Medicaid rates and shall make
52 its recommendation to the Senate Appropriations Committee on Health and Human

1 Services, the House of Representatives Appropriations Subcommittee on Health and
2 Human Services, and the Fiscal Research Division not later than May 1, 2006.

3 **SECTION 10.22.(c)** Effective July 1, 2007, G.S. 108A-70.22,
4 G.S. 108A-70.24, and Part 5 of Article 3 of Chapter 135 of the General Statutes are
5 repealed.

6 **SECTION 10.22.(d)** Effective July 1, 2007, G.S. 108A-70.20 reads as
7 rewritten:

8 "**§ 108A-70.20. Program established.**

9 The Health Insurance Program for Children is established. The Program shall be
10 administered by the Department of Health and Human Services in accordance with this
11 Part and as required under Title XXI and related federal rules and regulations.
12 ~~Administration of Program benefits and claims processing shall be as provided under~~
13 ~~Part 5 of Article 3 of Chapter 135 of the General Statutes."~~

14 **SECTION 10.22.(e)** G.S. 108A-70.21(b) and (d) read as rewritten:

15 "(b) Benefits. – Except as otherwise provided for eligibility, fees, deductibles,
16 copayments, and other cost-sharing charges, health benefits coverage provided to
17 children eligible under the Program shall be equivalent to coverage provided for
18 dependents under the North Carolina Teachers' and State Employees' Comprehensive
19 Major Medical Plan, including optional prepaid plans. Prescription drug providers shall
20 accept as payment in full, for outpatient prescriptions filled, ninety percent (90%) of the
21 average wholesale price for the prescription drug or the amounts published by the
22 Centers for Medicare and Medicaid Services plus a dispensing fee of five dollars and
23 sixty cents (\$5.60) per prescription for generic drugs and four dollars (\$4.00) per
24 prescription for brand name drugs. ~~All other~~ Except for dental care providers, health care
25 providers providing services to Program enrollees shall accept as payment in full for
26 services rendered the maximum allowable charges under the ~~North Carolina Teachers'~~
27 ~~and State Employees' Comprehensive Major Medical Plan State Medical Assistance~~
28 Program for services less any copayments assessed to enrollees under this Part. Dental
29 care providers providing services to Program enrollees shall accept as payment in full
30 for services rendered the maximum allowable charges under the Teachers' and State
31 Employees' Comprehensive Major Medical Plan for services less any co-payments
32 assessed to enrollees under this Part. No child enrolled in the Plan's self-insured
33 indemnity program shall be required by the Plan to change health care providers as a
34 result of being enrolled in the Program.

35 In addition to the benefits provided under the Plan, the following services and
36 supplies are covered under the Health Insurance Program for Children established under
37 this Part:

- 38 (1) Dental: Oral examinations, teeth cleaning, and scaling twice during a
39 12-month period, full mouth X-rays once every 60 months,
40 supplemental bitewing X-rays showing the back of the teeth once
41 during a 12-month period, fluoride applications twice during a
42 12-month period, fluoride varnish, sealants, simple extractions,
43 therapeutic pulpotomies, prefabricated stainless steel crowns, and
44 routine fillings of amalgam or other tooth-colored filling material to
45 restore diseased teeth. No benefits are to be provided for services
46 under this subsection that are not performed by or upon the direction
47 of a dentist, doctor, or other professional provider approved by the
48 Plan nor for services and materials that do not meet the standards
49 accepted by the American Dental Association.
- 50 (2) Vision: Scheduled routine eye examinations once every 12 months,
51 eyeglass lenses or contact lenses once every 12 months, routine
52 replacement of eyeglass frames once every 24 months, and optical
53 supplies and solutions when needed. Optical services, supplies, and

1 solutions must be obtained from licensed or certified ophthalmologists,
 2 optometrists, or optical dispensing laboratories. Eyeglass lenses are
 3 limited to single vision, bifocal, trifocal, or other complex lenses
 4 necessary for a Plan enrollee's visual welfare. Coverage for oversized
 5 lenses and frames, designer frames, photosensitive lenses, tinted
 6 contact lenses, blended lenses, progressive multifocal lenses, coated
 7 lenses, and laminated lenses is limited to the coverage for single
 8 vision, bifocal, trifocal, or other complex lenses provided by this
 9 subsection. Eyeglass frames are limited to those made of zylonite,
 10 metal, or a combination of zylonite and metal. All visual aids covered
 11 by this subsection require prior approval of the Plan. Upon prior
 12 approval by the Plan, refractions may be covered more often than once
 13 every 12 months.

- 14 (3) Hearing: Auditory diagnostic testing services and hearing aids and
 15 accessories when provided by a licensed or certified audiologist,
 16 otolaryngologist, or other hearing aid specialist approved by the Plan.
 17 Prior approval of the Plan is required for hearing aids, accessories,
 18 earmolds, repairs, loaners, and rental aids.

19 The Department may provide services to children aged birth through five years
 20 enrolled in the Program through the State Medical Assistance managed care program.
 21 Services provided through the managed care program shall be paid from Program funds.

22 ...
 23 (d) Cost-Sharing. – There shall be no deductibles, copayments, or other
 24 cost-sharing charges for families covered under the Program whose family income is at
 25 or below one hundred fifty percent (150%) of the federal poverty level, except that fees
 26 for outpatient prescription drugs are applicable and shall be one dollar (\$1.00) for each
 27 outpatient generic prescription drug and for each outpatient brand-name prescription
 28 drug for which there is no generic substitution available. The fee for each outpatient
 29 brand-name prescription drug for which there is a generic substitution available is three
 30 dollars (\$3.00). Families covered under the Program whose family income is above one
 31 hundred fifty percent (150%) of the federal poverty level shall be responsible for
 32 copayments to providers as follows:

- 33 (1) Five dollars (\$5.00) per child for each visit to a provider, except that
 34 there shall be no copayment required for ~~well baby, well child, well~~
 35 child or age-appropriate immunization services;
- 36 (2) Five dollars (\$5.00) per child for each outpatient hospital visit;
- 37 (3) A one dollar (\$1.00) fee for each outpatient generic prescription drug
 38 and for each outpatient brand-name prescription drug for which there
 39 is no generic substitution available. The fee for each outpatient
 40 brand-name prescription drug for which there is a generic substitution
 41 available is ten dollars (\$10.00).
- 42 (4) Twenty dollars (\$20.00) for each emergency room visit unless:
 43 a. The child is admitted to the hospital, or
 44 b. No other reasonable care was available as determined by the
 45 Claims Processing Contractor of the North Carolina Teachers'
 46 and State Employees' Comprehensive Major Medical Plan.

47 Copayments required under this subsection for prescription drugs apply only to
 48 prescription drugs prescribed on an outpatient basis."
 49

50 Requested by: Representatives Insko, Barnhart
 51 **LONG-TERM PLAN FOR MEETING MENTAL HEALTH,**
 52 **DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES**
 53 **NEEDS**

1 **SECTION 10.24.(a)** The Secretary of the Department of Health and Human
2 Services shall, in consultation with interested advocacy groups and affected State and
3 local agencies, develop a long-range plan for addressing the mental health,
4 developmental disabilities, and substance abuse services needs of the State. The plan
5 shall be consistent with the plan developed pursuant to G.S. 122C-102, and shall
6 address the following:

- 7 (1) The services needed at the community level within each LME in order
8 to ensure an adequate level of services to the average number of
9 persons needing the services based on population projections.
- 10 (2) The full continuum of services needed for each disability group within
11 an LME, including:
12 a. Which services could be regional or multi-LME based;
13 b. What percent of the population each LME would expect to use
14 State-level facilities; and
15 c. An inventory of existing services within each LME for each
16 disability group, and the gaps that exist;
- 17 (3) Projected growth in services for each disability group within each
18 LME or region that can reasonably be managed over the ensuing
19 five-year period; and
- 20 (4) Projected start-up costs and the total funding needed in each year from
21 the Trust Fund for Mental Health, Developmental Disabilities, and
22 Substance Abuse Services and Bridge Funding Needs to implement the
23 long-range plan.

24 Funds shall not be transferred from the Trust Fund for Mental Health,
25 Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs
26 until the Secretary has consulted with the Joint Legislative Commission on
27 Governmental Operations, the Joint Legislative Oversight Committee on Mental Health,
28 Developmental Disabilities, and Substance Abuse Services, and the Chairs of the Senate
29 Appropriations Committee on Health and Human Services and the House of
30 Representatives Appropriations Subcommittee on Health and Human Services.

31 **SECTION 10.24.(b)** Moneys in the Trust Fund established pursuant to
32 G.S. 143-15D shall be used to establish or expand community-based services only if
33 sufficient recurring funds can be identified within the Department from funds currently
34 budgeted for mental health, developmental disabilities, and substance abuse services,
35 area mental health programs or county programs, or local government.

36 **SECTION 10.24.(c)** Not later than December 1, 2006, the Department of
37 Health and Human Services shall report on the implementation of this section to the
38 Senate Appropriations Committee on Health and Human Services, the House of
39 Representatives Appropriations Subcommittee on Health and Human Services, and the
40 Fiscal Research Division.

41
42 Requested by: Representatives Insko, Barnhart

43 **COMPREHENSIVE TREATMENT SERVICES PROGRAM**

44 **SECTION 10.25.(a)** The Department of Health and Human Services shall
45 continue the Comprehensive Treatment Services Program for children at risk for
46 institutionalization or other out-of-home placement. The Program shall be implemented
47 by the Department in consultation with the Department of Juvenile Justice and
48 Delinquency Prevention, the Department of Public Instruction, and other affected State
49 agencies. The purpose of the Program is to provide appropriate and medically necessary
50 residential and nonresidential treatment alternatives for children at risk of
51 institutionalization or other out-of-home placement. Program funds shall be targeted for
52 non-Medicaid eligible children. Program funds may also be used to expand a

1 system-of-care approach for services to children and their families statewide. The
2 program shall include the following:

- 3 (1) Behavioral health screening for all children at risk of
4 institutionalization or other out-of-home placement.
- 5 (2) Appropriate and medically necessary residential and nonresidential
6 services for deaf children.
- 7 (3) Appropriate and medically necessary residential and nonresidential
8 treatment services, including placements for sexually aggressive youth.
- 9 (4) Appropriate and medically necessary residential and nonresidential
10 treatment services, including placements for youths needing substance
11 abuse treatment services and children with serious emotional
12 disturbances.
- 13 (5) Multidisciplinary case management services, as needed.
- 14 (6) A system of utilization review specific to the nature and design of the
15 Program.
- 16 (7) Mechanisms to ensure that children are not placed in department of
17 social services custody for the purpose of obtaining mental health
18 residential treatment services.
- 19 (8) Mechanisms to maximize current State and local funds and to expand
20 use of Medicaid funds to accomplish the intent of this Program.
- 21 (9) Other appropriate components to accomplish the Program's purpose.
- 22 (10) The Secretary of the Department of Health and Human Services may
23 enter into contracts with residential service providers.
- 24 (11) A system of identifying and tracking children placed outside of the
25 family unit in group homes, therapeutic foster care home settings, and
26 other out-of-home placements.

27 **SECTION 10.25.(b)** In order to ensure that children at risk for
28 institutionalization or other out-of-home placement are appropriately served by the
29 mental health, developmental disabilities, and substance abuse services system, the
30 Department of Health and Human Services, Division of Mental Health, Developmental
31 Disabilities, and Substance Abuse Services, shall do the following with respect to
32 services provided to these children:

- 33 (1) Provide only those treatment services that are medically necessary.
- 34 (2) Implement utilization review of services provided.
- 35 (3) Adopt the following guiding principles for the provision of services:
 - 36 a. Service delivery system must be outcome-oriented and
37 evaluation-based.
 - 38 b. Services should be delivered as close as possible to the child's
39 home.
 - 40 c. Services selected should be those that are most efficient in
41 terms of cost and effectiveness.
 - 42 d. Services should not be provided solely for the convenience of
43 the provider or the client.
 - 44 e. Families and consumers should be involved in decision making
45 throughout treatment planning and delivery.
- 46 (4) Implement all of the following cost-reduction strategies:
 - 47 a. Preauthorization for all services except emergency services.
 - 48 b. Levels of care to assist in the development of treatment plans.
 - 49 c. Clinically appropriate services.

50 **SECTION 10.25.(c)** The Department shall collaborate with other affected
51 State agencies such as the Department of Juvenile Justice and Delinquency Prevention,
52 the Department of Public Instruction, the Administrative Office of the Courts, and with
53 local departments of social services, area mental health programs, and local education

1 agencies to eliminate cost shifting and facilitate cost-sharing among these governmental
2 agencies with respect to the treatment and placement services.

3 **SECTION 10.25.(d)** The Department shall not allocate funds appropriated
4 for Program services until a Memorandum of Agreement has been executed between the
5 Department of Health and Human Services, the Department of Public Instruction, and
6 other affected State agencies. The Memorandum of Agreement shall address
7 specifically the roles and responsibilities of the various departmental divisions and
8 affected State agencies involved in the administration, financing, care, and placement of
9 children at risk of institutionalization or other out-of-home placement. The Department
10 shall not allocate funds appropriated in this act for the Program until Memoranda of
11 Agreement between local departments of social services, area mental health programs,
12 local education agencies, and the Administrative Office of the Courts and the
13 Department of Juvenile Justice and Delinquency Prevention, as appropriate, are
14 executed to effectuate the purpose of the Program. The Memoranda of Agreement shall
15 address issues pertinent to local implementation of the Program, including provision for
16 the immediate availability of student records to a local school administrative unit
17 receiving a child placed in a residential setting outside the child's home county.

18 **SECTION 10.25.(e)** Notwithstanding any other provision of law to the
19 contrary, services under the Comprehensive Treatment Services Program are not an
20 entitlement for non-Medicaid eligible children served by the Program.

21 **SECTION 10.25.(f)** Of the funds appropriated in this act for the
22 Comprehensive Treatment Services Program, the Department of Health and Human
23 Services shall establish a reserve of three percent (3%) to ensure availability of these
24 funds to address specialized needs for children with unique or highly complex
25 problems.

26 **SECTION 10.25.(g)** The Department of Health and Human Services, in
27 conjunction with the Department of Juvenile Justice and Delinquency Prevention, the
28 Department of Public Instruction, and other affected agencies, shall report on the
29 following Program information:

- 30 (1) The number and other demographic information of children served.
- 31 (2) The amount and source of funds expended to implement the Program.
- 32 (3) Information regarding the number of children screened, specific
33 placement of children, including the placement of children in programs
34 or facilities outside of the child's home county, and treatment needs of
35 children served.
- 36 (4) The average length of stay in residential treatment, transition, and
37 return to home.
- 38 (5) The number of children diverted from institutions or other out-of-home
39 placements such as training schools and State psychiatric hospitals and
40 a description of the services provided.
- 41 (6) Recommendations on other areas of the Program that need to be
42 improved.
- 43 (7) Other information relevant to successful implementation of the
44 Program.

45 **SECTION 10.25.(h)** The Department shall submit a report on December 1,
46 2005, on the implementation of this section and a final report not later than April 1,
47 2006, to the House of Representatives Appropriations Subcommittee on Health and
48 Human Services, the Senate Appropriations Committee on Health and Human Services,
49 the Joint Legislative Oversight Committee on Mental Health, Developmental
50 Disabilities, and Substance Abuse Services, and the Fiscal Research Division.

51 Requested by: Representatives Insko, Barnhart
52

1 **CHILD AND FAMILY TEAMS/INTEGRATED SERVICES PROGRAM FOR**
2 **CHILDREN AND FAMILIES**

3 **SECTION 10.25A.(a)** Program established. – There is established the
4 Integrated Services Program for Children and Families. The purpose of the Program is
5 to identify and coordinate appropriate community services and supports for children "at
6 risk" and their families. The Program shall be based on accountability, the development
7 of a strong infrastructure of interagency collaboration, individualized strengths-based
8 care, cultural competence, child and family involvement, and community-based services
9 delivered in the most appropriate and natural settings for the child and the child's
10 family. The Department of Health and Human Services, the Department of Public
11 Instruction, the Department of Juvenile Justice and Delinquency Prevention, the
12 Administrative Office of the Courts, and other State agencies that provide services for
13 children shall share responsibility and accountability to improve outcomes for children
14 with or at risk for academic, behavioral, health, social, or safety problems and who
15 require assistance from multiple agencies in order to succeed in school and live with
16 their families or in a family-like setting in their community.

17 **SECTION 10.25A.(b)** The integrated services program for children and
18 families shall be based on the following principles:

- 19 (1) One child, one team, one plan; and
- 20 (2) A child "at risk" may enter the system of care through any
21 participating agency.
- 22 (3) Services shall be:
 - 23 a. Specified in one unified Child and Family Plan that is
24 outcome-oriented and evaluation-based;
 - 25 b. Planned, delivered, and monitored through one unified School-
26 or Community-Based Child and Family Team;
 - 27 c. Delivered as close as possible to the child's home;
 - 28 d. The most efficient in terms of cost and effectiveness;
 - 29 e. Out-of-home placements for children shall be a last resort and
30 shall include concrete plans to bring the children back to a
31 stable, permanent home, their schools and their community; and
 - 32 f. Families and consumers shall be involved in decision making
33 throughout service planning, delivery, and monitoring.

34 **SECTION 10.25A.(c)** Leadership Council established. – There is
35 established the North Carolina Child and Family Leadership Council ("Council"). The
36 Superintendent of Public Instruction and the Secretary of Health and Human Services
37 shall serve as cochairs of the Council. Council membership shall include the Secretary
38 of the Department of Juvenile Justice and Delinquency Prevention, the Director of the
39 Administrative Office of the Courts, and other members as appointed by the Governor.
40 The Council shall ensure that policies addressing the needs of children are consistent;
41 that children receiving services are screened initially to identify needs; assessed
42 periodically to determine progress and ensure sustained improvement in educational,
43 health, safety, behavioral, and social outcomes; and that the Program promotes the more
44 effective and efficient use of resources and eliminates duplication of effort.

45 The Council shall meet at least quarterly to:

- 46 (1) Develop a memorandum of agreement (MOA) to be reviewed and
47 signed annually among the named State agencies to define the
48 purposes of the program and to ensure that program goals are
49 accomplished.
- 50 (2) Work with local collaboratives or councils to develop a local MOA.
- 51 (3) Develop a plan and time line for implementation of school-based child
52 and family teams.

- 1 (4) Respond to and resolve State policy issues identified at the local level
- 2 which interfere with effective implementation of the Program.
- 3 (5) Direct the integration of resources as needed to meet goals.
- 4 (6) Ensure appropriate outcomes.
- 5 (7) Establish criteria for defining success in local programs.
- 6 (8) Review progress made on integrating policies and resources across
- 7 State agencies, reaching definitive child and family outcomes, and
- 8 accomplishing other goals.
- 9 (9) Report semiannually on progress made to the Office of the Governor
- 10 and the General Assembly.

11 The Council may designate existing cross agency collaboratives or councils
12 as working groups or to provide assistance in accomplishing established goals.

13 **SECTION 10.25A.(d)** Local level responsibilities. – A Local Child and
14 Family Team Advisory Committee shall be chaired by the superintendent of the local
15 school administrative unit and the head of a participating county agency as elected by
16 the Committee. The Committee shall include the directors of the county departments of
17 social services and health, the directors of the local management entity, the chief district
18 court judge, the chief court counselor, and representatives of other agencies providing
19 services to children, as designated by the Committee. They shall sign and implement
20 annually a memorandum of agreement (MOA) approved by the State Council. A copy
21 of the MOA shall be maintained on file at the State and local level of each of the named
22 agencies and in the Office of the Governor.

23 In accordance with the local MOA, each local committee shall develop a plan
24 for integrating children's services. The plan shall include:

- 25 (1) Specified outcomes;
- 26 (2) Implementation process, including milestones;
- 27 (3) Program organization and agency responsibilities;
- 28 (4) Criteria for measuring program success;
- 29 (5) Reporting requirements;
- 30 (6) Administrative and technology support requirements;
- 31 (7) Training requirements;
- 32 (8) Resources requirements;
- 33 (9) Time periods in which the specified services must be provided; and
- 34 (10) Defined commitments of staff leadership and time across agencies and
35 at multiple levels.

36 The plan shall be implemented in each county using all available resources.

37 **SECTION 10.25A.(e)** Program Services. – In order to ensure that children
38 receiving Program services are appropriately served, the affected State and local
39 agencies shall:

- 40 (1) Provide only those services that are known to be effective based upon
41 research or national standards of best practices.
- 42 (2) Develop a set of outcomes that are shared across affected State
43 agencies to measure children's progress in home, school, and
44 community settings.
- 45 (3) Implement utilization review of services provided across affected State
46 agencies to ensure that children's needs are met.
- 47 (4) Named State agencies, local departments of social services, local
48 management entities and their provider communities, and local
49 education agencies shall eliminate cost shifting and shall facilitate
50 cost-sharing among governmental agencies with respect to service
51 development, service delivery, and monitoring for Program children
52 and their families.

1 **SECTION 10.25A.(f)** Report to Leadership Council. – Each county shall
2 report annually to the North Carolina Child and Family Leadership Council on the
3 status of the Program. The report shall include the following:

- 4 (1) The number and other demographic information of children served.
- 5 (2) The amount and source of funds expended to implement the Program.
- 6 (3) Information regarding how families and consumers are involved in
7 decision making throughout service planning, delivery, and
8 monitoring.
- 9 (4) Information regarding the number of children screened, specific
10 placement of children, including the placement of children in programs
11 or facilities outside of the child's home, outside the child's county, and
12 service needs of children served.
- 13 (5) The average length of stay in residential treatment, transition, and
14 return to home.
- 15 (6) The number of children diverted from institutions or other out-of-home
16 placements such as detention, Youth Development Centers, State
17 psychiatric hospitals, those diverted from the custody of the
18 department of social services because of unmet behavioral health
19 needs, and a description of the services provided.
- 20 (7) Recommendations on other areas of the Program that need
21 improvement.
- 22 (8) Efficiencies created by implementing the Program.
- 23 (9) Other information relevant to successful implementation of the
24 Program.

25 **SECTION 10.25A.(g)** The North Carolina Child and Family Leadership
26 Council shall submit an interim report on implementation of this section to the House of
27 Representatives Appropriations Subcommittee on Health and Human Services, the
28 Senate Appropriations Committee on Health and Human Services, the House
29 Appropriations Subcommittee on Justice and Public Safety, the Joint Legislative
30 Education Oversight Committee, and the Fiscal Research Division on or before April 1,
31 2006, and a final report on or before January 1, 2007.

32
33 Requested by: Representatives Insko, Barnhart

34 **SERVICES TO MULTIPLY DIAGNOSED ADULTS**

35 **SECTION 10.26.(a)** In order to ensure that multiply diagnosed adults are
36 appropriately served by the mental health, developmental disabilities, and substance
37 abuse services system, the Department of Health and Human Services, Division of
38 Mental Health, Developmental Disabilities, and Substance Abuse Services, shall do the
39 following with respect to services provided to these adults:

- 40 (1) Implement the following guiding principles for the provision of
41 services:
 - 42 a. Service delivery system must be outcome-oriented and
43 evaluation-based.
 - 44 b. Services should be delivered as close as possible to the
45 consumer's home.
 - 46 c. Services selected should be those that are most efficient in
47 terms of cost and effectiveness.
 - 48 d. Services should not be provided solely for the convenience of
49 the provider or the client.
 - 50 e. Families and consumers should be involved in decision making
51 throughout treatment planning and delivery.
- 52 (2) Provide those treatment services that are medically necessary.
- 53 (3) Implement utilization review of services provided.

1 **SECTION 10.26.(b)** The Department of Health and Human Services shall
2 implement all of the following cost-reduction strategies:

- 3 (1) Preauthorization for all services except emergency services.
- 4 (2) Criteria for determining medical necessity.
- 5 (3) Clinically appropriate services.

6 **SECTION 10.26.(c)** No State funds shall be used for the purchase of
7 single-family or other residential dwellings to house multiply diagnosed adults.

8 **SECTION 10.26.(d)** The Department shall submit a progress report on
9 implementation of this section not later than February 1, 2006, and a final report not
10 later than May 1, 2006, to the Senate Appropriations Committee on Health and Human
11 Services, the House of Representatives Appropriations Subcommittee on Health and
12 Human Services, the Joint Legislative Oversight Committee on Mental Health,
13 Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research
14 Division.

15
16 Requested by: Representatives Insko, Barnhart

17 **EXTEND MENTAL HEALTH CONSUMER ADVOCACY PROGRAM**
18 **CONTINGENT UPON FUNDS APPROPRIATED BY THE 2007 GENERAL**
19 **ASSEMBLY**

20 **SECTION 10.27.** Section 4 of S.L. 2001-437, as amended by Section 10.30
21 of S.L. 2002-126, and as further amended by Section 10.10 of S.L. 2003-284, reads as
22 rewritten:

23 "**SECTION 4.** Sections 1.1 through 1.21(b) of this act become effective July 1,
24 2002. ~~Section 2 of this act becomes effective only if funds are appropriated by the 2005~~
25 ~~General Assembly for that purpose.~~ Section 2 of this act becomes effective July 1 of the
26 fiscal year for which funds are appropriated by the ~~2005~~ General Assembly for that
27 purpose. The remainder of this act is effective when it becomes law."

28
29 Requested by: Representatives Insko, Barnhart

30 **TRANSITION PLANNING FOR STATE PSYCHIATRIC HOSPITALS**

31 **SECTION 10.28.(a)** In keeping with the United States Supreme Court
32 decision in Olmstead vs. L.C. & E.W. and State policy to provide appropriate services
33 to clients in the least restrictive and most appropriate environment, the Department of
34 Health and Human Services shall continue to implement a plan for the transition of
35 patients from State psychiatric hospitals to the community or to other long-term care
36 facilities, as appropriate. The goal is to develop mechanisms and identify resources
37 needed to enable patients and their families to receive the necessary services and
38 supports based on the following guiding principles:

- 39 (1) Individuals shall be provided acute psychiatric care in non-State
40 facilities when appropriate.
- 41 (2) Individuals shall be provided acute psychiatric care in State facilities
42 only when non-State facilities are unavailable.
- 43 (3) Individuals shall receive evidenced-based psychiatric services and care
44 that are cost-efficient.
- 45 (4) The State shall minimize cost shifting to other State and local facilities
46 or institutions.

47 **SECTION 10.28.(b)** The Department of Health and Human Services shall
48 conduct an analysis of the individual patient service needs and shall develop and
49 implement an individual transition plan, as appropriate, for patients in each hospital.
50 The State shall ensure that each individual transition plan, as appropriate, shall take into
51 consideration the availability of appropriate alternative placements based on the needs
52 of the patient and within resources available for the mental health, developmental
53 disabilities, and substance abuse services system. In developing each plan, the

1 Department shall consult with the patient and the patient's family or other legal
2 representative.

3 **SECTION 10.28.(c)** In accordance with the plan established in subsections
4 (a) and (b) of this section, any nonrecurring savings in State appropriations that result
5 from reductions in beds or services shall be placed in the Trust Fund for Mental Health,
6 Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs.
7 These funds shall be used to facilitate the transition of clients into appropriate
8 community-based services and supports in accordance with G.S. 143-15.3D. Recurring
9 savings realized through implementation of this section shall be retained by the
10 Department of Health and Human Services, Division of Mental Health, Developmental
11 Disabilities, and Substance Abuse Services, (i) for implementation of subsections (a)
12 and (b) of this section and (ii) to support the recurring costs of additional
13 community-based placements from Division facilities in accordance with Olmstead vs.
14 L.C. & E.W.

15 **SECTION 10.28.(d)** The Department of Health and Human Services shall
16 submit reports on the status of implementation of this section to the Joint Legislative
17 Commission on Governmental Operations, the Senate Appropriations Committee on
18 Health and Human Services, the House of Representatives Appropriations
19 Subcommittee on Health and Human Services, the Joint Legislative Oversight
20 Committee on Mental Health, Developmental Disabilities, and Substance Abuse
21 Services, and the Fiscal Research Division. These reports shall be submitted on
22 December 1, 2005, and May 1, 2006.

23
24 Requested by: Representatives Insko, Barnhart

25 **MENTAL RETARDATION CENTER DOWNSIZING**

26 **SECTION 10.29.(a)** In accordance with the Department of Health and
27 Human Services' plan for mental health, developmental disabilities, and substance abuse
28 services system reform, the Department shall ensure that the downsizing of the State's
29 regional mental retardation facilities is continuously based upon residents' needs and the
30 availability of community-based services with a targeted goal of four percent (4%) each
31 year. The Department shall implement cost-containment and reduction strategies to
32 ensure the corresponding financial and staff downsizing of each facility. The
33 Department shall manage the client population of the mental retardation centers in order
34 to ensure that placements for ICF/MR level of care shall be made in non-State facilities.
35 Admissions to State ICF/MR facilities are permitted only as a last resort and only upon
36 approval of the Department. The corresponding budgets for each of the State mental
37 retardation centers shall be reduced, and positions shall be eliminated as the census of
38 each facility decreases. At no time shall mental retardation center positions be
39 transferred to other units within a facility or assigned nondirect care activities such as
40 outreach.

41 **SECTION 10.29.(b)** The Department of Health and Human Services shall
42 apply any savings in State appropriations in each year of the 2005-2007 fiscal biennium
43 that result from reductions in beds or services as follows:

- 44 (1) The Department shall place nonrecurring savings in the Trust Fund for
45 Mental Health, Developmental Disabilities, and Substance Abuse
46 Services and Bridge Funding Needs and use the savings to facilitate
47 the transition of clients into appropriate community-based services and
48 support in accordance with G.S. 143-15.3D;
- 49 (2) The Department of Health and Human Services, Division of Mental
50 Health, Developmental Disabilities, and Substance Abuse Services,
51 shall retain recurring savings realized through implementation of this
52 section to support the recurring costs of additional community-based
53 placements from Division facilities in accordance with Olmstead vs.

1 L.C. & E.W. In determining the savings in this section, savings shall
2 include all savings realized from the downsizing of the State mental
3 retardation centers, including the savings in direct State appropriations
4 in the budgets of the State mental retardation centers; and

- 5 (3) The Department of Health and Human Services, Division of Medical
6 Assistance, shall transfer any recurring Medicaid savings resulting
7 from the downsizing of State-operated MR centers from the ICF-MR
8 line in Medicaid to the CAP-MR/DD line.

9 **SECTION 10.29.(c)** Notwithstanding G.S. 122C-181(c), the Secretary of
10 Health and Human Services shall close one mental retardation center effective July 1,
11 2006. The Department of Health and Human Services shall maintain downsizing of
12 other mental retardation centers occurring in the 2005-2006 fiscal year for the
13 2006-2007 fiscal year. The Department shall accomplish downsizing in accordance with
14 this section and the State Plan for Mental Health, Developmental Disabilities, and
15 Substance Abuse Services. The Department shall use all savings resulting from
16 downsizing occurring on and after July 1, 2005, as set forth in subsection (b) of this
17 section.

18 **SECTION 10.29.(d)** The Department of Health and Human Services shall
19 report on its progress in complying with this section to the Senate Appropriations
20 Committee on Health and Human Services, the House of Representatives
21 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research
22 Division. The Department shall submit the progress report no later than January 15,
23 2006, and submit a final report no later than May 1, 2006.

24
25 Requested by: Representatives Insko, Barnhart

26 **PRIVATE AGENCY UNIFORM COST-FINDING REQUIREMENT**

27 **SECTION 10.30.** G.S. 122C-147.2 reads as rewritten:

28 **"§ 122C-147.2. Purchase of services and reimbursement rates.**

29 (a) When funds are used to purchase services, the following provisions apply:

- 30 (1) Reimbursement rates for specific types of service shall be negotiated
31 between the Secretary and the area authority. The negotiation shall
32 begin with the rate determined by ~~the~~ a standardized cost-finding and
33 rate-setting procedure ~~that is required by G.S. 122C-143.2(a) or by~~
34 ~~another method~~ approved by the Secretary.
35 (2) The reimbursement rate used for the payment of services shall
36 incorporate operating and administrative costs, including costs for
37 property in accordance with G.S. 122C-147.

38 (b) To ensure uniformity in rates charged to area programs and funded with
39 State-allocated resources, the Division of Mental Health, Developmental Disabilities,
40 and Substance Abuse Services of the Department of Health and Human Services may
41 require a private agency that provides services under contract with an area program or
42 county program, except for hospital services that have an established Medicaid rate, to
43 complete an agency-wide uniform cost finding in accordance with subsection (a) of this
44 section. The resulting cost shall be the maximum included for the private agency in the
45 contracting area program's unit cost finding. If a private agency fails to timely and
46 accurately complete the required agency-wide uniform cost finding in a manner
47 acceptable to the Department's controller's office, the Department may suspend all
48 Department funding and payment to the private agency until such time as an acceptable
49 cost finding has been completed by the private agency and approved by the
50 Department's controller's office."

51
52 Requested by: Representatives Insko, Barnhart

1 **DHHS POLICIES AND PROCEDURES IN DELIVERING COMMUNITY**
2 **MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND**
3 **SUBSTANCE ABUSE SERVICES**

4 **SECTION 10.31.** The Department of Health and Human Services, Division
5 of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall in
6 cooperation with area mental health authorities and county programs, identify and
7 eliminate administrative and fiscal barriers created by existing State and local policies
8 and procedures in the delivery of community-based mental health, developmental
9 disabilities, and substance abuse services provided through the area programs and
10 county programs, including services provided through the Comprehensive Treatment
11 Services Program for Children and services delivered to multiply diagnosed adults. The
12 Department shall implement changes in policies and procedures in order to facilitate all
13 of the following:

- 14 (1) The provision of services to adults and children as defined in the
15 Mental Health System Reform State Plan as priority or targeted
16 populations.
- 17 (2) A revised system of allocating State and federal funds to area mental
18 health authorities and county programs that reflects projected needs,
19 including the impact of system reform efforts rather than historical
20 allocation practices and spending patterns.
- 21 (3) The provision of services to children not deemed eligible for the
22 Comprehensive Treatment Services Program for Children, but who
23 would otherwise be in need of medically necessary treatment services
24 to prevent out-of-home placement.
- 25 (4) The provision of services in the community to adults remaining in and
26 being placed in State institutions addressed in Olmstead v. L.C. &
27 E.W.

28 Area mental health, developmental disabilities, and substance abuse services
29 authorities and county programs shall use all funds appropriated for and necessary to
30 provide mental health, developmental disabilities, and substance abuse services to meet
31 the need for these services.

32 The Department, in consultation with the area mental health authorities and
33 county programs, shall report to the House of Representatives Appropriations
34 Subcommittee on Health and Human Services, the Senate Appropriations Committee on
35 Health and Human Services, and the Joint Legislative Oversight Committee on Mental
36 Health, Developmental Disabilities, and Substance Abuse Services on the progress in
37 implementing these changes. The report shall be submitted on October 1, 2005, and
38 February 1, 2006.

39
40 Requested by: Representatives Insko, Barnhart

41 **RULES PERTAINING TO CONFLICT OF INTEREST IN REFERRALS TO**
42 **PROVIDER AGENCIES**

43 **SECTION 10.33.** G.S. 122C-26 reads as rewritten:

44 "**§ 122C-26. Powers of the Commission.**

45 In addition to other powers and duties, the Commission shall exercise the following
46 powers and duties:

- 47 (1) Adopt, amend, and repeal rules consistent with the laws of this State
48 and the laws and regulations of the federal government to implement
49 the provisions and purposes of this Article;
- 50 (2) Issue declaratory rulings needed to implement the provisions and
51 purposes of this Article;
- 52 (3) Adopt rules governing appeals of decisions to approve or deny
53 licensure under this Article;

- 1 (4) Adopt rules for the waiver of rules adopted under this Article; and
- 2 (5) Adopt rules applicable to facilities licensed under this Article:
- 3 a. Establishing personnel requirements of staff employed in
- 4 facilities;
- 5 b. Establishing qualifications of facility administrators or
- 6 directors;
- 7 c. Establishing requirements for death reporting including
- 8 confidentiality provisions related to death reporting; ~~and~~
- 9 d. Establishing requirements for patient ~~advocates~~; advocates; and
- 10 e. Providing that facility personnel that have a pecuniary interest
- 11 in any provider agency that provides services to facility clients
- 12 may not refer facility clients to provider agencies."

13
14 Requested by: Representatives Insko, Barnhart

15 **LEGISLATIVE OVERSIGHT COMMITTEE ON MENTAL HEALTH,**
16 **DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES**
17 **TO STUDY OVERSIGHT AND MONITORING BY DEPARTMENT OF**
18 **HEALTH AND HUMAN SERVICES OF SERVICES TO MENTAL HEALTH**
19 **CONSUMERS**

20 **SECTION 10.34.** The Legislative Oversight Committee on Mental Health,
21 Developmental Disabilities, and Substance Abuse Services shall study the oversight and
22 monitoring roles and activities of the Divisions of: Social Services, Facility Services,
23 Medical Assistance, and Mental Health, Developmental Disabilities, and Substance
24 Abuse Services, of the Department of Health and Human Services. The study shall
25 focus on how the oversight and monitoring activities benefit consumers of mental
26 health, developmental disabilities, and substance abuse services in residential settings,
27 and shall include in its report recommendations on ensuring quality of care and
28 increasing efficiency in the provision of services. The Oversight Committee shall report
29 its findings and recommendations to the Senate Appropriations Committee on Health
30 and Human Services, the House of Representatives Appropriations Subcommittee on
31 Health and Human Services, and the Fiscal Research Division not later than April 1,
32 2006.

33
34 Requested by: Representative Insko

35 **APPEALS PROCESS FOR CLIENTS OF MENTAL HEALTH,**
36 **DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES**
37 **PROGRAMS**

38 **SECTION 10.35.** G.S. 122C-151.2 reads as rewritten:

39 **"§ 122C-151.2. Appeal by area authorities and county ~~programs~~; rules**
40 **governing appeals process for clients of area authorities or county**
41 **programs.**

42 (a) The area authority or county program may appeal to the Commission any
43 action regarding rules under the jurisdiction of the Commission or rules under the joint
44 jurisdiction of the Commission and the Secretary.

45 (b) The area authority or county program may appeal to the Secretary any action
46 regarding rules under the jurisdiction of the Secretary.

47 (b1) The Commission shall adopt rules governing an appeals process for clients to
48 the Division of Mental Health, Developmental Disabilities, and Substance Abuse
49 Services and the Secretary. The appeals process shall ensure that area authority and
50 county program services meet the requirements of applicable statutes and the rules of
51 the Commission and the Secretary.

52 (b2) By January 1, 2006, the Department of Health and Human Services shall
53 consult with the State Consumers and Families Advisory Council to develop and

1 implement a standardized appeals process to be followed by each local management
2 entity (LME). The appeals process shall include a requirement that the LMEs inform
3 each client of the client's right to complain directly to the State Office of Consumer
4 Empowerment and Customer Services in the Division of Mental Health, Developmental
5 Disabilities, and Substance Abuse Services.

6 (c) Appeals shall be conducted according to rules adopted by the Commission
7 and Secretary and in accordance with Chapter 150B of the General Statutes."
8

9 Requested by: Representatives Insko, Barnhart

10 **DHHS STUDY OF ACCREDITATION OF RESIDENTIAL TREATMENT**
11 **FACILITIES**

12 **SECTION 10.35A.(a)** The Department of Health and Human Services shall
13 study the feasibility of establishing accreditation requirements for residential treatment
14 facilities. In conducting the study, the Department shall identify accreditation
15 organizations and a review of their standards and shall consider the following:

- 16 (1) The financial and other impact accreditation will have on the facilities
17 affected.
- 18 (2) The feasibility of developing an alternative to accreditation for small
19 facilities.
- 20 (3) The potential for a reduction in the number of visits required by a local
21 management entity if a residential facility were accredited.
- 22 (4) Review of accreditation requirements of other states.
- 23 (5) Cost of accreditation to the State and affected providers.
- 24 (6) The specific requirements to meet accreditation.

25 **SECTION 10.35A.(b)** The Department of Health and Human Services shall
26 report its findings and recommendations to the House of Representatives Appropriations
27 Subcommittee on Health and Human Services, the Senate Appropriations Committee on
28 Health and Human Services, and the Fiscal Research Division not later than March 1,
29 2006.
30

31 Requested by: Representatives Insko, Barnhart

32 **SENIOR CENTER OUTREACH**

33 **SECTION 10.37.(a)** Funds appropriated to the Department of Health and
34 Human Services, Division of Aging and Adult Services, for the 2005-2007 fiscal
35 biennium, shall be used by the Division of Aging and Adult Services to enhance senior
36 center programs as follows:

- 37 (1) To expand the outreach capacity of senior centers to reach unserved or
38 underserved areas; or
- 39 (2) To provide start-up funds for new senior centers.

40 All of these funds shall be allocated by October 1 of each fiscal year.

41 **SECTION 10.37.(b)** Prior to funds being allocated pursuant to this section
42 for start-up funds for a new senior center, the county commissioners of the county in
43 which the new center will be located shall:

- 44 (1) Formally endorse the need for such a center;
- 45 (2) Formally agree on the sponsoring agency for the center; and
- 46 (3) Make a formal commitment to use local funds to support the ongoing
47 operation of the center.

48 **SECTION 10.37.(c)** State funding shall not exceed seventy-five percent
49 (75%) of reimbursable costs.
50

51 Requested by: Representatives Insko, Barnhart

52 **STATE-COUNTY SPECIAL ASSISTANCE**

1 **SECTION 10.38.(a)** The eligibility of Special Assistance recipients residing
2 in adult care homes on August 1, 1995, shall not be affected by an income reduction in
3 the Special Assistance eligibility criteria resulting from adoption of the Rate Setting
4 Methodology Report and Related Services, providing these recipients are otherwise
5 eligible. The maximum monthly rate for these residents in adult care home facilities
6 shall be one thousand two hundred thirty-one dollars (\$1,231) per month per resident.

7 **SECTION 10.38.(b)** Effective October 1, 2005, the maximum monthly rate
8 for residents in adult care home facilities shall be one thousand one hundred twenty-four
9 dollars (\$1,124) per month per resident unless adjusted by the Department in
10 accordance with subsection (e) of this section.

11 **SECTION 10.38.(c)** Effective October 1, 2005, the maximum monthly rate
12 for residents in Alzheimer/Dementia special care units shall be one thousand five
13 hundred fifteen dollars (\$1,515) per month per resident unless adjusted by the
14 Department in accordance with subsection (e) of this section.

15 **SECTION 10.38.(d)** It is the intent of the General Assembly to protect
16 individuals who meet current eligibility standards for State-County Special Assistance
17 from becoming disenfranchised from the program as a result of any changes proposed in
18 this section. Therefore, subject to any necessary approvals by the Center for Medicare &
19 Medicaid Services (CMS), the eligibility of Special Assistance recipients who resided in
20 adult care homes on September 30, 2003, and remain continuously eligible shall not be
21 affected by an income reduction in the Special Assistance eligibility criteria, providing
22 these recipients are otherwise eligible. The maximum monthly rate for these residents in
23 adult care home facilities shall be one thousand ninety-one dollars (\$1,091) per month
24 per resident.

25 **SECTION 10.38.(e)** Notwithstanding any other provision of this section, the
26 Department of Health and Human Services shall review activities and costs related to
27 the provision of care in adult care homes and shall determine what costs may be
28 considered to properly maximize allowable reimbursement available through Medicaid
29 personal care services for adult care homes (ACH-PCS) under federal law. As
30 determined, and with any necessary approval from the Centers for Medicare and
31 Medicaid Services (CMS), and the approval of the Office of State Budget and
32 Management, the Department may transfer necessary funds from the State-County
33 Special Assistance program within the Division of Social Services to the Division of
34 Medical Assistance and may use those funds as State match to draw down federal
35 matching funds to pay for such activities and costs under Medicaid's personal care
36 services for adult care homes (ACH-PCS), thus maximizing available federal funds.
37 The established rate for State-County Special Assistance set forth in subsections (b) and
38 (c) of this section shall be adjusted by the Department to reflect any transfer of funds
39 from the Division of Social Services to the Division of Medical Assistance and related
40 transfer costs and responsibilities from State-County Special Assistance to the Medicaid
41 personal care services for adult care homes (ACH-PCS). Such rate adjustments to the
42 Special Assistance rate shall be effective with the effective date of increased
43 reimbursement under ACH-PCS. The Division of Medical Assistance shall apply
44 income disregards for current recipients such that cost and rate adjustments made under
45 this subsection do not render otherwise eligible recipients ineligible for services. In no
46 event shall the reimbursement for services through the ACH-PCS exceed the average
47 cost of such services as determined by the Department from review of cost reports as
48 required and submitted by adult care homes. The Department shall report any transfers
49 of funds and modifications of rates to the House of Representatives Appropriations
50 Subcommittee on Health and Human Services, the Senate Appropriations Committee on
51 Health and Human Services, and the Fiscal Research Division.

52 **SECTION 10.38.(f)** Subject to approval by the Centers for Medicare and
53 Medicaid Services (CMS), the Department may implement a less restrictive income

1 methodology allowed under Section 1902(r)(2) of the Social Security Act. The
2 methodology shall be an income disregard for a special purpose and shall be applied
3 only to individuals whose countable income exceeds the current State-County Special
4 Assistance payment standard. The amount of the disregard shall not exceed the value of
5 reductions in the Special Assistance rate occurring on and after October 1, 2003. The
6 income disregarded under this subsection shall be used to reduce the Medicaid payment
7 for the individual's personal care services provided in an adult care home.

8 Subsequent to approval by CMS under this subsection, the maximum value of
9 an income disregard may be increased by the amount of any reduction in the Special
10 Assistance rate authorized under this section, plus the amount calculated by the annual
11 cost-of-living adjustment factor applied to Supplemental Security Income and Social
12 Security Benefits, rounded up to the nearest dollar.

13 The effective date of an income disregard approved under this subsection
14 shall be the first day of the third month following approval by CMS.
15

16 Requested by: Representatives Insko, Barnhart

17 **SPECIAL ASSISTANCE IN-HOME**

18 **SECTION 10.39.(a)** The Department of Health and Human Services may
19 use funds from the existing State-County Special Assistance for Adults budget to
20 provide Special Assistance payments to eligible individuals in in-home living
21 arrangements. These payments may be made for up to 1,000 individuals during the
22 2005-2006 fiscal year and the 2006-2007 fiscal year. The standard monthly payment to
23 individuals enrolled in the Special Assistance in-home program shall be seventy-five
24 percent (75%) of the monthly payment the individual would receive if the individual
25 resided in an adult care home and qualified for Special Assistance, except if a lesser
26 payment amount is appropriate for the individual as determined by the local case
27 manager. For State fiscal year 2005-2006, qualified individuals shall not receive
28 payments at rates less than they would have been eligible to receive in State fiscal year
29 2004-2005. The Department shall implement Special Assistance in-home eligibility
30 policies and procedures to assure that in-home program participants are those
31 individuals who need and, but for the in-home program, would seek placement in an
32 adult care home facility. The Department's policies and procedures shall include the use
33 of a functional assessment. The Department shall make this in-home option available to
34 all counties on a voluntary basis. To the maximum extent possible, the Department shall
35 consider geographic balance in the dispersion of payments to individuals across the
36 State.

37 **SECTION 10.39.(b)** The Department shall report on or before January 1,
38 2006, and on or before January 1, 2007, to the cochairs of the House of Representatives
39 Appropriations Committee, the House of Representatives Appropriations Subcommittee
40 on Health and Human Services, the cochairs of the Senate Appropriations Committee,
41 and the cochairs of the Senate Appropriations Committee on Health and Human
42 Services. This report shall include the following information:

- 43 (1) A description of cost savings that result from allowing individuals
44 eligible for State-County Special Assistance the option of remaining in
45 the home.
- 46 (2) A complete fiscal analysis of the in-home option to include all federal,
47 State, and local funds expended.
- 48 (3) How much case management is needed and which types of individuals
49 are most in need of case management.
- 50 (4) The geographic location of individuals receiving payments under this
51 section.
- 52 (5) A description of the services purchased with these payments.

- 1 (6) A description of the income levels of individuals who receive
2 payments under this section and the impact on the Medicaid program.
3 (7) Findings and recommendations as to the feasibility of continuing or
4 expanding the in-home program.
5 (8) The level and quantity of services (including personal care services)
6 provided to the demonstration project participants compared to the
7 level and quantity of services for residents in adult care homes.

8 **SECTION 10.39.(c)** The Department shall incorporate data collection tools
9 designed to compare quality of life among institutionalized versus noninstitutionalized
10 populations (i.e., an individual's perception of his or her own health and well-being,
11 years of healthy life, and activity limitations). To the extent national standards are
12 available, the Department shall utilize those standards.
13

14 Requested by: Representatives Insko, Barnhart

15 **LICENSURE OF RESIDENTIAL TREATMENT FACILITIES**

16 **SECTION 10.40.(a)** Article 2 of Chapter 122C of the General Statutes is
17 amended by adding the following new section to read:

18 "**§ 122C-23.1. Licensure of residential treatment facilities.**

19 The General Assembly finds:

- 20 (1) That much of the care for residential treatment facility residents is paid
21 by the State and the counties;
22 (2) That the cost to the State for care for residents of residential treatment
23 facilities is substantial, and high vacancy rates in residential treatment
24 facilities further increase the cost of care;
25 (3) That the proliferation of residential treatment facilities results in costly
26 duplication and underuse of facilities and may result in lower quality
27 service;
28 (4) There is currently no ongoing relationship between some applicants for
29 licensure and local management entities (LMEs) that are responsible
30 for the placement of children and adults in residential treatment
31 facilities; and
32 (5) That it is necessary to protect the general welfare and lives, health, and
33 property of the people of the State for the local management entity
34 (LME) to verify that additional beds are needed in the LME's
35 catchment area before new residential treatment facilities are licensed.
36 This process is established to ensure that unnecessary costs to the State
37 do not result, residential treatment facility beds are available where
38 needed, and that individuals who need care in residential treatment
39 facilities may have access to quality care.

40 Based on these findings, the Department of Health and Human Services may license
41 new residential treatment facilities if the applicant for licensure submits with the
42 application a letter of support obtained from the local management entity in whose
43 catchment area the facility will be located. The letter of support shall be submitted to the
44 Department of Health and Human Services, Division of Facility Services and Division
45 of Mental Health, Developmental Disabilities, and Substance Abuse Services, and shall
46 specify the number of existing beds in the same type of facility in the catchment area
47 and the projected need for additional beds of the same type of facility. As used in this
48 subsection, "residential treatment facility" means a "residential facility" as defined in
49 and licensed under this Chapter, but not subject to Certificate of Need requirements
50 under Article 9 of Chapter 131E of the General Statutes.

51 **SECTION 10.40.(b)** This section applies to license applications pending
52 and license applications submitted on and after the effective date of this act.
53

1 Requested by: Representatives Insko, Barnhart, Clary

2 **REGULATORY CHANGES TO IMPROVE QUALITY AND SAFETY IN**
3 **HOME CARE SERVICES, MENTAL HEALTH FACILITIES, ADULT CARE**
4 **HOMES, AND CERTAIN HOSPITAL FACILITIES**

5 **SECTION 10.40A.(a)** G.S. 131E-140(b) reads as rewritten:

6 **"§ 131E-140. Rules and enforcement.**

7 ...

8 (b) The Department shall enforce the rules adopted or amended by the
9 Commission with respect to home care ~~agencies~~ agencies and shall conduct an
10 inspection of each agency at least every three years."

11 **SECTION 10.40A.(b)** G.S. 122C-23(e) reads as rewritten:

12 **"§ 122C-23. Licensure.**

13 ...

14 (e) Unless a license is provisional or has been suspended or revoked, it shall be
15 valid for a period not to exceed two years from the date of issue. The expiration date of
16 a license shall be specified on the license when issued. Renewal of a regular license is
17 contingent upon receipt of information required by the Secretary for renewal and
18 continued compliance with this Article and the rules of the Commission and the
19 Secretary. Licenses for facilities that have not served any clients during the previous 12
20 months are not eligible for renewal."

21 **SECTION 10.40A.(c)** G.S. 122C-25(a) reads as rewritten:

22 **"§ 122C-25. Inspections; confidentiality.**

23 (a) The Secretary shall make or cause to be made inspections that the Secretary
24 considers necessary. Facilities licensed under this Article shall be subject to inspection
25 at all times by the Secretary. All residential facilities as defined in G.S. 122C-3(14)e.
26 shall be inspected on an annual basis. The Division of Facility Services may conduct
27 routine, follow-up, and complaint-generated inspections more frequently as needed to
28 ensure compliance with health and safety requirements.

29 ..."

30 **SECTION 10.40A.(d)** G.S. 122C-25 is amended by adding the following
31 new subsection to read:

32 "(d) All residential facilities, as defined in G.S. 122C-3(14)e. shall ensure that the
33 DHHS Care Line number is posted conspicuously in a public place in the facility."

34 **SECTION 10.40A.(e)** G.S. 131D-2 is amended by adding the following new
35 subsection to read:

36 "(j) Adult care homes shall post the DHHS Care Line number conspicuously in a
37 public place in the facility."

38 **SECTION 10.40A.(f)** G.S. 131D-2(b)(1a) reads as rewritten:

39 **"§ 131D-2. Licensing of adult care homes for the aged and disabled.**

40 ...

41 (b) Licensure; inspections. –

42 ...

43 (1a) The Division of Facility Services shall inspect all adult care homes and
44 adult care units in nursing homes on an annual basis and may conduct
45 routine, follow-up, and complaint-generated inspections more
46 frequently as needed to ensure compliance with health and safety
47 requirements. In addition to the licensing and inspection requirements
48 mandated by subdivision (1) of this subsection, the Department shall
49 ensure that adult care homes required to be licensed by this Article are
50 monitored for licensure compliance on a regular basis. In carrying out
51 this requirement, the Department shall work with county departments
52 of social services to do the routine monitoring and to have the Division
53 of Facility Services oversee this monitoring and perform any follow-up

1 inspection called for. The Department shall monitor regularly the
2 enforcement of rules pertaining to air circulation, ventilation, and room
3 temperature in resident living quarters. These rules shall include the
4 requirement that air conditioning or at least one fan per resident
5 bedroom and living and dining areas be provided when the
6 temperature in the main center corridor exceeds 80 degrees Fahrenheit.
7 The Department shall also keep an up-to-date directory of all persons
8 who are administrators as defined in subdivision (1a) of subsection (a)
9 of this section."

10 **SECTION 10.40A.(g)** G.S. 131D-2(b)(1a) reads as rewritten:

11 "(1a) In addition to the licensing and inspection requirements mandated by
12 subdivision (1) of this subsection, the Department shall ensure that
13 adult care homes required to be licensed by this Article are monitored
14 for licensure compliance on a regular basis. In carrying out this
15 requirement, the Department shall work with county departments of
16 social services to do the routine monitoring and to have the Division of
17 Facility Services oversee this monitoring and perform any follow-up
18 inspection called for. In addition, the Department shall ensure that
19 adult care homes are inspected every two years to determine
20 compliance with physical plant and life-safety requirements. The
21 Department shall monitor regularly the enforcement of rules pertaining
22 to air circulation, ventilation, and room temperature in resident living
23 quarters. These rules shall include the requirement that air
24 conditioning or at least one fan per resident bedroom and living and
25 dining areas be provided when the temperature in the main center
26 corridor exceeds 80 degrees Fahrenheit. The Department shall also
27 keep an up-to-date directory of all persons who are administrators as
28 defined in subdivision (1a) of subsection (a) of this section."

29 **SECTION 10.40A.(h)** G.S. 122C-21 reads as rewritten:

30 **"§ 122C-21. Purpose.**

31 The purpose of this Article is to provide for licensure of facilities for the mentally ill,
32 developmentally disabled, and substance abusers by the development, establishment,
33 and enforcement of basic rules governing:

- 34 (1) The provision of services to individuals who receive services from
35 licensable facilities as defined by this Chapter, and
36 (2) The construction, maintenance, and operation of these licensable
37 facilities that in the light of existing knowledge will ensure safe and
38 adequate treatment of these individuals. The Department shall ensure
39 that licensable facilities are inspected every two years to determine
40 compliance with physical plant and life-safety requirements."

41 **SECTION 10.40A.(i)** G.S. 131E-140 reads as rewritten:

42 **"§ 131E-140. Rules and enforcement.**

43 (a) The Commission ~~is authorized to~~ may adopt, amend and repeal all rules
44 necessary for the implementation of this ~~Part.~~ Part and Part 3A of Article 6 of this
45 Chapter. Provided, these rules shall not extend, modify, or limit the licensing of
46 individual health professionals by their respective licensing boards; nor shall these rules
47 in any way be construed to extend the appropriate scope of practice of any individual
48 health care provider.

49 (a1) The Commission shall adopt rules that recognize the different types of home
50 care services and shall adopt specific requirements for the provision of each type of
51 home care service.

52 (a2) The Commission shall adopt rules defining geographic service areas for
53 in-home aide services and staffing qualifications for licensed home care agencies.

1 (a3) The Commission shall adopt rules prohibiting licensed home care agencies
2 from hiring individuals listed on the Health Care Personnel Registry in accordance with
3 G.S. 131E-256(a)(1).

4 (a4) The Commission shall adopt rules requiring applicants for home care
5 licensure to receive training in the requirements for licensure, the licensure process, and
6 the rules pertaining to the operation of a home care agency.

7 (b) The Department shall enforce the rules adopted or amended by the
8 Commission with respect to home care agencies."

9 **SECTION 10.40A.(j)** G.S. 131E-136 reads as rewritten:

10 **"§ 131E-136. Definitions.**

11 As used in this Part, unless otherwise specified:

12 (1) "Commission" means the North Carolina Medical Care Commission.

13 (1a) "Geographic service area" means the geographic area in which a
14 licensed agency provides home care services.

15 (2) "Home care agency" means a private or public organization that
16 provides home care services.

17 (2a) "Home care agency director" means the person having administrative
18 responsibility for the operation of the licensed agency site.

19 (2b) "Home care client" means an individual who receives home care
20 services.

21 (3) "Home care services" means any of the following services and directly
22 related medical supplies and appliances, which are provided to an
23 individual in a place of temporary or permanent residence used as an
24 individual's home:

25 a. Nursing care provided by or under the supervision of a
26 registered nurse;

27 b. Physical, occupational, or speech therapy, when provided to an
28 individual who also is receiving nursing services, or any other
29 of these therapy services, in a place of temporary or permanent
30 residence used as the individual's home;

31 c. Medical social services;

32 d. In-home aide services that involve hands-on care to an
33 individual;

34 e. Infusion nursing services; and

35 f. Assistance with pulmonary care, pulmonary rehabilitation or
36 ventilation.

37 The term does not include: health promotion, preventative health and
38 community health services provided by public health departments;
39 maternal and child health services provided by public health
40 departments, by employees of the Department of Health and Human
41 Services under G.S. 130A-124, or by developmental evaluation centers
42 under contract with the Department of Health and Human Services to
43 provide services under G.S. 130A-124; hospitals licensed under
44 Article 5 of Chapter 131E of the General Statutes when providing
45 follow-up care initiated to patients within six months after their
46 discharge from the hospital; facilities and programs operated under the
47 authority of G.S. 122C and providing services within the scope of
48 G.S. 122C; schools, when providing services pursuant to Article 9 of
49 Chapter 115C; the practice of midwifery by a person licensed under
50 Article 10A of Chapter 90 of the General Statutes; hospices licensed
51 under Article 10 of Chapter 131E of the General Statutes when
52 providing care to a hospice patient; an individual who engages solely
53 in providing his own services to other individuals; incidental health

1 care provided by an employee of a physician licensed to practice
2 medicine in North Carolina in the normal course of the physician's
3 practice; or nursing registries if the registry discloses to a client or the
4 client's responsible party, before providing any services, that (i) it is
5 not a licensed home care agency, and (ii) it does not make any
6 representations or guarantees concerning the training, supervision, or
7 competence of the personnel provided.

- 8 (4) "Home health agency" means a home care agency which is certified to
9 receive Medicare and Medicaid reimbursement for providing nursing
10 care, therapy, medical social services, and home health aide services
11 on a part-time, intermittent basis as set out in G.S. 131E-176(12), and
12 is thereby also subject to Article 9 of Chapter 131E."

13 **SECTION 10.40A.(k)** Article 6 of Chapter 131E of the General Statutes is
14 amended by adding a new Part to read:

15 "Part 3A. Home Care Clients' Bill of Rights.

16 **"§ 131E-144.1. Legislative intent.**

17 It is the intent of the General Assembly to support an individual's desire to live at
18 home and receive home care services.

19 **"§ 131E-144.2. Definitions.**

20 Unless otherwise specified, the definitions that are provided in Part 3 of Article 6 of
21 this Chapter apply in this Part.

22 **"§ 131E-144.3. Declaration of home care clients' rights.**

23 Each client of a home care agency shall have the following rights:

- 24 (1) To be informed and participate in his or her plan of care.
25 (2) To be treated with respect, consideration, dignity, and full recognition
26 of his or her individuality and right to privacy.
27 (3) To receive care and services that are adequate, appropriate, and in
28 compliance with relevant federal and State laws and rules and
29 regulations.
30 (4) To voice grievances about care and not be subjected to discrimination
31 or reprisal for doing so.
32 (5) To have his or her personal and medical records kept confidential and
33 not be disclosed without appropriate written consent.
34 (6) To be free of mental and physical abuse, neglect, and exploitation.
35 (7) To receive a written statement of services provided by the agency and
36 the charges the client is liable for paying.
37 (8) To be informed of the process for acceptance and continuance of
38 service and eligibility determination.
39 (9) To accept or refuse services.
40 (10) To be informed of the agency's on-call service.
41 (11) To be informed of supervisory accessibility and availability.
42 (12) To be advised of the agency's procedures for discharge.
43 (13) To receive a reasonable response to his or her requests of the agency.
44 (14) To be notified within 10 days when the agency's license has been
45 revoked, suspended, canceled, annulled, withdrawn, recalled, or
46 amended.
47 (15) To be advised of the agency's policies regarding patient
48 responsibilities.

49 **"§ 131E-144.4. Notice to client.**

50 (a) During the agency's initial evaluation visit or before furnishing services, a
51 home care agency shall provide each client with the following:

- 52 (1) A copy of the declaration of home care clients' rights.

- 1 (2) A copy of the agency's policies regarding client responsibilities as it
2 relates to safety and care plan compliance.
3 (3) The address and telephone number for information, questions, or
4 complaints about services provided by the agency.
5 (4) The address and telephone number of the section of the Department of
6 Health and Human Services responsible for the enforcement of the
7 provisions of this Part.

8 (b) Receipts for the declaration of home care clients' rights and contact
9 information required in this section shall be signed by the client and shall be retained in
10 the agency's files.

11 **"§ 131E-144.5. Implementation.**

12 Responsibility for implementing the provisions of this Part shall rest with the home
13 care agency director. Each agency shall provide appropriate training to implement this
14 Part.

15 **"§ 131E-144.6. Enforcement and investigation.**

16 (a) The Department of Health and Human Services shall be responsible for
17 enforcing the provisions of this Part. The Department shall investigate complaints made
18 to it and reply within a reasonable period of time, not to exceed 60 days.

19 (a1) When the Department of Health and Human Services receives a complaint
20 alleging a violation of the provisions of this Part pertaining to client care or client
21 safety, the Department shall initiate an investigation as follows:

- 22 (1) Immediately upon receipt of the complaint if the complaint alleges a
23 life-threatening situation.
24 (2) Within 24 hours if the complaint alleges abuse of a client as defined by
25 G.S. 131D-20(1).
26 (3) Within 48 hours if the complaint alleges neglect of a client as defined
27 by G.S. 131D-20(8).
28 (4) Within two weeks in all other situations.

29 The investigation shall be completed within 30 days. The requirements of this
30 section are in addition to and not in lieu of any investigatory and reporting requirements
31 for health care personnel pursuant to Article 15 of this Chapter, or for adult protective
32 services pursuant to Article 6 of Chapter 108A of the General Statutes.

33 (b) A home care agency shall investigate, within 72 hours, complaints made to
34 the agency by a home care client or the client's family and must document both the
35 existence of the complaint and the resolution of the complaint.

36 **"§ 131E-144.7. Confidentiality.**

37 (a) The Department of Health and Human Services may to inspect home care
38 clients' medical records maintained at the agency when necessary to investigate any
39 alleged violation of this Part.

40 (b) The Department shall maintain the confidentiality of all persons who register
41 complaints with the Department and of all medical records inspected by the
42 Department. A person who has filed a complaint shall have access to information about
43 a complaint investigation involving a specific home care client if written authorization
44 is obtained from the client or legal representative."

45 **SECTION 10.40A.(l)** G.S. 131E-140 is amended by adding the following
46 new subsection to read:

47 "(a1) The Commission shall adopt rules defining the scope of permissible
48 advertising and promotional practice by home care agencies."

49 **SECTION 10.40A.(m)** The Department of Health and Human Services shall
50 study whether there are any additional "health care facilities" and "health care
51 personnel" that are employed in health care settings, including unlicensed health care
52 settings, that should be contained in the Health Care Personnel Registry and listed in

1 G.S. 131E-256. The Department shall report its findings and recommendations to the
2 North Carolina Study Commission on Aging by December 1, 2005.

3 **SECTION 10.40A.(n)** Not later than March 1, 2006, the Department of
4 Health and Human Services shall report to the House of Representatives Appropriations
5 Subcommittee on Health and Human Services, the Senate Appropriations Committee on
6 Health and Human Services, and the Fiscal Research Division on the number of calls
7 received by the DHHS Care Line that had to be referred to the Division of Facility
8 Services complaint hotline.

9 **SECTION 10.40A.(o)** Subsection (i) of this section becomes effective
10 January 1, 2006. Subsections (c) and (d) of this section become effective July 1, 2007,
11 except that the Division may conduct inspections more frequently than annually prior to
12 July 1, 2007, as funds and personnel permit. The remainder of this section becomes
13 effective July 1, 2005.

14
15 Requested by: Representative Earle

16 **VALIDATE CERTAIN CERTIFICATES OF NEED**

17 **SECTION 10.40B.** Notwithstanding the requirements of Chapter 150B and
18 Article 9 of Chapter 131E of the General Statutes, and notwithstanding any past
19 compliance or failure to comply with those requirements, a certificate of need issued by
20 the Department of Health and Human Services for the development of a health care
21 facility that has been completed and licensed prior to the effective date of this act is
22 hereby validated.

23
24 Requested by: Representatives Insko, Barnhart

25 **USE OF UNLICENSED HEALTH CARE PERSONNEL TO PERFORM**
26 **TECHNICAL ASPECTS OF MEDICATION ADMINISTRATION IN NURSING**
27 **HOMES**

28 **SECTION 10.40C.(a)** Article 6 of Chapter 131E of the General Statutes is
29 amended by adding the following new section to read:

30 "**§ 131E-114.2. Use of unlicensed health care personnel to perform technical**
31 **aspects of medication administration.**

32 (a) Facilities licensed and medication administration services provided under this
33 Part may utilize unlicensed health care personnel to perform the technical aspects of
34 medication administration consistent with G.S. 90-171.20(7) and (8), and
35 G.S. 90-171.43.

36 (b) The Commission shall adopt rules to implement this section. Rules adopted
37 by the Commission shall include:

38 (1) Training and competency evaluation of medication aides as provided
39 for under this section.

40 (2) Requirements for listing under the Medication Aide Registry as
41 provided for under G.S. 131E-271.

42 (3) Requirements for supervision of medication aides by licensed health
43 professionals or appropriately qualified supervisory personnel
44 consistent with this Part."

45 **SECTION 10.40C.(b)** Article 9C of Chapter 90 of the General Statutes is
46 amended by adding the following new section to read:

47 "**§ 90-171.56. Medication aide requirements.**

48 The Board of Nursing shall do the following:

49 (1) Establish standards for faculty requirements for medication aide
50 training; and

51 (2) Provide ongoing review and evaluation, and recommend changes, for
52 faculty and medication aide training requirements to support safe

1 medication administration and improve client, resident, and patient
2 outcomes."

3 **SECTION 10.40C.(c)** Article 16 of Chapter 131E of the General Statutes is
4 amended by adding the following new section to read:

5 **"§ 131E-270. Medication Aide Registry.**

6 (a) The Department shall establish and maintain a Medication Aide Registry
7 containing the names of all health care personnel in North Carolina who have
8 successfully completed a medication aide training program that has been approved by
9 the North Carolina Board of Nursing and successfully passed a State-administered
10 medication aide competency exam."

11 **SECTION 10.40C.(d)** This section becomes effective October 1, 2005. The
12 North Carolina Board of Nursing and the Department of Health and Human Services
13 shall report on the implementation of this act to the House of Representatives
14 Appropriations Subcommittee on Health and Human Services, the Senate
15 Appropriations Committee on Health and Human Services, and the Fiscal Research
16 Division not later than March 1, 2006, and annually thereafter.

17
18 Requested by: Representative Wright

19 **DHHS AND COMMUNITY COLLEGES STUDY USE OF MEDICATION**
20 **AIDES TO PERFORM TECHNICAL ASPECTS OF MEDICATION**
21 **ADMINISTRATION**

22 **SECTION 10.40D.(a)** The Secretary of Health and Human Services and the
23 President of the Community Colleges System shall jointly convene a study group to
24 review and consider the use of medication aides to perform the technical aspects of
25 medication administration. The study group shall consist of members representing at
26 least the following entities and licensed health care facilities and providers:

- 27 (1) Appointed by the Secretary of Health and Human Services:
28 a. Adult care homes.
29 b. Home care agencies.
30 c. Ambulatory surgical centers.
31 d. Hospitals.
32 e. Facilities providing mental health, developmental disabilities,
33 and substance abuse services.
34 f. Nursing homes.
35 g. The nursing profession, as recommended by the Board of
36 Nursing.
- 37 (2) Community colleges appointed by the President of the Community
38 Colleges System.
- 39 (3) The Secretary of the Department of Correction.
- 40 (4) Others as may be appointed by the Secretary of Health and Human
41 Services or the President of the Community Colleges System.

42 **SECTION 10.40D.(b)** The study group shall address at least the following
43 in its study and its recommendations regarding medication aide performance of the
44 technical aspects of medication administration:

- 45 (1) Training and competency evaluation of medication aides;
46 (2) Training standards;
47 (3) Ongoing review and evaluation of medication aide training; and
48 (4) Requirements for supervision of medication aides.

49 **SECTION 10.40D.(c)** The Secretary of Health and Human Services and the
50 President of the Community Colleges System shall report the progress and
51 recommendations of the study group to the 2006 Regular Session of the 2005 General
52 Assembly upon its convening, and the 2007 General Assembly upon its convening.
53 Recommendations to the 2006 Regular Session of the 2005 General Assembly may

1 include proposed legislation. A copy of the report shall be provided to the House of
 2 Representatives Appropriations Subcommittee on Health and Human Services, the
 3 Senate Appropriations Committee on Health and Human Services, and the Fiscal
 4 Research Division at the same time as the report is submitted to the General Assembly.

5 **SECTION 10.40D.(d)** The Department of Health and Human Services shall
 6 continue its pilot program on the use of medication aides and shall report on the status
 7 of the pilot programs at the same time and to the same persons as the study group report
 8 to the General Assembly.

9 **SECTION 10.40D.(f)** G.S. 115C-47 is amended by adding the following
 10 new subdivision to read:

11 "**§ 115C-47. Powers and duties generally.**

12 In addition to the powers and duties designated in G.S. 115C-36, local boards of
 13 education shall have the power or duty:

14 ..
 15 (45) At the discretion of the board, to adopt policies and procedures
 16 authorizing schools that operate programs under G.S. 115C-307(c) to
 17 utilize unlicensed health care personnel to perform the technical
 18 aspects of medication administration to students. If adopted, the
 19 policies and procedures shall be consistent with the requirements of
 20 Article 9A of Chapter 90 of the General Statutes and shall include the
 21 following:

- 22 a. Training and competency evaluation of medication aides as
 23 provided for under G.S. 131E-270.
 24 b. Requirements for listing under the Medication Aide Registry as
 25 provided for under G.S. 131E-271.
 26 c. Requirements for supervision of medication aides by licensed
 27 health professionals or appropriately qualified supervisory
 28 personnel consistent with Articles 5, 6, 10, and 16 of Chapter
 29 131E of the General Statutes."
 30

31 Requested by: Representatives Insko, Barnhart

32 **SOCIAL SERVICES COMMISSION TECHNICAL CORRECTION**

33 **SECTION 10.42.** G.S. 108A-14(a)(8) reads as rewritten:

34 "**§ 108A-14. Duties and responsibilities.**

35 (a) The director of social services shall have the following duties and
 36 responsibilities:

- 37 ..
 38 (8) To supervise adult care homes under the rules and regulations of the
 39 ~~Social Services~~Medical Care Commission;
 40"
 41

42 Requested by: Representatives Insko, Barnhart

43 **CHILD SUPPORT PROGRAM/ENHANCED STANDARDS**

44 **SECTION 10.43.(a)** The Department of Health and Human Services shall
 45 develop and implement performance standards for each of the State and county child
 46 support enforcement offices across the State. To develop these performance standards,
 47 the Department of Health and Human Services shall evaluate other private and public
 48 child support models and national standards as well as other successful collections
 49 models. These performance standards shall include the following:

- 50 (1) Cost per collections.
 51 (2) Consumer satisfaction.
 52 (3) Paternity establishments.
 53 (4) Administrative costs.

- 1 (5) Orders established.
- 2 (6) Collections on arrearages.
- 3 (7) Location of absent parents.
- 4 (8) Other related performance measures.

5 The Department of Health and Human Services shall monitor the
6 performance of each office and shall implement a system of reporting that allows each
7 local office to review its performance as well as the performance of other local offices.
8 The Department of Health and Human Services shall publish an annual performance
9 report that shall include the statewide and local office performance of each child support
10 office.

11 **SECTION 10.43.(b)** The Department of Health and Human Services shall
12 report on its progress, in compliance with this section, to the Senate Appropriations
13 Committee on Health and Human Services, the House of Representatives
14 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research
15 Division by May 1, 2006.

16
17 Requested by: Representatives Insko, Barnhart

18 **MULTIPLE RESPONSE SYSTEM**

19 **SECTION 10.45.(a)** The Department of Health and Human Services,
20 Division of Social Services, shall continue working with local departments of social
21 services to implement a multiple response system of child protection. Local departments
22 of social services shall continue systems already in place. The multiple response system
23 shall provide a family-centered approach to child protective services in which local
24 departments of social services use family assessment tools and family support principles
25 when responding to selected reports of suspected child abuse, neglect, and dependency,
26 including establishing a system of care with child and family teams.

27 **SECTION 10.45.(b)** The Department of Health and Human Services shall
28 expand this project using both State appropriations and any non-State funding sources
29 that can be identified for this purpose. Funds appropriated in this act to the Department
30 for this purpose may be allocated to counties for multiple response system
31 implementation, and counties may use these funds and other resources available for this
32 purpose.

33
34 Requested by: Representatives Insko, Barnhart

35 **FOSTER CARE AND ADOPTION ASSISTANCE PAYMENTS**

36 **SECTION 10.46.(a)** The maximum rates for State participation in the foster
37 care assistance program are established on a graduated scale as follows:

- 38 (1) \$390.00 per child per month for children aged birth through 5;
- 39 (2) \$440.00 per child per month for children aged 6 through 12; and
- 40 (3) \$490.00 per child per month for children aged 13 through 18.

41 Of these amounts, fifteen dollars (\$15.00) is a special needs allowance for the
42 child.

43 **SECTION 10.46.(b)** The maximum rates for State participation in the
44 adoption assistance program are established on a graduated scale as follows:

- 45 (1) \$390.00 per child per month for children aged birth through 5;
- 46 (2) \$440.00 per child per month for children aged 6 through 12; and
- 47 (3) \$490.00 per child per month for children aged 13 through 18.

48 **SECTION 10.46.(c)** In addition to providing board payments to foster and
49 adoptive families of HIV-infected children, as prescribed in Section 23.28 of Chapter
50 324 of the 1995 Session Laws, any additional funds remaining that were appropriated
51 for this purpose shall be used to provide medical training in avoiding HIV transmission
52 in the home.

1 **SECTION 10.46.(d)** The maximum rates for the State participation in HIV
2 foster care and adoption assistance are established on a graduated scale as follows:

- 3 (1) \$800.00 per child per month with indeterminate HIV status;
- 4 (2) \$1,000 per child per month confirmed HIV-infected, asymptomatic;
- 5 (3) \$1,200 per child per month confirmed HIV-infected, symptomatic; and
- 6 (4) \$1,600 per child per month terminally ill with complex care needs.

7
8 Requested by: Representatives Insko, Barnhart

9 **CHILD CARING INSTITUTIONS**

10 **SECTION 10.47.(a)** The Office of the State Auditor shall conduct an audit
11 to evaluate overhead rates and reimbursements for child caring institutions receiving
12 State funding. Of the funds appropriated to the Department of Health and Human
13 Services, Office of the Controller, the sum of one hundred fifty thousand dollars
14 (\$150,000) shall be transferred to the State Auditor to conduct the audit. The audit shall
15 include the following:

- 16 (1) A detailed evaluation of each child caring institution's cost allocation
17 processes.
- 18 (2) A determination of whether the allocated costs are consistent in
19 different agencies.
- 20 (3) A determination of the basis used for cost allocation by each agency.
- 21 (4) The methodology used to assign direct and indirect costs to specific
22 child caring institution programs.
- 23 (5) A determination of whether the overhead charged is reasonable for that
24 specific type of nonprofit, based on national surveys.
- 25 (6) A determination of how agency utilization rates impact the child
26 caring institutions' cost allocation and subsequent State
27 reimbursements.
- 28 (7) An examination of rate-setting methodologies used by other states and
29 how North Carolina's payment to child caring institutions compare to
30 other states.
- 31 (8) Recommendations on how to develop equitable, reasonable rates.
- 32 (9) An examination of the feasibility of providing child caring institutions
33 with the opportunity to compete based on providing the best service at
34 least cost.

35 The Office of the State Auditor shall report to the Senate Appropriations
36 Committee on Health and Human Services, the House of Representatives
37 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research
38 Division no later than March 1, 2006. The written report shall include copies of working
39 papers developed during the course of the audit.

40 **SECTION 10.47.(b)** The Department of Health and Human Services shall
41 establish standardized rates for child caring institutions in this State. These rates shall be
42 effective January 1, 2006, and shall be updated annually on July 1. Rate-setting
43 recommendations provided by the Office of the State Auditor shall be incorporated into
44 the Department of Social Services rate-setting methodology.

45 **SECTION 10.47.(c)** Until standardized rates are set, child caring
46 institutions' maximum reimbursement shall not exceed the rate established for the
47 specific child caring institution by the Department of Health and Human Services Office
48 of the Controller. In determining the maximum reimbursement, counties shall include
49 county and IV-E reimbursements.

50 **SECTION 10.47.(d)** Minimum reimbursement for foster parents providing
51 services through child caring institutions shall not be lower than the rates established by
52 the General Assembly.
53

1 Requested by: Representatives Insko, Barnhart

2 **SPECIAL CHILDREN ADOPTION FUND**

3 **SECTION 10.48.(a)** Of the funds appropriated to the Department of Health
4 and Human Services in this act, the sum of one hundred thousand dollars (\$100,000)
5 shall be used to support the Special Children Adoption Fund for the 2005-2006 fiscal
6 year. The Division of Social Services, in consultation with the North Carolina
7 Association of County Directors of Social Services and representatives of licensed
8 private adoption agencies, shall develop guidelines for the awarding of funds to licensed
9 public and private adoption agencies upon the adoption of children described in
10 G.S. 108A-50 and in foster care. Payments received from the Special Children Adoption
11 Fund by participating agencies shall be used exclusively to enhance the adoption
12 services. No local match shall be required as a condition for receipt of these funds. In
13 accordance with State rules for allowable costs, the Special Children Adoption Fund
14 may be used for post-adoption services for families whose income exceeds two hundred
15 percent (200%) of the federal poverty level.

16 **SECTION 10.48.(b)** Of the total funds appropriated for the Special Children
17 Adoption Fund each year, twenty percent (20%) of the total funds available shall be
18 reserved for payment to participating private adoption agencies. If the funds reserved in
19 this subsection for payments to private agencies have not been spent on or before March
20 31, 2006, the Division of Social Services may reallocate those funds, in accordance with
21 this section, to other participating adoption agencies.

22 **SECTION 10.48.(c)** The Division of Social Services shall monitor the total
23 expenditures in the Special Children Adoption Fund and redistribute unspent funds to
24 ensure that the funds are used according to the guidelines established in subsection (a)
25 of this section. The Division shall implement strategies to ensure that funds that have
26 historically reverted for this program are used for the intended purpose. The Division
27 shall report to the House of Representatives Appropriations Subcommittee on Health
28 and Human Services, the Senate Appropriations Committee on Health and Human
29 Services, and the Fiscal Research Division on the expenditures and activities of the
30 program no later than December 1, 2005, and June 30, 2006.

31
32 Requested by: Representatives Insko, Barnhart

33 **STUDY TO IDENTIFY ADOPTION INCENTIVES FOR CHILDREN WHO**
34 **ARE DIFFICULT TO PLACE**

35 **SECTION 10.49.** The Department of Health and Human Services shall
36 conduct a study to identify potential incentives for adoption of children who are difficult
37 to place and the associated costs for each incentive. The study shall identify incentives
38 currently in place in individual counties and the associated costs. The study shall
39 identify funding sources available to support each incentive. The Department shall
40 report the results of its study to the Senate Appropriations Committee on Health and
41 Human Services, the House of Representatives Appropriations Subcommittee on Health
42 and Human Services, and the Fiscal Research Division no later than October 1, 2005.

43
44 Requested by: Representatives Insko, Barnhart

45 **LIMITATION ON STATE ABORTION FUND**

46 **SECTION 10.50.** The limitations on funding of the performance of abortion
47 established in Section 23.27 of Chapter 324 of the 1995 Session Laws, as amended by
48 Section 23.8A of Chapter 507 of the 1995 Session Laws, apply to the 2005-2006 and
49 2006-2007 fiscal years.

50
51 Requested by: Representatives Insko, Barnhart

52 **TANF BENEFIT IMPLEMENTATION**

1 **SECTION 10.51.(a)** The General Assembly approves the plan titled "North
2 Carolina Temporary Assistance for Needy Families State Plan FY 2005-2007", prepared
3 by the Department of Health and Human Services and presented to the General
4 Assembly as revised in accordance with subsection (b) of this section, except that the
5 provision contained in the approved North Carolina Temporary Assistance for Needy
6 Families State Plan FY 2005-2007 eliminating pay-after-performance as a benefit
7 delivery method for two-parent families will only be implemented if the federal
8 two-parent work participation rate is eliminated. The North Carolina Temporary
9 Assistance for Needy Families State Plan covers the period October 1, 2005, through
10 September 30, 2007. The Department shall submit the State Plan, as revised in
11 accordance with subsection (b) of this section, to the United States Department of
12 Health and Human Services, as amended by this act or any other act of the 2005
13 General Assembly.

14 **SECTION 10.51.(b)** The counties approved as Electing Counties in North
15 Carolina's Temporary Assistance for Needy Families State Plan FY 2005-2007 as
16 approved by this section are: Beaufort, Caldwell, Catawba, Iredell, Lenoir, Lincoln,
17 Macon, McDowell, Sampson, and Stokes.

18 **SECTION 10.51.(c)** Counties that submitted the letter of intent to remain as
19 an Electing County or to be redesignated as an Electing County and the accompanying
20 county plan for fiscal years 2005 through 2007, pursuant to G.S. 108A-27(e), shall
21 operate under the Electing County budget requirements effective July 1, 2005. For
22 programmatic purposes, all counties referred to in this subsection shall remain under
23 their current county designation through September 30, 2005.

24
25 Requested by: Representatives Insko, Barnhart

26 **INTENSIVE FAMILY PRESERVATION SERVICES FUNDING AND**
27 **PERFORMANCE ENHANCEMENTS**

28 **SECTION 10.51A.(a)** Notwithstanding the provisions of G.S. 143B-150.6,
29 the Intensive Family Preservation Services (IFPS) Program shall provide intensive
30 services to children and families in cases of abuse, neglect, and dependency where a
31 child is at imminent risk of removal from the home and to children and families in cases
32 of abuse where a child is not at imminent risk of removal. The Program shall be
33 developed and implemented statewide on a regional basis. The IFPS shall ensure the
34 application of standardized assessment criteria for determining imminent risk and clear
35 criteria for determining out-of-home placement.

36 **SECTION 10.51A.(b)** The Department of Health and Human Services shall
37 require that any program or entity that receives State, federal, or other funding for the
38 purpose of Intensive Family Preservation Services shall provide information and data
39 that allows for:

- 40 (1) An established follow-up system with a minimum of six months of
41 follow-up services.
- 42 (2) Detailed information on the specific interventions applied including
43 utilization indicators and performance measurement.
- 44 (3) Cost-benefit data.
- 45 (4) Data on long-term benefits associated with Intensive Family
46 Preservation Services. This data shall be obtained by tracking families
47 through the intervention process.
- 48 (5) The number of families remaining intact and the associated
49 interventions while in IFPS and 12 months thereafter.
- 50 (6) The number and percentage by race of children who received Intensive
51 Family Preservation Services compared to the ratio of their distribution
52 in the general population involved with Child Protective Services.

1 **SECTION 10.51A.(c)** The Department shall establish performance-based
2 funding protocol and shall only provide funding to those programs and entities
3 providing the required information specified in subsection (b) of this section. The
4 amount of funding shall be based on the individual performance of each program.

5 **SECTION 10.51A.(d)** The Department shall report on the implementation
6 of this section not later than February 1, 2006, to the House of Representatives
7 Appropriations Subcommittee on Health and Human Services, the Senate
8 Appropriations Committee on Health and Human Services, and the Fiscal Research
9 Division.

10
11 Requested by: Representatives Insko, Barnhart

12 **RESIDENTIAL SCHOOLS REPORTING**

13 **SECTION 10.52.** The Office of Education Services shall report not later
14 than December 1, 2005, to the Senate Appropriations Committee on Health and Human
15 Services, the House of Representatives Appropriations Subcommittee on Health and
16 Human Services, and the Fiscal Research Division on the activities of the Eastern North
17 Carolina School for the Deaf at Wilson, the North Carolina School for the Deaf at
18 Morganton, and the Governor Morehead School for the Blind. The report shall include
19 enrollment numbers at the schools, the budgets, and the academic status of the schools
20 as defined under the ABCs program.

21
22 Requested by: Representatives Insko, Barnhart

23 **FUNDS FOR SCHOOL NURSES**

24 **SECTION 10.53.** Of the funds appropriated in this act to the Department of
25 Health and Human Services, the sum of one million five hundred thousand dollars
26 (\$1,500,000) for the 2005-2006 fiscal year and the sum of one million five hundred
27 thousand dollars (\$1,500,000) for the 2006-2007 fiscal year shall be used for the school
28 nurse funding initiative. The Department of Health and Human Services, Division of
29 Public Health, in conjunction with the Department of Public Instruction, shall provide
30 funds to communities to hire school nurses. The program will fund 30 permanent local
31 nurses. The criteria shall include determining the areas in greatest need for school
32 nurses with the greatest inability to pay for these nurses. Other criteria to be considered
33 shall include: (i) the current nurse-to-student ratio; (ii) the economic status of the
34 community; and (iii) the health needs of area children. The Department of Health and
35 Human Services and the Department of Public Instruction shall review the
36 responsibilities of school nurses and consider substituting licensed practical nurses for
37 registered nurses, as licensure and certification requirements permit, as a way to fund
38 additional nurses beyond the 30 nurses funded under this section.

39 There shall be no supplanting of local, State, or federal funds with these
40 funds. Communities shall maintain their current level of effort and funding for school
41 nurses. These funds shall not be used for funding nurses for State agencies. All funding
42 shall be used for direct services.

43 The Department of Health and Human Services shall report on the use of
44 funds allocated under this section by December 1, 2005, to the Senate Appropriations
45 Committee on Health and Human Services, the House of Representatives
46 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research
47 Division.

48
49 Requested by: Representatives Insko, Barnhart

50 **EARLY INTERVENTION REPORTING AND EVALUATION**

51 **SECTION 10.54.(a)** The Department of Health and Human Services,
52 Division of Public Health, shall report on Early Intervention services. The report shall
53 include the number of children served, the number and types of services and evaluations

1 provided, and the budget for each Children's Developmental Services Agency. In
2 addition, the Division of Public Health shall evaluate its Early Intervention Program
3 provider network, including provider certification and continuing education
4 requirements.

5 **SECTION 10.54.(b)** The Department of Health and Human Services shall
6 analyze the reimbursement rates for Early Intervention services, and may adjust rates
7 according to the findings of the analysis.

8 **SECTION 10.54.(c)** The Division of Public Health shall analyze the
9 program funding for the Children with Special Needs Program and shall develop a plan
10 to utilize these funds within the Early Intervention Program. The Division shall report
11 its findings and recommendations to the Senate Appropriations Committee on Health
12 and Human Services, the House of Representatives Appropriations Subcommittee on
13 Health and Human Services, and the Fiscal Research Division not later than December
14 1, 2005.

15
16 Requested by: Representatives Insko, Barnhart

17 **EARLY INTERVENTION PROGRAM RULES ADOPTED BY COMMISSION**
18 **FOR HEALTH SERVICES**

19 **SECTION 10.54A.** Part 1 of Article 5 of Chapter 130A of the General
20 Statutes is amended by adding the following new section to read:

21 "**§ 130A-126. Rule-making authority for birth – three-year-old early intervention**
22 **program.**

23 The rule-making authority for the birth – three-year-old early intervention program
24 through Part C of the Individuals with Disabilities Act (IDEA) is transferred from the
25 Commission for Mental Health, Developmental Disabilities, and Substance Abuse
26 Services to the Commission for Health Services."

27
28 Requested by: Representatives Insko, Barnhart

29 **CHILDREN'S DEVELOPMENTAL SERVICES AGENCY OF THE SMOKIES**

30 **SECTION 10.54B.** Western Carolina University shall continue to operate
31 the Children's Developmental Services Agency of the Smokies.

32
33 Requested by: Representatives Insko, Barnhart

34 **CHRONIC DISEASE PREVENTION ACTIVITIES INVENTORY**

35 **SECTION 10.56.** In order to reduce costs and eliminate duplication of
36 effort, the Department of Health and Human Services shall create an inventory of all
37 chronic disease prevention activities, funding, staffing, and other resources for these
38 activities, including funding and resources for related task forces and committees. The
39 inventory shall include at a minimum, heart disease, stroke, diabetes, osteoporosis, and
40 cancer. The Department shall create a plan to combine task forces and activities for
41 chronic disease prevention and shall explore collapsing these task forces and
42 committees into the Healthy Carolinians structure. The Department shall report on the
43 inventory and the Department's recommendations not later than February 1, 2006, to the
44 Senate Appropriations Committee on Health and Human Services, the House of
45 Representatives Appropriations Subcommittee on Health and Human Services, and the
46 Fiscal Research Division.

47
48 Requested by: Representatives Insko, Barnhart

49 **PILOT PROGRAM FOR AUTOMATIC EXTERNAL DEFIBRILLATORS IN**
50 **PUBLIC BUILDINGS**

51 **SECTION 10.57.(a)** The Department of Health and Human Services,
52 Division of Public Health, shall develop a pilot program to place Automated External
53 Defibrillators (AED) in public buildings, including public gymnasiums, that do not have

1 an operational AED in place. In selecting pilot sites, the Department shall ensure
2 geographic representation of the State.

3 **SECTION 10.57.(b)** Of the funds appropriated in this act to the Department
4 of Health and Human Services, the sum of seventeen thousand dollars (\$17,000) for the
5 2005-2006 fiscal year, and the sum of six thousand dollars (\$6,000) for the 2006-2007
6 fiscal year shall be used to purchase AED units, conduct on-site training at the pilot
7 sites, and conduct ongoing education and awareness campaigns to the general public in
8 the piloted sites. The Department shall ensure that training in the use of an AED shall be
9 conducted in accordance with G.S. 90-21.15(b)(3). The Heart Disease and Stroke
10 Prevention Branch of the Division of Public Health shall be responsible for the purchase
11 of AEDs, the training of pilot program participants, and evaluation of the pilot program.

12 **SECTION 10.57.(c)** The Department of Health and Human Services shall
13 report on the location, establishment, and implementation of the pilot sites to the Senate
14 Appropriations Committee on Health and Human Services, the House of
15 Representatives Appropriations Subcommittee on Health and Human Services, and the
16 Fiscal Research Division on or before March 1, 2006.

17
18 Requested by: Representatives Insko, Barnhart

19 **IMMUNIZATION PROGRAM FUNDING**

20 **SECTION 10.58.(a)** Of the funds appropriated in this act to the Department
21 of Health and Human Services for childhood immunization programs for positions,
22 operating support, equipment, and pharmaceuticals, the sum of one million dollars
23 (\$1,000,000) for the 2005-2006 fiscal year and the sum of one million dollars
24 (\$1,000,000) for the 2006-2007 fiscal year may be used for projects and activities that
25 are also designed to increase childhood immunization rates in North Carolina. These
26 projects and activities shall include the following:

- 27 (1) Outreach efforts at the State and local levels to improve service
28 delivery of vaccines. Outreach efforts may include educational
29 seminars, media advertising, support services to parents to enable
30 children to be transported to clinics, longer operating hours for clinics,
31 and mobile vaccine units.
- 32 (2) Continued development of an automated immunization registry.

33 **SECTION 10.58.(b)** Funds authorized to be used for immunization efforts
34 under subsection (a) of this section shall not be used to fund additional State positions in
35 the Department of Health and Human Services or contracts, except for contracts to
36 develop an automated immunization registry or contracts with local health departments
37 for outreach.

38
39 Requested by: Representatives Insko, Barnhart

40 **AIDS DRUG ASSISTANCE PROGRAM**

41 **SECTION 10.59.(a)** For the 2005-2006 fiscal year and for the 2006-2007
42 fiscal year, HIV-positive individuals with incomes at or below one hundred twenty-five
43 percent (125%) of the federal poverty level are eligible for participation in ADAP.
44 Eligibility for participation in ADAP during the 2005-2007 fiscal biennium shall not be
45 extended to individuals with incomes above one hundred twenty-five percent (125%) of
46 the federal poverty level.

47 **SECTION 10.59.(b)** The Department of Health and Human Services shall
48 make an interim report on ADAP program utilization by January 1, 2006, and a final
49 report on ADAP program utilization by May 1, 2006, to the Senate Appropriations
50 Committee on Health and Human Services, the House of Representatives
51 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research
52 Division on ADAP. The reports shall include ADAP program utilization as follows:

- 1 (1) Monthly data on total cumulative AIDS/HIV cases reported in North
2 Carolina.
- 3 (2) Monthly data on the number of individuals who have applied to
4 participate in ADAP that have been determined to be ineligible.
- 5 (3) Monthly data on the income level of participants in ADAP and of
6 individuals who have applied to participate in ADAP who have been
7 determined to be ineligible.
- 8 (4) Monthly data on fiscal year-to-date expenditures of ADAP. The
9 interim report shall contain monthly data on the calendar year-to-date
10 expenditures of ADAP.
- 11 (5) An update on the status of the information management system.
- 12 (6) Monthly data on ADAP usage patterns and demographics of
13 participants in ADAP.
- 14 (7) Fiscal year-to-date budget information.
- 15 (8) The status of the new system of management for ADAP, the costs
16 savings realized from the new system, and recommendations for
17 improving the system.
- 18

19 Requested by: Representatives Insko, Barnhart

20 **HEALTH INFORMATION SYSTEMS DEVELOPMENT FUNDS**

21 **SECTION 10.59A.(a)** The sum of four million sixty-five thousand four
22 hundred sixty-nine dollars (\$4,065,469) is appropriated from Budget Code 24430, Fund
23 Code 2117, to the Department of Health and Human Services, Division of Public
24 Health, for the 2005-2006 fiscal year. These funds shall be used for the development
25 and implementation of the Health Information Systems (HIS), an initiative that will
26 provide an automated means of capturing, monitoring, reporting, and billing services
27 provided in local health departments, CDSAs, and the State Public Health Lab. The
28 HIS will allow for interfaces to local health departments' own vendor systems and is
29 intended to replace the outdated Health Services Information System.

30 **SECTION 10.59A.(b)** The Department of Health and Human Services,
31 Division of Public Health, shall report on the use of these funds to the House of
32 Representatives Appropriations Subcommittee on Health and Human Services, the
33 Senate Appropriations Committee on Health and Human Services, and the Fiscal
34 Research Division not later than March 1, 2006.

35
36 Requested by: Representatives Insko, Barnhart

37 **FUNDS FOR PILOT PROGRAM TO RECRUIT MINORITY STUDENTS INTO**
38 **PHARMACY SCHOOLS**

39 **SECTION 10.59B.** Of the funds appropriated in this act to the Department
40 of Health and Human Services, Division of Public Health, the sum of three hundred
41 thousand dollars (\$300,000) for the 2005-2006 fiscal year shall be used to develop a
42 pilot program for the recruitment of minority students into pharmacy schools. The pilot
43 program shall include all pharmacy schools willing to participate as well as community
44 colleges with equipment and incentives for students that might be pharmacy school
45 candidates. The Department shall report on the progress of the pilot program to the
46 House of Representatives Appropriations Subcommittee on Health and Human
47 Services, the Senate Appropriations Committee on Health and Human Services, and the
48 Fiscal Research Division not later than March 1, 2006.

49
50 Requested by: Representatives Insko, Barnhart

51 **HEALTH-RELATED INITIATIVES FUNDS**

52 **SECTION 10.59C.** The sum of sixty-eight million dollars (\$68,000,000) is
53 appropriated from Budget Code 23460, Fund Code 2120, to the Health and Wellness

1 Trust Fund for the 2005-2006 fiscal year for the purpose of health-related initiatives as
2 approved by the Health and Wellness Trust Fund Commission, other projects allowed
3 by G.S. 147-86.30, and line items allowed under G.S. 143-23.

4
5 Requested by: Representative Insko

6 **PUBLIC HEALTH INCUBATORS**

7 **SECTION 10.59D.** Of the funds appropriated in this act to the Department
8 of Health and Human Services, Division of Public Health, the sum of one million
9 dollars (\$1,000,000) shall be used to fund new public health incubators. These funds
10 shall be administered by the Division of Public Health through contracts. Not more
11 than eight percent (8%) of the funds authorized under this section may be used for
12 program support and administration. Not later than December 1, 2005, the Division of
13 Public Health shall report on the specific use of these funds. The report shall be
14 submitted to the House of Representatives Appropriations Subcommittee on Health and
15 Human Services, the Senate Appropriations Committee on Health and Human Services,
16 and the Fiscal Research Division.

17
18 Requested by: Representative Wright

19 **COMMUNITY-FOCUSED ELIMINATING HEALTH DISPARITIES**
20 **INITIATIVE**

21 **SECTION 10.59E.** Of funds appropriated in this act to the Department of
22 Health and Human Services for the 2005-2006 fiscal year, the sum of five million
23 dollars (\$5,000,000) shall be allocated for the Community-Focused Eliminating Health
24 Disparities Initiative (CFEHDI) to build capacity of faith-based and community-based
25 organizations to close the gap in the health status of African-Americans,
26 Hispanics/Latinos, and American Indians as compared to white persons. The areas of
27 focus on health status shall be infant mortality, HIV-AIDS and sexually transmitted
28 infections, cancer, diabetes, and homicides and motor vehicle deaths. These funds shall
29 also be used to support one FTE in the Department of Health and Human Services to
30 monitor, track, and evaluate grantees' progress in meeting performance-based standards
31 and outcomes established by the Department.

32
33 Requested by: Representative

34 **GOVERNOR'S VISION CARE PROGRAM ESTABLISHED**

35 **SECTION 10.59F.(a)** Program established. – There is established in the
36 Department of Health and Human Services, Division of Public Health, The Governor's
37 Vision Care Program. The purpose of the Program is to provide funds for early
38 detection and correction of vision problems in children enrolled in grades K through 3
39 who are eligible for services under the Program. These funds shall be allocated to
40 reimburse optometrists and ophthalmologists licensed to practice in this State for the
41 comprehensive eye examination, including necessary spectacles, provided to meet the
42 requirements of G.S. 130A-440.1.

43 **SECTION 10.59F.(b)** Eligibility. – Children eligible for services under this
44 section shall be those with a family income not exceeding two hundred fifty percent
45 (250%) of the federal poverty level, who do not have private health insurance coverage,
46 and are not eligible for services under NC Health Choice, Medicaid, the Department of
47 Health and Human Services' Commission for the Blind programs, VSP's Sight for
48 Students, or the Lions Club Foundation.

49 **SECTION 10.59F.(c)** For the purposes of this section, "comprehensive eye
50 examination" means a complete and thorough examination of the eye and human visual
51 system that includes an evaluation, determination, and diagnosis of:

- 52 (1) Visual acuity at distance and near;
53 (2) Alignment and ocular motility;

- 1 (3) Binocular fusion abnormalities including tracking;
- 2 (4) Actual refractive errors, including verification by subject means;
- 3 (5) Any color vision disorder;
- 4 (6) Intraocular pressure as may be medically appropriate; and
- 5 (7) Ocular health, including internal and external assessment.

6 Routine screening that does not encompass all of the examination
7 components listed in this subsection does not qualify for reimbursement from the
8 Program.

9 **SECTION 10.59F.(d)** Article 3 of Chapter 143B of the General Statutes is
10 amended by adding the following new Part to read:

11 "Part 34. Governor's Commission on Early Childhood Vision Care.

12 **"§ 143B-216.67. Governor's Commission on Early Childhood Vision Care.**

13 (a) There is established the Governor's Commission on Early Childhood Vision
14 Care ("Commission"). The Commission shall be located in the Department of Health
15 and Human Services for administrative and budgetary purposes only.

16 (b) The Commission shall consist of six members appointed as follows:

- 17 (1) Two optometrists and two ophthalmologists, each of whom is licensed
18 to practice in this State, appointed by the Governor;
- 19 (2) One optometrist licensed to practice in this State appointed by the
20 General Assembly upon the recommendation of the Speaker of the
21 House of Representatives; and
- 22 (3) One ophthalmologist licensed to practice in this State appointed by the
23 General Assembly upon the recommendation of the President Pro
24 Tempore of the Senate.

25 The initial members appointed by the General Assembly shall each serve a one-year
26 term. The initial members appointed by the Governor shall each serve a two-year term.
27 Subsequent appointments shall be for three-year terms. Vacancies shall be filled by the
28 original appointing authority.

29 (c) The Commission shall adopt rules to implement and administer the
30 Governor's Vision Care Program established under this section. The rules shall address:

- 31 (1) Accepting and processing of applications by families for Program
32 services.
- 33 (2) Verification of applicant income eligibility.
- 34 (3) Reimbursement to providers for services provided to eligible
35 participants.
- 36 (4) Informing providers and the general public about the Program.
- 37 (5) Other duties necessary to implement the purposes and requirements of
38 this section.

39 (d) Commission members who are officials or employees of the State or local
40 government agencies shall be paid per diem, subsistence, and travel expenses in
41 accordance with G.S. 138-6. All other Commission members shall be paid in
42 accordance with G.S. 138-5.

43 (e) The Governor shall appoint a Chair of the Commission. The Commission
44 shall meet upon the call of the Chair. A majority of the Commission members shall
45 constitute a quorum. The Department of Health and Human Services shall provide
46 meeting space and staff to assist the Commission."

47 **SECTION 10.59F.(e)** Funds appropriated in this act to the Reserve for
48 Governor's Vision Care Program shall be used to reimburse providers for
49 comprehensive eye examination services, including necessary spectacles, required under
50 this section.

51 **SECTION 10.59F.(f)** Not later than May 1, 2006, the Department of Health
52 and Human Services shall report to the House of Representatives Appropriations
53 Subcommittee on Health and Human Services, the Senate Appropriations Committee on

1 Health and Human Services, and the Fiscal Research Division on the implementation of
2 this section.

3 **SECTION 10.59F.(g)** Article 18 of Chapter 130A of the General Statutes is
4 amended by adding the following new section to read:

5 **"§ 130A-440.1. Comprehensive eye examination required.**

6 (a) Every child in this State entering kindergarten in the public schools shall
7 obtain a comprehensive eye examination not more than six months prior to the date of
8 school entry. The comprehensive eye examination shall be conducted by an optometrist
9 or ophthalmologist licensed to practice in this State. No child shall attend kindergarten
10 unless a comprehensive eye examination transmittal form, developed pursuant to
11 G.S. 130A-441, indicating that the child has received the comprehensive eye
12 examination required by this section is presented to the school principal. The
13 comprehensive eye examination shall consist of a complete and thorough examination
14 of the eye and human visual system that includes an evaluation, determination, and
15 diagnosis of:

16 (1) Visual acuity at distance and near;

17 (2) Alignment and ocular motility;

18 (3) Binocular fusion abnormalities including tracking;

19 (4) Actual refractive errors, including verification by subject means;

20 (5) Any color vision disorder;

21 (6) Intraocular pressure as may be medically appropriate; and

22 (7) Ocular health, including internal and external assessment.

23 Health assessment vision screening under G.S. 130A-440 does not meet the
24 requirements of this section.

25 (b) The comprehensive eye examination transmittal form shall contain a
26 summary of the comprehensive eye examination performed by the optometrist or
27 ophthalmologist. Any treatment recommendations by the optometrist or
28 ophthalmologist, such as spectacles for schoolwork, shall appear in the summary and
29 school health card.

30 (c) This section shall not apply to children entering kindergarten in private
31 church schools, schools of religious charter, or qualified nonpublic schools regulated by
32 Article 39 of Chapter 115C of the General Statutes.

33 (d) G.S. 130A-441, 130A-442, and 130A-443, pertaining to health assessments,
34 apply to comprehensive eye examinations required under this section."

35
36 Requested by: Representatives Clary, Wright

37 **LRC STUDY SCHOOL-BASED AND SCHOOL-LINKED HEALTH CENTERS**

38 **SECTION 10.59G.(a)** The Legislative Research Commission may study and
39 evaluate the number of school-based and school-linked health centers in providing
40 primary care, mental health, and other health care services to determine the centers'
41 impact on providing health care. In conducting the study, the Commission may consider
42 the following:

43 (1) The health centers' role in contributing to the health and well-being of
44 adolescents and in reducing the cost of health care.

45 (2) Adequacy of current funding and measures needed to sustain the
46 centers as part of the overall school health strategy to improve the
47 health of adolescents.

48 (3) The secured-care rate for students who have access to not only a
49 school nurse but also to a school-based or school-linked health center
50 and whether students receive care in a timely manner from appropriate
51 health care providers.

52 (4) Other matters related to the efficacy and efficiency of school-based
53 and school-linked health centers such that care provided enables

1 students to remain in class, be productive and attentive while in class,
2 and have fewer absences from school.

3 To assist in the study, the Commission may consult with such stakeholders as the North
4 Carolina Association of School-Based and School-Linked Health Centers, the North
5 Carolina Pediatric Society, the Adolescent Pregnancy Prevention Coalition of North
6 Carolina, the Department of Health and Human Services, Division of Public Health, and
7 other interested parties.

8 **SECTION 10.59G.(b)** The Legislative Research Commission may make an
9 interim report, including proposed legislation, to the 2006 Regular Session of the 2005
10 General Assembly and shall make its final report to the 2007 General Assembly upon its
11 convening.

12 **SECTION 10.59G.(c)** The Legislative Services Officer shall allocate funds
13 appropriated in this act to the General Assembly for the expenditures of the Legislative
14 Services Commission in conducting this study.

15
16 Requested by: Representatives Insko, Barnhart

17 **CHILD CARE FUNDS MATCHING REQUIREMENT**

18 **SECTION 10.60.** No local matching funds may be required by the
19 Department of Health and Human Services as a condition of any locality's receiving any
20 State child care funds appropriated by this act unless federal law requires a match. This
21 shall not prohibit any locality from spending local funds for child care services.

22
23 Requested by: Representatives Insko, Barnhart

24 **CHILD CARE ALLOCATION FORMULA**

25 **SECTION 10.61.(a)** The Department of Health and Human Services shall
26 allocate child care subsidy voucher funds to pay the costs of necessary child care for
27 minor children of needy families. The mandatory thirty percent (30%) Smart Start
28 subsidy allocation under G.S. 143B-168.15(g) shall constitute the base amount for each
29 county's child care subsidy allocation. The Department of Health and Human Services
30 shall use the following method when allocating federal and State child care funds, not
31 including the aggregate mandatory thirty percent (30%) Smart Start subsidy allocation:

32 (1) Funds shall be allocated based upon the projected cost of serving
33 children in a county under age 11 in families with all parents working
34 who earn less than seventy-five percent (75%) of the State median
35 income.

36 (2) No county's allocation shall be less than ninety percent (90%) of its
37 State fiscal year 2001-2002 initial child care subsidy allocation.

38 **SECTION 10.61.(b)** The Department of Health and Human Services may
39 reallocate unused child care subsidy voucher funds in order to meet the child care needs
40 of low-income families. Any reallocation of funds shall be based upon the expenditures
41 of all child care subsidy voucher funding, including Smart Start funds, within a county.

42 **SECTION 10.61.(c)** Notwithstanding subsection (a) of this section, the
43 Department of Health and Human Services shall allocate up to twenty-two million
44 dollars (\$22,000,000) in federal block grant funds and State funds appropriated for
45 fiscal years 2004-2005 and 2005-2006 for child care services. These funds shall be
46 allocated to prevent termination of child care services.

47
48 Requested by: Representatives Insko, Barnhart

49 **CHILD CARE SUBSIDY RATES**

50 **SECTION 10.62.(a)** The maximum gross annual income for initial
51 eligibility, adjusted biennially, for subsidized child care services shall be seventy-five
52 percent (75%) of the State median income, adjusted for family size.

1 **SECTION 10.62.(b)** Fees for families who are required to share in the cost
2 of care shall be established based on a percent of gross family income and adjusted for
3 family size. Fees shall be determined as follows:

FAMILY SIZE	PERCENT OF GROSS FAMILY INCOME
1-3	10%
4-5	9%
6 or more	8%.

8 **SECTION 10.62.(c)** Payments for the purchase of child care services for
9 low-income children shall be in accordance with the following requirements:

- 10 (1) Religious-sponsored child care facilities operating pursuant to
11 G.S. 110-106 and licensed child care centers and homes that meet the
12 minimum licensing standards that are participating in the subsidized
13 child care program shall be paid the one-star county market rate or the
14 rate they charge privately paying parents, whichever is lower.
- 15 (2) Licensed child care centers and homes with two or more stars shall
16 receive the market rate for that rated license level for that age group or
17 the rate they charge privately paying parents, whichever is lower.
- 18 (3) Nonlicensed homes shall receive fifty percent (50%) of the county
19 market rate or the rate they charge privately paying parents, whichever
20 is lower.
- 21 (4) Maximum payment rates shall also be calculated periodically by the
22 Division of Child Development and School Readiness for
23 transportation to and from child care provided by the child care
24 provider, individual transporter, or transportation agency, and for fees
25 charged by providers to parents. These payment rates shall be based
26 upon information collected by market rate surveys.

27 **SECTION 10.62.(d)** Provisions of payment rates for child care providers in
28 counties that do not have at least 50 children in each age group for center-based and
29 home-based care are as follows:

- 30 (1) Except as applicable in subdivision (2) of this subsection, payment
31 rates shall be set at the statewide or regional market rate for licensed
32 child care centers and homes.
- 33 (2) If it can be demonstrated that the application of the statewide or
34 regional market rate to a county with fewer than 50 children in each
35 age group is lower than the county market rate and would inhibit the
36 ability of the county to purchase child care for low-income children,
37 then the county market rate may be applied.

38 **SECTION 10.62.(e)** A market rate shall be calculated for child care centers
39 and homes at each rated license level for each county and for each age group or age
40 category of enrollees and shall be representative of fees charged to unsubsidized
41 privately paying parents for each age group of enrollees within the county. The Division
42 of Child Development and School Readiness shall also calculate a statewide rate and
43 regional market rates for each rated license level for each age category.

44 **SECTION 10.62.(f)** Facilities licensed pursuant to Article 7 of Chapter 110
45 of the General Statutes and facilities operated pursuant to G.S. 110-106 may participate
46 in the program that provides for the purchase of care in child care facilities for minor
47 children of needy families. No separate licensing requirements shall be used to select
48 facilities to participate. In addition, child care facilities shall be required to meet any
49 additional applicable requirements of federal law or regulations. Child care
50 arrangements exempt from State regulation pursuant to Article 7 of Chapter 110 of the
51 General Statutes shall meet the requirements established by other State law and by the
52 Social Services Commission.

1 County departments of social services or other local contracting agencies
2 shall not use a provider's failure to comply with requirements in addition to those
3 specified in this subsection as a condition for reducing the provider's subsidized child
4 care rate.

5 **SECTION 10.62.(g)** Payment for subsidized child care services provided
6 with Work First Block Grant funds shall comply with all regulations and policies issued
7 by the Division of Child Development and School Readiness for the subsidized child
8 care program.

9 **SECTION 10.62.(h)** Noncitizen families who reside in this State legally
10 shall be eligible for child care subsidies if all other conditions of eligibility are met. If
11 all other conditions of eligibility are met, noncitizen families who reside in this State
12 illegally shall be eligible for child care subsidies only if at least one of the following
13 conditions is met:

- 14 (1) The child for whom a child care subsidy is sought is receiving child
15 protective services or foster care services.
- 16 (2) The child for whom a child care subsidy is sought is developmentally
17 delayed or at risk of being developmentally delayed.
- 18 (3) The child for whom a child care subsidy is sought is a citizen of the
19 United States.

20
21 Requested by: Representatives Insko, Barnhart

22 **CHILD CARE REVOLVING LOAN**

23 **SECTION 10.63.** Notwithstanding any law to the contrary, funds budgeted
24 for the Child Care Revolving Loan Fund may be transferred to and invested by the
25 financial institution contracted to operate the Fund. The principal and any income to the
26 Fund may be used to make loans, reduce loan interest to borrowers, serve as collateral
27 for borrowers, pay the contractor's cost of operating the Fund, or pay the Department's
28 cost of administering the program.

29
30 Requested by: Representatives Insko, Barnhart

31 **EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES** 32 **ENHANCEMENTS**

33 **SECTION 10.64.(a)** Administrative costs shall be equivalent to, on an
34 average statewide basis for all local partnerships, not more than eight percent (8%) of
35 the total statewide allocation to all local partnerships. For purposes of this subsection,
36 administrative costs shall include costs associated with partnership oversight, business
37 and financial management, general accounting, human resources, budgeting,
38 purchasing, contracting, and information systems management.

39 **SECTION 10.64.(b)** The North Carolina Partnership for Children, Inc., and
40 all local partnerships shall use competitive bidding practices in contracting for goods
41 and services on contract amounts as follows:

- 42 (1) For amounts of five thousand dollars (\$5,000) or less, the procedures
43 specified by a written policy to be developed by the Board of Directors
44 of the North Carolina Partnership for Children, Inc.
- 45 (2) For amounts greater than five thousand dollars (\$5,000), but less than
46 fifteen thousand dollars (\$15,000), three written quotes.
- 47 (3) For amounts of fifteen thousand dollars (\$15,000) or more, but less
48 than forty thousand dollars (\$40,000), a request for proposal process.
- 49 (4) For amounts of forty thousand dollars (\$40,000) or more, a request for
50 proposal process and advertising in a major newspaper.

51 **SECTION 10.64.(c)** The North Carolina Partnership for Children, Inc., and
52 all local partnerships shall, in the aggregate, be required to match no less than fifty
53 percent (50%) of the total amount budgeted for the program in each fiscal year of the

1 biennium as follows: contributions of cash equal to at least fifteen percent (15%) and
2 in-kind donated resources equal to no more than five percent (5%) for a total match
3 requirement of twenty percent (20%) for each fiscal year. The North Carolina
4 Partnership for Children, Inc., may carry forward any amount in excess of the required
5 match for a fiscal year in order to meet the match requirement of the succeeding fiscal
6 year. Only in-kind contributions that are quantifiable shall be applied to the in-kind
7 match requirement. Volunteer services may be treated as an in-kind contribution for the
8 purpose of the match requirement of this subsection. Volunteer services that qualify as
9 professional services shall be valued at the fair market value of those services. All other
10 volunteer service hours shall be valued at the statewide average wage rate as calculated
11 from data compiled by the Employment Security Commission in the Employment and
12 Wages in North Carolina Annual Report for the most recent period for which data are
13 available. Expenses, including both those paid by cash and in-kind contributions,
14 incurred by other participating non-State entities contracting with the North Carolina
15 Partnership for Children, Inc., or the local partnerships, also may be considered
16 resources available to meet the required private match. In order to qualify to meet the
17 required private match, the expenses shall:

- 18 (1) Be verifiable from the contractor's records.
- 19 (2) If in-kind, other than volunteer services, be quantifiable in accordance
20 with generally accepted accounting principles for nonprofit
21 organizations.
- 22 (3) Not include expenses funded by State funds.
- 23 (4) Be supplemental to and not supplant preexisting resources for related
24 program activities.
- 25 (5) Be incurred as a direct result of the Early Childhood Initiatives
26 Program and be necessary and reasonable for the proper and efficient
27 accomplishment of the Program's objectives.
- 28 (6) Be otherwise allowable under federal or State law.
- 29 (7) Be required and described in the contractual agreements approved by
30 the North Carolina Partnership for Children, Inc., or the local
31 partnership.
- 32 (8) Be reported to the North Carolina Partnership for Children, Inc., or the
33 local partnership by the contractor in the same manner as reimbursable
34 expenses.

35 Failure to obtain a twenty percent (20%) match by June 30 of each fiscal year
36 shall result in a dollar-for-dollar reduction in the appropriation for the Program for a
37 subsequent fiscal year. The North Carolina Partnership for Children, Inc., shall be
38 responsible for compiling information on the private cash and in-kind contributions into
39 a report that is submitted to the Joint Legislative Commission on Governmental
40 Operations in a format that allows verification by the Department of Revenue. The same
41 match requirements shall apply to any expansion funds appropriated by the General
42 Assembly.

43 **SECTION 10.64.(d)** The Department of Health and Human Services shall
44 continue to implement the performance-based evaluation system.

45 **SECTION 10.64.(e)** The Department of Health and Human Services and the
46 North Carolina Partnership for Children, Inc., shall ensure that the allocation of funds
47 for Early Childhood Education and Development Initiatives for State fiscal years
48 2005-2006 and 2006-2007 shall be administered and distributed in the following
49 manner:

- 50 (1) Capital expenditures are prohibited for fiscal years 2005-2006 and
51 2006-2007. For the purposes of this section, "capital expenditures"
52 means expenditures for capital improvements as defined in
53 G.S. 143-34.40.

- 1 (2) Expenditures of State funds for advertising and promotional activities
2 are prohibited for fiscal years 2005-2006 and 2006-2007.

3 **SECTION 10.64.(f)** A county may use the county's allocation of State and
4 federal child care funds to subsidize child care according to the county's Early
5 Childhood Education and Development Initiatives Plan as approved by the North
6 Carolina Partnership for Children, Inc. The use of federal funds shall be consistent with
7 the appropriate federal regulations. Child care providers shall, at a minimum, comply
8 with the applicable requirements for State licensure pursuant to Article 7 of Chapter 110
9 of the General Statutes.

10 **SECTION 10.64.(g)** For fiscal years 2005-2006 and 2006-2007, the local
11 partnerships shall spend an amount for child care subsidies that provides at least
12 fifty-two million dollars (\$52,000,000) for the TANF maintenance of effort requirement
13 and the Child Care Development Fund and Block Grant match requirement.
14

15 Requested by: Representatives Insko, Barnhart

16 **SMART START FUNDING STUDY**

17 **SECTION 10.65.(a)** The North Carolina Partnership for Children, Inc., shall
18 study its allocation of funds to local partnerships. The North Carolina Partnership for
19 Children, Inc., shall study funding equity among all counties and local partnerships
20 based on population, the number of children from birth to five years of age residing in
21 the county region, economic indicators, and the quality of existing child care. The North
22 Carolina Partnership for Children, Inc., shall develop strategies to alleviate the inequity
23 of funds to local partnerships.

24 **SECTION 10.65.(b)** The North Carolina Partnership for Children, Inc., shall
25 report its findings and recommendations to the Senate Appropriations Committee on
26 Health and Human Services, the House of Representatives Appropriations
27 Subcommittee on Health and Human Services, and the Fiscal Research Division on or
28 before March 1, 2006.
29

30 Requested by: Representatives Insko, Barnhart

31 **ANALYZE CHILD CARE SUBSIDY REIMBURSEMENT SYSTEM**

32 **SECTION 10.66.(a)** The Department of Health and Human Services,
33 Division of Child Development and School Readiness, shall conduct an analysis of the
34 child care subsidy reimbursement system. The Division of Child Development and
35 School Readiness shall conduct the analysis as follows:

- 36 (1) Compare surveyed rates from the 2005 child care market survey to
37 existing reimbursement rates and identify counties and levels of
38 disparity of current market rates to subsidy reimbursements.
39 (2) Compare overall compensation for child care workers by county and
40 determine if there is a correlation with child care quality and subsidy
41 reimbursements.
42 (3) Examine, by county, the prevalence of child care providers who charge
43 parents a differential fee to make up the difference between private and
44 subsidy reimbursement rates.
45 (4) Examine the impact that child care reimbursement rates has on
46 providing families access to all levels of child care.

47 **SECTION 10.66.(b)** The Division of Child Development and School
48 Readiness shall develop strategies to implement market rate equity among counties and
49 submit a report of its findings and recommendations to the Senate Appropriations
50 Committee on Health and Human Services, the House of Representatives
51 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research
52 Division by January 30, 2006.
53

1 Requested by: Representatives Insko, Barnhart

2 **MORE AT FOUR**

3 **SECTION 10.67.(a)** Of the funds appropriated in this act to the Department
4 of Health and Human Services, the sum of sixty-six million six hundred forty-six
5 thousand six hundred fifty-three dollars (\$66,646,653) for the 2005-2006 fiscal year and
6 the sum of sixty-six million six hundred forty-six thousand six hundred fifty-three
7 dollars (\$66,646,653) for the 2006-2007 fiscal year shall be used to implement "More
8 At Four", a voluntary prekindergarten program for at-risk four-year-olds.

9 **SECTION 10.67.(b)** The Department of Health and Human Services and the
10 Department of Public Instruction, with guidance from the Task Force, shall continue the
11 implementation of the "More At Four" prekindergarten program for at-risk
12 four-year-olds who are at risk of failure in kindergarten. The program is available
13 statewide to all counties that choose to participate, including underserved areas. The
14 goal of the program is to provide quality prekindergarten services to a greater number of
15 at-risk children in order to enhance kindergarten readiness for these children. The
16 program shall be consistent with standards and assessments established jointly by the
17 Department of Health and Human Services and the Department of Public Instruction.
18 The program shall include:

- 19 (1) A process and system for identifying children at risk of academic
20 failure.
- 21 (2) A process and system for identifying children who are not being
22 served first priority in formal early education programs, such as child
23 care, public or private preschools, Head Start, Early Head Start, early
24 intervention programs, or other such programs, who demonstrate
25 educational needs, and who are eligible to enter kindergarten the next
26 school year, as well as children who are underserved.
- 27 (3) A curriculum or several curricula that are recommended by the Task
28 Force. The Task Force will identify and approve appropriate
29 research-based curricula. These curricula shall: (i) focus primarily on
30 oral language and emergent literacy; (ii) engage children through key
31 experiences and provide background knowledge requisite for formal
32 learning and successful reading in the early elementary years; (iii)
33 involve active learning; (iv) promote measurable kindergarten
34 language-readiness skills that focus on emergent literacy and
35 mathematical skills; and (v) develop skills that will prepare children
36 emotionally and socially for kindergarten.
- 37 (4) An emphasis on ongoing family involvement with the prekindergarten
38 program.
- 39 (5) Evaluation of child progress through preassessment and
40 postassessment of children in the statewide evaluation, as well as
41 ongoing assessment of the children by teachers.
- 42 (6) Guidelines for a system to reimburse local school boards and systems,
43 private child care providers, and other entities willing to establish and
44 provide prekindergarten programs to serve at-risk children.
- 45 (7) A system built upon existing local school boards and systems, private
46 child care providers, and other entities that demonstrate the ability to
47 establish or expand prekindergarten capacity.
- 48 (8) A quality-control system. Participating providers shall comply with
49 standards and guidelines as established by the Department of Health
50 and Human Services, the Department of Public Instruction, and the
51 Task Force. The Department may use the child care rating system to
52 assist in determining program participation.

- 1 (9) Standards for minimum teacher qualifications. A portion of the
- 2 classroom sites initially funded shall have at least one teacher who is
- 3 certified or provisionally certified in birth-to-kindergarten education.
- 4 (10) A local contribution. Programs must demonstrate that they are
- 5 accessing resources other than "More At Four".
- 6 (11) A system of accountability.
- 7 (12) Consideration of the reallocation of existing funds. In order to
- 8 maximize current funding and resources, the Department of Health and
- 9 Human Services, the Department of Public Instruction, and the Task
- 10 Force shall consider the reallocation of existing funds from State and
- 11 local programs that provide prekindergarten-related care and services.

12 **SECTION 10.67.(c)** The Department of Health and Human Services shall
13 plan for expansion of the "More At Four" program within existing resources to include
14 four- and five-star-rated centers and schools serving four-year-olds and develop
15 guidelines for these programs. The Department shall analyze guidelines for use of the
16 "More At Four" funds, State subsidy funds, and Smart Start subsidy funds and devise a
17 complementary plan for administration of funds for all four-year-old classrooms. The
18 four- and five-star-rated centers that choose to become a "More At Four" program shall,
19 at a minimum, receive curricula and access to training and workshops for "More At
20 Four" programs and be considered along with other "More At Four" programs for
21 T.E.A.C.H. funding. The Department shall ensure that no individual receives funding
22 from more than one source for the same purpose or activity during the same funding
23 period. For purposes of this subsection, sources shall include T.E.A.C.H., W.A.G.E.\$.,
24 and T.E.A.C.H. Health Insurance programs for individual recipients.

25 The "More At Four" program shall review the number of slots filled by
26 counties on a monthly basis and shift the unfilled slots to counties with waiting lists.
27 The shifting of slots shall occur through December 30, 2005, at which time any
28 remaining funds for slots unfilled shall be used to meet the needs of the waiting list for
29 subsidized child care.

30 **SECTION 10.67.(d)** The Department of Health and Human Services, the
31 Department of Public Instruction, and the Task Force shall submit a report by February
32 1, 2006, to the Joint Legislative Commission on Governmental Operations, the Joint
33 Legislative Education Oversight Committee, the Senate Appropriations Committee on
34 Health and Human Services, the House of Representatives Appropriations
35 Subcommittee on Health and Human Services, and the Fiscal Research Division. This
36 final report shall include the following:

- 37 (1) The number of children participating in the program.
- 38 (2) The number of children participating in the program who have never
- 39 been served in other early education programs, such as child care,
- 40 public or private preschool, Head Start, Early Head Start, or early
- 41 intervention programs.
- 42 (3) The expected expenditures for the programs and the source of the local
- 43 match for each grantee.
- 44 (4) The location of program sites and the corresponding number of
- 45 children participating in the program at each site.
- 46 (5) Activities involving Child Find in counties.
- 47 (6) A comprehensive cost analysis of the program, including the cost per
- 48 child served by the program.
- 49 (7) The plan for expansion of "More At Four" through existing resources
- 50 as outlined in this section.

51 **SECTION 10.67.(e)** For the 2005-2006 and the 2006-2007 fiscal years, the
52 "More At Four" program shall establish income eligibility requirements for the program
53 not to exceed seventy-five percent (75%) of the State median income to make the

1 program consistent with the child care subsidy requirements. Up to twenty percent
2 (20%) of children enrolled may have family incomes in excess of seventy-five percent
3 (75%) of median income if they have other designated risk factors.

4 **SECTION 10.67.(f)** The "More At Four" program funding shall not supplant
5 any funding for classrooms serving four-year-olds as of the 2003-2004 fiscal year.

6 **SECTION 10.67.(g)** The Department of Health and Human Services,
7 Division of Child Development, shall review and evaluate the early literacy project in
8 Davie County and consider incorporation of this curriculum into the "More At Four"
9 program.

10 **SECTION 10.67.(h)** The "More At Four" program shall contract with
11 Prevent Blindness of North Carolina for one hundred fifty thousand dollars (\$150,000)
12 for vision screenings for children in the "More At Four" program and other child care
13 classrooms.

14 **SECTION 10.67.(i)** The "More At Four" program shall provide a grant of
15 one hundred seventy-seven thousand dollars (\$177,000) to the Carolina Children's
16 Communicative Disorders Program at the University of North Carolina at Chapel Hill.

17 **PART XI. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

18 Requested by: Representatives Hunter, Warren

19 **PESTICIDE DISPOSAL PROGRAM**

20 **SECTION 11.1.** G.S. 143-468(b) reads as rewritten:

21 "(b) The Pesticide Environmental Trust Fund is established as a nonreverting
22 account within the Department of Agriculture and Consumer Services. The Department
23 of Agriculture and Consumer Services shall administer the Fund. The additional
24 assessment imposed by G.S. 143-442(b) on the registration of a brand or grade of
25 pesticide shall be credited to the Fund. The Department shall distribute money in the
26 Fund as follows:

- 27 (1) Two and one-half percent (2.5%) to North Carolina State University
28 Cooperative Extension Service to enhance its agromedicine efforts in
29 cooperation with East Carolina University School of Medicine.
- 30 (2) Two and one-half percent (2.5%) to East Carolina University School
31 of Medicine to enhance its agromedicine efforts in cooperation with
32 North Carolina State University Cooperative Extension Service.
- 33 (3) Twenty percent (20%) to North Carolina State University, Department
34 of Toxicology, to establish and maintain an extension agromedicine
35 specialist position.
- 36 (4) Seventy-five percent (75%) to the Department of Agriculture and
37 Consumer Services for the costs of administering its pesticide disposal
38 program, including the salaries and support of staff for the pesticide
39 disposal program, and for its environmental programs, as directed by
40 the Board, including establishing a pesticide container management
41 program to enhance its pesticide disposal program and its water quality
42 initiatives."

43 Requested by: Representatives Hunter, Warren

44 **TIMBER SALES RECEIPTS FOR CAPITAL IMPROVEMENTS AT 45 AGRICULTURAL RESEARCH STATIONS AND FARMS**

46 **SECTION 11.2.** The sum of one million thirty-three thousand one hundred
47 dollars (\$1,033,100) shall be transferred from the Department of Agriculture and
48 Consumer Services' timber sales capital improvement account in the Department of
49 Agriculture and Consumer Services as such funds become available during the
50
51
52

1 2005-2006 fiscal year, and used by the Department for the following capital
2 improvements projects at agricultural research stations and research farms:

- 3 (1) \$378,000 for improvements at the swine facility at the Cherry
4 Research Farm.
5 (2) \$285,500 for renovation of dairy facilities at the Cherry Research
6 Farm.
7 (3) \$369,600 for land acquisition and development at the Tidewater
8 Research Station.
9

10 Requested by: Representatives Hunter, Warren

11 **PLANT CONSERVATION PROGRAM FUNDS**

12 **SECTION 11.3.** From funds received from the sale of timber that are
13 deposited with the State Treasurer pursuant to G.S. 146-30 to the credit of the
14 Department of Agriculture and Consumer Services in a capital improvement account,
15 the sum of twenty thousand dollars (\$20,000) shall be transferred to the Department of
16 Agriculture and Consumer Services to be used by the Department for its plant
17 conservation program under Article 19B of Chapter 106 of the General Statutes for
18 costs incidental to the acquisition of land, such as land appraisals, land surveys, title
19 searches, and environmental studies.
20

21 Requested by: Representatives Hunter, Warren

22 **INCREASE FUNDS FOR NORTH CAROLINA GRAPE GROWERS COUNCIL**

23 **SECTION 11.4.** G.S. 105-113.81A reads as rewritten:

24 **"§ 105-113.81A. Distribution of part of wine taxes attributable to North Carolina**
25 **wine.**

26 The Secretary shall on a quarterly basis credit to the Department of Agriculture and
27 Consumer Services the net proceeds of the excise tax collected on unfortified wine
28 bottled in North Carolina during the previous quarter and the net proceeds of the excise
29 tax collected on fortified wine bottled in North Carolina during the previous quarter,
30 except that the amount credited to the Department of Agriculture and Consumer
31 Services under this section shall not exceed ~~three hundred fifty thousand dollars~~
32 ~~(\$350,000)~~ five hundred thousand dollars (\$500,000) per fiscal year. The Department of
33 Agriculture and Consumer Services shall allocate the funds received under this section
34 to the North Carolina Grape Growers Council to be used to promote the North Carolina
35 grape and wine industry and to contract for research and development services to
36 improve viticultural and enological practices in North Carolina. Any funds credited to
37 the Department of Agriculture and Consumer Services under this section that are not
38 expended by June 30 of any fiscal year may not revert to the General Fund, but shall
39 remain available to the Department for the uses set forth in this section."
40

41 Requested by: Representative Harrison

42 **FUNDS FOR NORTH CAROLINA FARMLAND PRESERVATION TRUST**
43 **FUND**

44 **SECTION 11.5.(a)** Of the funds appropriated to the Department of
45 Environment and Natural Resources in this act, the reduction for the Office of
46 Conservation and Community Affairs for fund shifting the remainder of the Natural
47 Heritage Program under Article 9A of Chapter 113A of the General Statutes to the
48 Natural Heritage Trust Fund established by G.S. 113-77.7 is further reduced by the sum
49 of forty thousand dollars (\$40,000) for the 2005-2006 fiscal year and for the 2006-2007
50 fiscal year, and these funds shall be credited to the North Carolina Farmland
51 Preservation Trust Fund to be used in accordance with subsection (b) of this section.

52 **SECTION 11.5.(b)** If House Bill 347, 2005 Session, becomes law, the forty
53 thousand dollars (\$40,000) credited under this section to the North Carolina Farmland

1 Preservation Trust Fund, which is renamed North Carolina Agricultural Development
2 and Farmland Preservation Trust Fund by House Bill 347, as enacted, shall be used
3 towards the costs of the North Carolina Agricultural Development and Farmland
4 Preservation Trust Fund Advisory Committee created by House Bill 347, as enacted. If
5 House Bill 347, 2005 Session, does not become law, the forty thousand dollars
6 (\$40,000) credited to the North Carolina Farmland Preservation Trust Fund under this
7 section shall be used as provided in G.S. 106-744.

8
9 **PART XII. DEPARTMENT OF ENVIRONMENT AND NATURAL**
10 **RESOURCES**

11
12 Requested by: Representatives Hunter, Warren

13 **STATE MATCH FOR FEDERAL SAFE DRINKING WATER ACT FUNDS**

14 **SECTION 12.1.** Notwithstanding the provisions of Chapter 159G of the
15 General Statutes, the Department of Environment and Natural Resources may transfer
16 from the General Water Supply Revolving Loan Account up to one million five hundred
17 thousand dollars (\$1,500,000) to the Department of Environment and Natural Resources
18 to be used to match the federal grant moneys authorized by section 1452 of the federal
19 Safe Drinking Water Act amendments of 1996 for the 2005-2006 fiscal year. The
20 General Water Supply Revolving Loan Account is an account under the Clean Water
21 Revolving Loan and Grant Fund and is established under G.S. 159G-4. The Clean
22 Water Revolving Loan and Grant Fund is established by G.S. 159G-5.

23
24 Requested by: Representatives Hunter, Warren

25 **EXPAND EXPRESS REVIEW PROGRAM STATEWIDE**

26 **SECTION 12.2.(a)** Part 1 of Article 7 of Chapter 143B of the General
27 Statutes is amended by adding two new sections to read:

28 **"§ 143B-279.13. Express permit and certification reviews.**

29 (a) The Department of Environment and Natural Resources shall develop an
30 express review program to provide express permit and certification reviews in all of its
31 regional offices. Participation in the express review program is voluntary, and the
32 program is to become supported by the fees determined pursuant to subsection (b) of
33 this section. The Department of Environment and Natural Resources shall determine the
34 project applications to review under the express review program from those who request
35 to participate in the program. The express review program may be applied to any one or
36 all of the permits, approvals, or certifications in the following programs: the erosion and
37 sedimentation control program, the coastal management program, and the water quality
38 programs, including water quality certifications and stormwater management. The
39 express review program shall focus on the following permits or certifications:

- 40 (1) Stormwater permits under Part 1 of Article 21 of Chapter 143 of the
41 General Statutes.
42 (2) Stream origination certifications under Article 21 of Chapter 143 of
43 the General Statutes.
44 (3) Water quality certification under Article 21 of Chapter 143 of the
45 General Statutes.
46 (4) Erosion and sedimentation control permits under Article 4 of Chapter
47 113A of the General Statutes.
48 (5) Permits under the Coastal Area Management Act (CAMA), Part 4 of
49 Article 7 of Chapter 113A of the General Statutes.

50 (b) The Department of Environment and Natural Resources may determine the
51 fees for express application review under the express review program. Notwithstanding
52 G.S. 143-215.3D, the maximum permit application fee to be charged under subsection
53 (a) of this section for the express review of a project application requiring all of the

1 permits under subdivisions (1) through (5) of subsection (a) of this section shall not
2 exceed five thousand five hundred dollars (\$5,500). Notwithstanding G.S. 143-215.3D,
3 the maximum permit application fee to be charged for the express review of a project
4 application requiring all of the permits under subdivisions (1) through (4) of subsection
5 (a) of this section shall not exceed four thousand five hundred dollars (\$4,500).
6 Notwithstanding G.S. 143-215.3D, the maximum permit application fee charged for the
7 express review of a project application for any other combination of permits under
8 subdivisions (1) through (5) of subsection (a) of this section shall not exceed four
9 thousand dollars (\$4,000). Express review of a project application involving additional
10 permits or certifications issued by the Department of Environment and Natural
11 Resources other than those under subdivisions (1) through (5) of subsection (a) of this
12 section may be allowed by the Department, and, notwithstanding G.S. 143-215.3D or
13 any other statute or rule that sets a permit fee, the maximum permit application fee
14 charged for the express review of a project application shall not exceed four thousand
15 dollars (\$4,000), plus one hundred fifty percent (150%) of the fee that would otherwise
16 apply by statute or rule for that particular permit or certification. Additional fees, not to
17 exceed fifty percent (50%) of the original permit application fee under this section, may
18 be charged for subsequent reviews due to the insufficiency of the permit applications.
19 The Department of Environment and Natural Resources may establish the procedure by
20 which the amount of the fees under this subsection is determined, and the fees and
21 procedures are not rules under G.S. 150B-2(8a) for the express review program under
22 this section.

23 (c) No later than March 1 of each year, the Department of Environment and
24 Natural Resources shall report to the Fiscal Research Division and the Environmental
25 Review Commission its findings on the success of the program under this section and
26 any other findings or recommendations, including any legislative proposals that it
27 deems pertinent.

28 **"§ 143B-279.14. Express Review Fund.**

29 The Express Review Fund is created as a special nonreverting fund. All fees
30 collected under G.S. 143B-279.13 shall be credited to the Express Review Fund. The
31 Express Review Fund shall be used for the costs of implementing the express review
32 program under G.S. 143B-279.13 and the costs of administering the program, including
33 the salaries and support of the program's staff. If the express review program is
34 abolished, the funds in the Express Review Fund shall be credited to the General Fund."

35 **SECTION 12.2.(b)** The Department of Environment and Natural Resources
36 shall expand to a statewide program that operates in each regional office of the
37 Department the Express Review Pilot Program established by Section 11.4A of S.L.
38 2003-284 and expanded by Section 12.9 of S.L. 2004-124, and the provisions of
39 G.S. 143B-279.13, as enacted by subsection (a) of this section, shall apply to this
40 statewide program.

41 **SECTION 12.2.(c)** The Department of Environment and Natural Resources
42 shall establish and support 12 additional positions to administer the statewide express
43 review program under G.S. 143B-279.13, as enacted by subsection (a) of this section.
44 Up to seven hundred thirty-six thousand six hundred twenty-nine dollars (\$736,629) for
45 the 2005-2006 fiscal year and up to six hundred seventy-one thousand four hundred
46 nine dollars (\$671,409) for the 2006-2007 fiscal year shall be allocated from the
47 Express Review Fund created in G.S. 143B-279.14, as enacted by subsection (a) of this
48 section, to establish and support these 12 positions.

49 **SECTION 12.2.(d)** The Department of Environment and Natural Resources
50 shall continue and support the four positions established under Section 12.9(c) of S.L.
51 2004-124 to administer the statewide express review program under G.S. 143B-279.13,
52 as enacted by subsection (a) of this section. Up to two hundred twenty-three thousand
53 eight hundred three dollars (\$223,803) for the 2005-2006 fiscal year and up to two

1 hundred twenty-three thousand eight hundred three dollars (\$223,803) for the
2 2006-2007 fiscal year shall be allocated from the Express Review Fund created in
3 G.S. 143B-279.14, as enacted by subsection (a) of this section, to continue and support
4 these four positions.

5
6 Requested by: Representatives Hunter, Warren

7 **SEDIMENTATION EDUCATION FUNDS**

8 **SECTION 12.3.** The Department of Environment and Natural Resources
9 shall use the funds appropriated in this act to the Department of Environment and
10 Natural Resources for the 2005-2006 fiscal year and for the 2006-2007 fiscal year for
11 sedimentation education for only the following:

- 12 (1) Sedimentation education activities that provide technical assistance to
13 local erosion and sedimentation control programs under G.S. 113A-60;
14 or
15 (2) Sedimentation education to professionals involved in developing
16 erosion and sedimentation control plans for which prior approval is
17 required under Article 4 of Chapter 113A of the General Statutes.
18

19 Requested by: Representatives Hunter, Warren

20 **FUNDS TO IMPLEMENT FISHING LICENSE REQUIREMENTS**
21 **LEGISLATION/CONTINGENT REPEAL OF SALTWATER FISHING**
22 **LICENSE REQUIREMENT**

23 **SECTION 12.4.(a)** The Wildlife Resources Commission may disburse up to
24 one million dollars (\$1,000,000) from the Wildlife Resources Fund to implement Senate
25 Bill 1126 (Amend Fishing License Requirements-2) or House Bill 1092 (Amend
26 Fishing License Requirements) if either bill becomes law no later than 30 days after
27 adjournment of the 2005 Regular Session.

28 **SECTION 12.4.(b)** The State Treasurer shall transfer a sum equal to the sum
29 of funds disbursed pursuant to subsection (a) of this section from the Marine Resources
30 Fund to the Wildlife Resources Fund on July 1, 2010.

31 **SECTION 12.4.(c)** Sections 1 through 4 and Sections 6 through 12 of S.L.
32 2004-187 and Section 12.16 of S.L. 2004-124 are repealed unless Senate Bill 1126
33 (Amend Fishing License Requirements-2) or House Bill 1092 (Amend Fishing License
34 Requirements) becomes law no later than 30 days after the adjournment in 2005 of the
35 2005 Regular Session under a joint resolution.
36

37 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
38 Michaux

39 **REPORT ON NATURAL HERITAGE PROGRAM**

40 **SECTION 12.4A.** No later than March 1, 2006, the Department of
41 Environment and Natural Resources shall report to the General Assembly and to the
42 Fiscal Research Division on the Natural Heritage Program under Article 9A of Chapter
43 113A of the General Statutes. The report shall include an explanation of the duties and
44 activities of each position that serves as staff to the Program, a summary of what has
45 been accomplished under the Program each fiscal year since its inception, and
46 justification for continuing the Program at its current staff level.
47

48 Requested by: Representatives Hunter, Warren

49 **GRASSROOTS SCIENCE PROGRAM**

50 **SECTION 12.5.(a)** Of the funds appropriated in this act to the Department
51 of Environment and Natural Resources for the Grassroots Science Program, the sum of
52 three million one hundred ninety-seven thousand seven hundred sixty-two dollars

1 (\$3,197,762) for the 2005-2006 fiscal year is allocated as grants-in-aid for each fiscal
 2 year as follows:

	2005-2006
3	
4	
5	\$58,794
6	\$157,784
7	\$110,369
8	\$131,007
9	\$73,833
10	\$645,072
11	\$50,000
12	\$79,849
13	
14	\$56,236
15	\$132,606
16	
17	
18	\$132,046
19	\$78,418
20	\$84,988
21	\$59,452
22	\$50,000
23	\$73,489
24	\$182,395
25	
26	\$370,250
27	
28	\$50,000
29	\$71,608
30	\$224,334
31	
32	\$143,697
33	\$111,054
34	\$70,481
35	
36	\$3,197,762

37 **SECTION 12.5.(b)** No later than March 1, 2006, the Department of
 38 Environment and Natural Resources shall report to the Fiscal Research Division all of
 39 the following information for each museum that receives funds under this section:

- 40 (1) The operating budget for the 2004-2005 fiscal year.
- 41 (2) The operating budget for the 2005-2006 fiscal year.
- 42 (3) The total attendance at the museum during the 2005 calendar year.

43
 44 Requested by: Representatives Hunter, Warren
 45 **BEAVER DAMAGE CONTROL PROGRAM FUNDS**

46 **SECTION 12.8.** Of the funds available to the Wildlife Resources
 47 Commission, the sum of seven hundred thousand dollars (\$700,000) for the 2005-2006
 48 fiscal year and the sum of seven hundred thousand dollars (\$700,000) for the 2006-2007
 49 fiscal year shall be used to provide the State share necessary to support the beaver
 50 damage control program established in G.S. 113-291.10, provided the sum of at least
 51 twenty-five thousand dollars (\$25,000) in federal funds is available each fiscal year of
 52 the biennium to provide the federal share.
 53

1 Requested by: Representative Owens

2 **MONITORING AND EMERGENCY CLEANUP FUNDS FOR TEXFI SITE**
3 **CONTAMINATION**

4 **SECTION 12.9.** Of the funds appropriated to the Department of
5 Environment and Natural Resources, Division of Waste Management, for the
6 2005-2006 fiscal year to cost share federal funds for the cleanup of Superfund sites, up
7 to fifty thousand dollars (\$50,000) may be used by the Department of Environment and
8 Natural Resources, Division of Waste Management, for the 2005-2006 fiscal year for
9 monitoring the groundwater and other contamination located at the Texfi site in
10 Fayetteville and for any emergency cleanup activities needed at this site.

11
12 **PART XIII. DEPARTMENT OF COMMERCE**

13
14 Requested by: Representatives Hunter, Warren

15 **COUNCIL OF GOVERNMENT FUNDS**

16 **SECTION 13.2.(a)** Of the funds appropriated in this act to the Department
17 of Commerce, eight hundred thirty-two thousand one hundred fifty dollars (\$832,150)
18 for the 2005-2006 fiscal year and eight hundred thirty-two thousand one hundred fifty
19 dollars (\$832,150) for the 2006-2007 fiscal year shall only be used as provided by this
20 section. Each regional council of government or lead regional organization is allocated
21 up to forty-eight thousand nine hundred fifty dollars (\$48,950) for the 2005-2006 and
22 the 2006-2007 fiscal years.

23 **SECTION 13.2.(b)** A regional council of government may use funds
24 appropriated by this section only to assist local governments in grant applications,
25 economic development, community development, support of local industrial
26 development activities, and other activities as deemed appropriate by the member
27 governments.

28 **SECTION 13.2.(c)** Funds appropriated by this section shall be paid by
29 electronic transfer in two equal installments, the first no later than September 1, 2005,
30 and the second subsequent to acceptable submission of the annual report due to the Joint
31 Legislative Commission on Governmental Operations and the Fiscal Research Division
32 by January 15, 2006, as specified in subdivision (e)(2) of this section.

33 **SECTION 13.2.(d)** Funds appropriated by this section shall not be used for
34 payment of dues or assessments by the member governments and shall not supplant
35 funds appropriated by the member governments.

36 **SECTION 13.2.(e)** Each council of government or lead regional
37 organization shall do the following:

- 38 (1) By January 15, 2006, and more frequently as requested, report to the
39 Joint Legislative Commission on Governmental Operations and the
40 Fiscal Research Division the following information:
41 a. State fiscal year 2004-2005 program activities, objectives, and
42 accomplishments;
43 b. State fiscal year 2004-2005 itemized expenditures and fund
44 sources;
45 c. State fiscal year 2005-2006 planned activities, objectives, and
46 accomplishments, including actual results through December
47 31, 2005; and
48 d. State fiscal year 2005-2006 estimated itemized expenditures
49 and fund sources, including actual expenditures and fund
50 sources through December 31, 2005.
51 (2) By January 15, 2007, and more frequently as requested, report to the
52 Joint Legislative Commission on Governmental Operations and the
53 Fiscal Research Division the following information:

- a. State fiscal year 2005-2006 program activities, objectives, and accomplishments;
 - b. State fiscal year 2005-2006 itemized expenditures and fund sources;
 - c. State fiscal year 2006-2007 planned activities, objectives, and accomplishments, including actual results through December 31, 2006; and
 - d. State fiscal year 2006-2007 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2006.
- (3) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

Requested by: Representatives Hunter, Warren

TOURISM PROMOTION GRANTS

SECTION 13.3.(a) Tourism promotion funds appropriated to the Department of Commerce shall be allocated to counties based on need. Determination of counties that are most in need of State assistance shall be made in accordance with the existing State tier formula provided in G.S. 105-129.3.

SECTION 13.3.(b) Funds appropriated in this act to the Department of Commerce for tourism promotion grants shall be allocated according to the economic development tier assigned by the Department of Commerce in the following manner:

- (1) Eligible organizations in counties with a Tier 1 or 2 designation are each eligible to receive a maximum grant of seven thousand five hundred dollars (\$7,500) for each fiscal year, provided these funds are matched on the basis of one non-State dollar (\$1.00) for every four State dollars (\$4.00).
- (2) Eligible organizations in counties with a Tier 3 or 4 designation are each eligible to receive a maximum grant of three thousand five hundred dollars (\$3,500) for two of the next three fiscal years, provided these funds are matched on the basis of one non-State dollar (\$1.00) for every three State dollars (\$3.00).
- (3) Eligible organizations in counties with a Tier 5 designation are each eligible to receive a maximum grant of three thousand five hundred dollars (\$3,500) in alternating fiscal years provided these funds are matched on the basis of two non-State dollars (\$2.00) for every one State dollar (\$1.00).

SECTION 13.3.(c) An eligible organization that applies for but does not receive tourism promotion grant funds may apply for and be awarded funds in the following fiscal year. The fact that one or more eligible organizations in a county are awarded tourism promotion grant funds in a given fiscal year shall not bar other eligible organizations in that county from applying for and being awarded funds in the next fiscal year.

Requested by: Representatives Hunter, Warren

EMPLOYMENT SECURITY FUNDS

SECTION 13.4. There is appropriated from the Special Employment Security Administration Fund to the Employment Security Commission of North Carolina the sum of six million three hundred thousand dollars (\$6,300,000) for the 2005-2006 fiscal year to be used for the following purposes:

- (1) Six million dollars (\$6,000,000) for the operation and support of local offices.

- 1 (2) Two hundred thousand dollars (\$200,000) for the State Occupational
 2 Information Coordinating Committee to develop and operate an
 3 interagency system to track former participants in State education and
 4 training programs.
 5 (3) One hundred thousand dollars (\$100,000) to maintain compliance with
 6 Chapter 96 of the General Statutes, which directs the Commission to
 7 employ the Common Follow-Up Management Information System to
 8 evaluate the effectiveness of the State's job training, education, and
 9 placement programs.

10
 11 Requested by: Representatives Hunter, Warren

12 **TRADE JOBS FOR SUCCESS REPORTING**

13 **SECTION 13.4A.(a)** In addition to the statutory reporting requirements
 14 pursuant to G.S. 143B-438.17, the Employment Security Commission, Department of
 15 Commerce, and the Community Colleges System Office shall make a joint written
 16 progress report on their compliance with Section 13.7A of S.L. 2004-124, as to the
 17 following:

- 18 (1) The actions taken to obtain from the U.S. Department of Labor as
 19 quickly as possible a waiver under the Trade Adjustment Act to allow
 20 the Trade Jobs for Success initiative to (i) serve persons regardless of
 21 their age, (ii) use unemployment funds to provide direct monetary
 22 incentives to participating employers and direct income to eligible
 23 workers in the retraining program, and (iii) use funds for in-State
 24 relocation assistance.
 25 (2) Whether waivers have been sought for other program components.
 26 (3) The progress made in implementing the Trade Jobs for Success
 27 initiative in the counties hardest hit by trade-impacted job losses,
 28 particularly the counties having an unemployment rate of eight percent
 29 (8%) and the extent to which these counties have received priority
 30 consideration.
 31 (4) The efforts of the Department of Commerce seeking and receiving
 32 private grants and federal funds for the Trade Jobs for Success
 33 initiative.
 34 (5) Any reasons why legislative mandates have not been followed or the
 35 statutory goals have not been achieved.

36 The progress report shall be submitted to the Joint Legislative Commission on
 37 Governmental Operations and to the Chairs of the Appropriations Committees of the
 38 Senate and the House of Representatives by August 1, 2005.

39 **SECTION 13.4A.(b)** G.S. 143B-438.17 reads as rewritten:

40 "**§ 143B-438.17. Reporting.**

41 (a) Beginning July 1, 2005, the Department of Commerce, in conjunction
 42 with the Employment Security Commission and the Community Colleges System
 43 Office, shall publish a quarterly-monthly written report on the Trade Jobs for Success
 44 (TJS) initiative. The monthly report shall provide information on the commitment,
 45 disbursement, and use of funds and the status of any grant proposals or waivers
 46 requested on behalf of the Trade Jobs for Success initiative. The monthly report shall be
 47 submitted to the Governor and to the Fiscal Research Division of the General Assembly.

48 (b) Beginning October 1, 2005, the Department of Commerce, in conjunction
 49 with the Employment Security Commission and the Community Colleges System
 50 Office, shall publish a quarterly written report on the Trade Jobs for Success initiative.
 51 The quarterly report shall also include legislative proposals and recommendations
 52 regarding statutory changes needed to maximize the effectiveness and flexibility of the
 53 TJS initiative. Copies of the quarterly report shall be provided to the Joint Legislative

1 Commission on Governmental Operations, to the chairs of the Senate and House of
2 Representatives Appropriations Committees, and to the Fiscal Research Division of the
3 General Assembly.

4 (c) Beginning January 1, 2006, the Department of Commerce, in conjunction
5 with the Employment Security Commission and the Community Colleges System
6 Office, shall publish a comprehensive annual written report on the Trade Jobs for
7 Success initiative. The annual report shall include a detailed explanation of outcomes
8 and future planning for the TJS initiative. Copies of the annual report shall be provided
9 to the Governor, to the Joint Legislative Commission on Governmental Operations, to
10 the chairs of the Senate and House of Representatives Appropriations Committees, and
11 to the Fiscal Research Division of the General Assembly."
12

13 Requested by: Representatives Hunter, Warren

14 **INDUSTRIAL DEVELOPMENT FUND**

15 **SECTION 13.5.** G.S. 143B-437.01 reads as rewritten:

16 "**§ 143B-437.01. Industrial Development Fund.**

17 (a) Creation and Purpose of Fund. – There is created in the Department of
18 Commerce the Industrial Development Fund to provide funds to assist the local
19 government units of the most economically distressed counties in the State in creating
20 jobs in certain industries. The Department of Commerce shall adopt rules providing for
21 the administration of the program. Those rules shall include the following provisions,
22 which shall apply to each grant from the fund:
23

- 24 ...
25 (1) The funds shall be used for (i) installation of or purchases of
26 equipment for eligible industries, (ii) structural repairs, improvements,
27 or renovations of existing buildings to be used for expansion of
28 eligible industries, or (iii) construction of or improvements to new or
29 existing water, sewer, gas, telecommunications, high-speed broadband,
30 ~~or~~ electrical utility distribution lines or equipment~~equipment, or~~
31 transportation infrastructure for existing or new or proposed industrial
32 buildings to be used for eligible industries. To be eligible for funding,
33 the water, sewer, gas, telecommunications, high-speed broadband, ~~or~~
34 electrical utility lines or facilities~~facilities, or transportation~~
35 infrastructure shall be located on the site of the building or, if not
36 located on the site, shall be directly related to the operation of the
37 specific eligible industrial activity.

38 ...
39 (b1) Utility Account. – There is created within the Industrial Development Fund a
40 special account to be known as the Utility Account to provide funds to assist the local
41 government units of enterprise tier one, two, and three areas, as defined in
42 G.S. 105-129.3, in creating jobs in eligible industries. The Department of Commerce
43 shall adopt rules providing for the administration of the program. Except as otherwise
44 provided in this subsection, those rules shall be consistent with the rules adopted with
45 respect to the Industrial Development Fund. The rules shall provide that the funds in the
46 Utility Account may be used only for construction of or improvements to new or
47 existing water, sewer, gas, telecommunications, high-speed broadband, ~~or~~
48 electrical utility distribution lines or equipment~~equipment, or transportation infrastructure~~
49 for existing or new or proposed industrial buildings to be used for eligible industrial
50 operations. To be eligible for funding, the water, sewer, gas, telecommunications,
51 high-speed broadband, or electrical utility lines or facilities~~facilities, or transportation~~
52 infrastructure shall be located on the site of the building or, if not located on the site,
53 shall be directly related to the operation of the specific industrial activity. There shall be
no maximum funding amount per new job to be created or per project.

1"

2
3 Requested by: Representatives Hunter, Warren

4 **ONE NORTH CAROLINA FUND**

5 **SECTION 13.6.(a)** Of the funds appropriated in Section 1(a) of S.L.
6 2004-88 to the One North Carolina Fund, the Department of Commerce may use up to
7 three hundred thousand dollars (\$300,000) to cover its expenses in administering the
8 One North Carolina Fund and other economic development incentive grant programs in
9 the 2005-2006 fiscal year.

10 **SECTION 13.6.(b)** Notwithstanding the provisions of G.S. 143B-437.71, of
11 the funds appropriated in Section 1(a) of S.L. 2004-88 to the One North Carolina Fund,
12 the Department of Commerce shall allocate one million dollars (\$1,000,000) for the
13 2005-2006 fiscal year to Johnson and Wales University in Charlotte for the purpose of
14 providing financial assistance to the University.
15

16 Requested by: Representatives Hunter, Warren

17 **STUDY ALTERNATE FUNDING OF INDUSTRIAL COMMISSION**

18 **SECTION 13.6A.** The Department of Commerce and the Industrial
19 Commission shall jointly conduct a study to determine the feasibility of terminating
20 General Fund support for the Industrial Commission and providing for the costs of the
21 Commission's operations and personnel by increasing the Commission's existing fees or
22 establishing new fees. The Department and Commission shall report the results of its
23 study and make recommendations for alternate ways of funding the Commission to the
24 House of Representatives Appropriations Subcommittee on Natural and Economic
25 Resources, the Office of State Budget and Management, and the Fiscal Research
26 Division no later than April 1, 2006.
27

28 Requested by: Representatives Hunter, Warren, L. Allen, Wray

29 **ROANOKE RAPIDS MUSIC/ENTERTAINMENT COMPLEX**

30 **SECTION 13.6B.** There is appropriated from the General Fund to the
31 Department of Commerce the sum of seven hundred fifty thousand dollars (\$750,000)
32 for the 2005-2006 fiscal year to be allocated to the Roanoke Rapids Entertainment
33 District for the construction of a music and entertainment complex in Roanoke Rapids.
34 The Department of Commerce shall not release funds appropriated in this section until
35 the Office of State Budget and Management has determined that the Roanoke Rapids
36 Entertainment District has entered into the contracts necessary for the successful
37 completion of the complex. Beginning September 1, 2005, and quarterly thereafter, the
38 Roanoke Rapids Entertainment District shall report its progress in completing the
39 complex and the total funds received to date to the Office of State Budget and
40 Management, the Department of Commerce, and the Fiscal Research Division.
41

42 Requested by: Representatives Hunter, Warren

43 **REGIONAL ECONOMIC DEVELOPMENT COMMISSIONS**

44 **SECTION 13.6C.(a)** There is appropriated from the General Fund to the
45 Department of Commerce the sum of one million seven hundred fifty thousand dollars
46 (\$1,750,000) for the 2005-2006 fiscal year to be allocated to the seven regional
47 economic development commissions. Of these funds, each regional economic
48 development commission shall receive two hundred fifty thousand dollars (\$250,000).
49 These funds shall be used by each commission to develop and implement a strategic
50 economic development plan as provided in Section 13.6 of S.L. 2004-124.

51 **SECTION 13.6C.(b)** G.S. 143B-437.21(6)d reads as rewritten:

1 "d. ~~The Global TransPark Development Eastern North Carolina~~
2 ~~Regional Economic Development Commission created in~~
3 ~~G.S. 158-33."~~

4 **SECTION 13.6C.(c)** G.S. 158-32(2) reads as rewritten:

5 "(2) Commission. – ~~The Global TransPark Development Eastern North~~
6 ~~Carolina Regional Economic Development Commission, the~~
7 governing body of the Global TransPark Development Zone."

8 **SECTION 13.6C.(d)** G.S. 158-33.1(b) reads as rewritten:

9 "(b) Application. – The governing body of an eligible county may apply to
10 participate in the Zone under this section by adopting a resolution to participate in the
11 Zone. The resolution must comply with all the requirements of G.S. 158-33(a) and (b)
12 except that it may be adopted at any time before October 1, 1994. After adopting the
13 resolution, the county shall file a certified copy of the resolution with the ~~Global~~
14 ~~TransPark Development Eastern North Carolina Regional Economic Development~~
15 Commission."

16 **SECTION 13.6C.(e)** The prefatory language to G.S. 158-35(a) reads as
17 rewritten:

18 "(a) Commission Membership. – The governing body of the Zone is the ~~Global~~
19 ~~TransPark Development Eastern North Carolina Regional Economic Development~~
20 Commission. The members of the Commission must be residents of the Zone and shall
21 be appointed as follows:"

22
23 Requested by: Representatives Hunter, Warren

24 **REGIONAL ECONOMIC DEVELOPMENT COMMISSION ALLOCATIONS**

25 **SECTION 13.7.(a)** Funds appropriated in this act to the Department of
26 Commerce for regional economic development commissions shall be allocated to the
27 following Commissions in accordance with subsection (b) of this section: Western
28 North Carolina Regional Economic Development Commission, Research Triangle
29 Regional Commission, Southeastern North Carolina Regional Economic Development
30 Commission, Piedmont Triad Partnership, Northeastern North Carolina Regional
31 Economic Development Commission, Global TransPark Development Commission,
32 and Carolinas Partnership, Inc.

33 **SECTION 13.7.(b)** Funds appropriated pursuant to subsection (a) of this
34 section shall be allocated to each Regional Economic Development Commission as
35 follows:

- 36 (1) First, the Department shall establish each Commission's allocation by
37 determining the sum of allocations to each county that is a member of
38 that Commission. Each county's allocation shall be determined by
39 dividing the county's enterprise factor by the sum of the enterprise
40 factors for eligible counties and multiplying the resulting percentage
41 by the amount of the appropriation. As used in this subdivision, the
42 term "enterprise factor" means a county's enterprise factor as
43 calculated under G.S. 105-129.3; and
- 44 (2) Next, the Department shall subtract from funds allocated to the Global
45 TransPark Development Commission the sum of one hundred eighteen
46 thousand one hundred twenty-nine dollars (\$118,129) in the
47 2005-2006 fiscal year and one hundred eighteen thousand four
48 hundred seventy-seven dollars (\$118,477) in the 2006-2007 fiscal
49 year, which sum represents the interest earnings in each fiscal year on
50 the estimated balance of seven million five hundred thousand dollars
51 (\$7,500,000) appropriated to the Global TransPark Development Zone
52 in Section 6 of Chapter 561 of the 1993 Session Laws; and

(3) Next, the Department shall redistribute the sum of one hundred eighteen thousand one hundred twenty-nine dollars (\$118,129) in the 2005-2006 fiscal year and one hundred eighteen thousand four hundred seventy-seven dollars (\$118,477) in the 2006-2007 fiscal year to the seven Regional Economic Development Commissions named in subsection (a) of this section. Each Commission's share of this redistribution shall be determined according to the enterprise factor formula set out in subdivision (1) of this subsection. This redistribution shall be in addition to each Commission's allocation determined under subdivision (1) of this subsection.

Requested by: Representatives Hunter, Warren

REGIONAL ECONOMIC DEVELOPMENT COMMISSION REPORTS

SECTION 13.8.(a) By February 15 of each fiscal year, the seven regional economic development commissions shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

- (1) The preceding fiscal year's program activities, objectives, and accomplishments.
- (2) The preceding fiscal year's itemized expenditures and fund sources.
- (3) Demonstration of how the commission's regional economic development and marketing strategy aligns with the State's overall economic development and marketing strategies.
- (4) To the extent they are involved in promotion activities such as trade shows, visits to prospects and consultants, advertising and media placement, the commissions shall demonstrate how they have generated qualified leads.

SECTION 13.8.(b) Each of the commissions shall provide to the Fiscal Research Division a copy of their annual audited financial statement within 30 days of issuance of the statement.

SECTION 13.8.(c) The reporting requirements for regional economic development commissions, as provided in subsection (a) of this section, shall be reviewed annually by the North Carolina Partnership for Economic Development, and recommendations for changes to the reporting requirements shall be made to the Fiscal Research Division, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives.

SECTION 13.8.(d) Regional economic development commissions shall receive quarterly allocations of the funds appropriated in this act to the Department of Commerce for regional economic development commissions.

SECTION 13.8.(e) Regional economic development commissions shall remain in the Department of Commerce's Budget Code 14601 with other State-aided nonprofit entities.

Requested by: Representatives Hunter, Warren, L. Allen, Wray

NORTHEASTERN NORTH CAROLINA REGIONAL ECONOMIC DEVELOPMENT COMMISSION

SECTION 13.8A. There is appropriated from the General Fund to the Department of Commerce the sum of seven million five hundred thousand dollars (\$7,500,000) for the 2005-2006 fiscal year to be allocated to the Northeastern North Carolina Regional Economic Development Commission (Commission) for the construction and operation of the Advanced Vehicle Research Center (Center). The Department of Commerce shall not release funds appropriated in this section until the Office of State Budget and Management has determined that the Commission has

1 entered into the contracts necessary for the successful completion of the Center.
2 Beginning September 1, 2005, and quarterly thereafter, the Commission shall report its
3 progress in completing the Center and the total funds received to date to the Office of
4 State Budget and Management, the Department of Commerce, and the Fiscal Research
5 Division.

6
7 Requested by: Representatives Hunter, Warren

8 **NONPROFIT REPORTING REQUIREMENTS**

9 **SECTION 13.9.(a)** The N.C. Institute for Minority Economic Development,
10 Inc., Land Loss Prevention Project, North Carolina Minority Support Center, North
11 Carolina Community Development Initiative, Inc., North Carolina Association of
12 Community Development Corporations, Inc., Coalition of Farm and Rural Families, and
13 Partnership for the Sounds, Inc., shall do the following:

- 14 (1) By January 15, 2006, and more frequently as requested, report to the
15 Joint Legislative Commission on Governmental Operations and the
16 Fiscal Research Division the following information:
17 a. State fiscal year 2004-2005 program activities, objectives, and
18 accomplishments;
19 b. State fiscal year 2004-2005 itemized expenditures and fund
20 sources;
21 c. State fiscal year 2005-2006 planned activities, objectives, and
22 accomplishments including actual results through December 31,
23 2005; and
24 d. State fiscal year 2005-2006 estimated itemized expenditures
25 and fund sources including actual expenditures and fund
26 sources through December 31, 2005.
27 (2) By January 15, 2007, and more frequently as requested, report to the
28 Joint Legislative Commission on Governmental Operations and the
29 Fiscal Research Division the following information:
30 a. State fiscal year 2005-2006 program activities, objectives, and
31 accomplishments;
32 b. State fiscal year 2005-2006 itemized expenditures and fund
33 sources;
34 c. State fiscal year 2006-2007 planned activities, objectives, and
35 accomplishments including actual results through December 31,
36 2006; and
37 d. State fiscal year 2006-2007 estimated itemized expenditures
38 and fund sources including actual expenditures and fund
39 sources through December 31, 2006.
40 (3) Provide to the Fiscal Research Division a copy of the organization's
41 annual audited financial statement within 30 days of issuance of the
42 statement.

43 **SECTION 13.9.(b)** No funds appropriated under this act shall be released to
44 a nonprofit organization listed in subsection (a) of this section until the organization has
45 satisfied the reporting requirement for January 15, 2005. Fourth quarter allotments shall
46 not be released to any nonprofit organization that does not satisfy the reporting
47 requirements by January 15, 2006, or January 15, 2007.

48
49 Requested by: Representatives Hunter, Warren

50 **BIOTECHNOLOGY CENTER**

51 **SECTION 13.10.(a)** The North Carolina Biotechnology Center shall
52 recapture funds spent in support of successful research and development efforts in the
53 for-profit private sector.

1 **SECTION 13.10.(b)** The North Carolina Biotechnology Center shall
 2 provide funding for biotechnology, biomedical, and related bioscience applications
 3 under its Business and Science Technology Programs.

4 **SECTION 13.10.(c)** The North Carolina Biotechnology Center shall:

- 5 (1) By January 15, 2006, and more frequently as requested, report to the
 6 Joint Legislative Commission on Governmental Operations and the
 7 Fiscal Research Division the following information:
 8 a. State fiscal year 2004-2005 program activities, objectives, and
 9 accomplishments;
 10 b. State fiscal year 2004-2005 itemized expenditures and fund
 11 sources;
 12 c. State fiscal year 2005-2006 planned activities, objectives, and
 13 accomplishments, including actual results through December
 14 31, 2005; and
 15 d. State fiscal year 2005-2006 estimated itemized expenditures
 16 and fund sources, including actual expenditures and fund
 17 sources through December 31, 2005.
 18 (2) By January 15, 2007, and more frequently as requested, report to the
 19 Joint Legislative Commission on Governmental Operations and the
 20 Fiscal Research Division the following information:
 21 a. State fiscal year 2005-2006 program activities, objectives, and
 22 accomplishments;
 23 b. State fiscal year 2005-2006 itemized expenditures and fund
 24 sources;
 25 c. State fiscal year 2006-2007 planned activities, objectives, and
 26 accomplishments, including actual results through December
 27 31, 2006; and
 28 d. State fiscal year 2006-2007 estimated itemized expenditures
 29 and fund sources, including actual expenditures and fund
 30 sources through December 31, 2006.
 31 (3) Provide to the Fiscal Research Division a copy of the organization's
 32 annual audited financial statement within 30 days of issuance of the
 33 statement.

34 **SECTION 13.10.(d)** The North Carolina Biotechnology Center shall
 35 provide a report containing detailed budget, personnel, and salary information to the
 36 Office of State Budget and Management and to the Fiscal Research Division in the same
 37 manner as State departments and agencies in preparation for biennium budget requests.
 38

39 Requested by: Representatives Hunter, Warren

40 **RURAL ECONOMIC DEVELOPMENT CENTER**

41 **SECTION 13.11.(a)** Of the funds appropriated in this act to the Rural
 42 Economic Development Center, Inc., the sum of two million five hundred seventy-five
 43 thousand six hundred ninety-seven dollars (\$2,575,697) for the 2005-2006 fiscal year
 44 and the sum of two million two hundred seventy-five thousand six hundred ninety-seven
 45 dollars (\$2,275,697) for the 2006-2007 fiscal year shall be allocated as follows:

	2005-2006	2006-2007
46 Research and Demonstration Grants	\$620,000	\$620,000
47 Technical Assistance and Center		
48 Administration of Research		
49 and Demonstration Grants	444,399	444,399
50 Center Administration, Oversight,		
51 and Other Programs	604,298	604,298
52 Administration of Clean Water/		
53		

1	Natural Gas Critical Needs		
2	Bond Act of 1998	199,722	199,722
3	Additional Administration of Supplemental		
4	Funding Program	438,278	138,278
5	Administration of Capacity Building		
6	Assistance Program (1998 Bond Act)	125,000	125,000
7	Institute for Rural Entrepreneurship	144,000	144,000.

8 **SECTION 13.11.(b)** Of the funds allocated for Research and Demonstration
9 Grants for fiscal year 2005-2006 and fiscal year 2006-2007 in subsection (a) of this
10 section, the sum of two hundred fifty thousand dollars (\$250,000) may be allocated to
11 the e-NC Authority to establish Business and Technology Telecenters.

12 **SECTION 13.11.(c)** Of the funds allocated for Additional Administration of
13 Supplemental Funding Program for fiscal year 2005-2006 in subsection (a) of this
14 section, the sum of one hundred fifty thousand dollars (\$150,000) may be allocated to
15 Pitt County, the sum of seventy-five thousand dollars (\$75,000) to Martin County, and
16 the sum of seventy-five thousand dollars (\$75,000) to Hertford County for the purpose
17 of water or wastewater projects.

18 **SECTION 13.11.(d)** The Rural Economic Development Center, Inc., shall
19 provide a report containing detailed budget, personnel, and salary information to the
20 Office of State Budget and Management in the same manner as State departments and
21 agencies in preparation for biennium budget requests.

22 **SECTION 13.11.(e)** For purposes of this section, the term "community
23 development corporation" means a nonprofit corporation:

- 24 (1) Chartered pursuant to Chapter 55A of the General Statutes;
- 25 (2) Tax-exempt pursuant to section 501(c)(3) of the Internal Revenue
26 Code of 1986;
- 27 (3) Whose primary mission is to develop and improve low-income
28 communities and neighborhoods through economic and related
29 development;
- 30 (4) Whose activities and decisions are initiated, managed, and controlled
31 by the constituents of those local communities; and
- 32 (5) Whose primary function is to act as deal maker and packager of
33 projects and activities that will increase their constituencies'
34 opportunities to become owners, managers, and producers of small
35 businesses, affordable housing, and jobs designed to produce positive
36 cash flow and curb blight in the targeted community.

37 **SECTION 13.11.(f)** Of the funds appropriated in this act to the Rural
38 Economic Development Center, Inc., the sum of two million nine hundred fifteen
39 thousand nine hundred ten dollars (\$2,915,910) for the 2005-2006 fiscal year and the
40 sum of two million nine hundred fifteen thousand nine hundred ten dollars (\$2,915,910)
41 for the 2006-2007 fiscal year shall be allocated as follows:

- 42 (1) \$1,547,410 in each fiscal year for community development grants to
43 support development projects and activities within the State's minority
44 communities. Any new or previously funded community development
45 corporation as defined in this section is eligible to apply for funds. The
46 Rural Economic Development Center, Inc., shall establish
47 performance-based criteria for determining which community
48 development corporation will receive a grant and the grant amount.
49 The Rural Economic Development Center, Inc., shall allocate these
50 funds as follows:
 - 51 a. \$1,497,410 for direct grants to local community development
52 corporations to support operations and project activities.

- 1 b. \$50,000 in each fiscal year to the Rural Economic Development
2 Center, Inc., to be used to cover expenses in administering this
3 section.
- 4 (2) \$195,000 in each fiscal year to the Microenterprise Loan Program to
5 support the loan fund and operations of the Program; and
- 6 (3) \$983,000 in each fiscal year shall be used for a program to provide
7 supplemental funding for matching requirements for projects and
8 activities authorized under this subsection. The Center shall allocate
9 these funds as follows:
- 10 a. \$675,000 in each fiscal year to make grants to local
11 governments and nonprofit corporations to provide funds
12 necessary to match federal grants or other grants for:
- 13 1. Necessary economic development projects and activities
14 in economically distressed areas;
- 15 2. Necessary water and sewer projects and activities in
16 economically distressed communities to address health
17 or environmental quality problems except that funds
18 shall not be expended for the repair or replacement of
19 low-pressure-pipe wastewater systems. If a grant is
20 awarded under this sub-subdivision, then the grant shall
21 be matched on a dollar-for-dollar basis in the amount of
22 the grant awarded; or
- 23 3. Projects that demonstrate alternative water and waste
24 management processes for local governments. Special
25 consideration should be given to cost-effectiveness,
26 efficacy, management efficiency, and the ability of the
27 demonstration project to be replicated.
- 28 b. \$208,000 in each fiscal year to make grants to local
29 governments and nonprofit corporations to provide funds
30 necessary to match federal grants or other grants related to
31 water, sewer, or business development projects.
- 32 c. \$100,000 in each fiscal year to support the update of the
33 statewide water and sewer database and to support the
34 development of a statewide water management plan.
- 35 (4) \$190,500 in each fiscal year for the Agricultural Advancement
36 Consortium. These funds shall be placed in a reserve and allocated as
37 follows:
- 38 a. \$75,000 in each fiscal year for operating expenses associated
39 with the Consortium; and
- 40 b. \$115,500 in each fiscal year for research initiatives funded by
41 the Consortium.
- 42 The Consortium shall facilitate discussions among interested parties
43 and shall develop recommendations to improve the State's economic
44 development through farming and agricultural interests.
- 45 The grant recipients in this subsection shall be selected on the basis of need.
- 46 **SECTION 13.11.(g)** The Rural Economic Development Center, Inc., shall:
- 47 (1) By January 15, 2006, and more frequently as requested, report to the
48 Joint Legislative Commission on Governmental Operations and the
49 Fiscal Research Division the following information:
- 50 a. State fiscal year 2004-2005 program activities, objectives, and
51 accomplishments;
- 52 b. State fiscal year 2004-2005 itemized expenditures and fund
53 sources;

- 1 c. State fiscal year 2005-2006 planned activities, objectives, and
2 accomplishments, including actual results through December
3 31, 2005; and
4 d. State fiscal year 2005-2006 estimated itemized expenditures
5 and fund sources, including actual expenditures and fund
6 sources through December 31, 2005.
- 7 (2) By January 15, 2007, and more frequently as requested, report to the
8 Joint Legislative Commission on Governmental Operations and the
9 Fiscal Research Division the following information:
10 a. State fiscal year 2005-2006 program activities, objectives, and
11 accomplishments;
12 b. State fiscal year 2005-2006 itemized expenditures and fund
13 sources;
14 c. State fiscal year 2006-2007 planned activities, objectives, and
15 accomplishments, including actual results through December
16 31, 2006; and
17 d. State fiscal year 2006-2007 estimated itemized expenditures
18 and fund sources, including actual expenditures and fund
19 sources through December 31, 2006.
- 20 (3) Provide to the Fiscal Research Division a copy of each grant
21 recipient's annual audited financial statement within 30 days of
22 issuance of the statement.

23 **SECTION 13.11.(h)** No funds appropriated under this act shall be released
24 to a community development corporation, as defined in this section, unless the
25 corporation can demonstrate that there are no outstanding or proposed assessments or
26 other collection actions against the corporation for any State or federal taxes, including
27 related penalties, interest, and fees.

28
29 Requested by: Representatives Hunter, Warren
30 **RURAL ECONOMIC DEVELOPMENT CENTER**

31 **SECTION 13.12.(a)** Of the funds appropriated in this act to the Rural
32 Economic Development Center, Inc., the sum of twenty million dollars (\$20,000,000)
33 for the 2005-2006 fiscal year and the sum of twenty million dollars (\$20,000,000) for
34 the 2006-2007 fiscal year shall be allocated as follows:

- 35 (1) To continue the North Carolina Infrastructure Program. The purpose of
36 the Program is to provide grants to local governments to construct
37 critical water and wastewater facilities and to provide other
38 infrastructure needs, including technology needs, to sites where these
39 facilities will generate private job-creating investment. At least eleven
40 million dollars (\$11,000,000) of the funds allocated in this subsection
41 for fiscal year 2005-2006 and at least fifteen million dollars
42 (\$15,000,000) of the funds allocated in this subsection for fiscal year
43 2006-2007 must be used to provide grants under this Program.
- 44 (2) To provide matching grants to local governments in distressed areas
45 and equity investments in public-private ventures that will
46 productively reuse vacant buildings and properties, with priority given
47 to towns or communities with populations of less than 5,000.
- 48 (3) To provide economic development research and demonstration grants.
- 49 (4) To the Town of Farmville for the Farmville-Greene County Greenville
50 Utilities water project and to the Neuse Regional Water and Sewer
51 Authority. The sum of four million dollars (\$4,000,000) of the funds
52 allocated in this subsection for the 2005-2006 fiscal year must be used
53 for these projects. The Rural Economic Development Center, Inc.

1 shall distribute the funds allocated under this subdivision between the
2 recipients as it determines appropriate.

3 **SECTION 13.12.(b)** The funds appropriated in this act to the Rural
4 Economic Development Center, Inc., shall be recurring funds.

5 **SECTION 13.12.(c)** The Rural Economic Development Center, Inc., may
6 contract with other State agencies, constituent institutions of The University of North
7 Carolina, and colleges within the North Carolina Community College System for certain
8 aspects of the North Carolina Infrastructure Program, including design of Program
9 guidelines and evaluation of Program results.

10 **SECTION 13.12.(d)** During each year of the 2005-2007 biennium, the Rural
11 Economic Development Center, Inc., may use up to two percent (2%) of the funds
12 appropriated in this act to cover its expenses in administering the North Carolina
13 Economic Infrastructure Program.

14 **SECTION 13.12.(e)** No later than January 15 each year, the Rural Economic
15 Development Center, Inc., shall submit an annual report to the Joint Legislative
16 Commission on Governmental Operations concerning the progress of the North
17 Carolina Economic Infrastructure Program.

18 **SECTION 13.12.(f)** Of the funds appropriated in this act to the Rural
19 Economic Development Center, Inc., the sum of five hundred thousand dollars
20 (\$500,000) for the 2005-2006 fiscal year and the sum of five hundred thousand dollars
21 (\$500,000) for the 2006-2007 fiscal year shall be allocated to the e-NC Authority.

22 The e-NC Authority may contract with other State agencies, The University
23 of North Carolina, the North Carolina Community College System, and nonprofit
24 organizations to assist with program development and the evaluation of program
25 activities.

26 The e-NC Authority shall report to the 2006 General Assembly on the
27 following:

- 28 (1) The activities necessary to be undertaken in distressed urban areas of
29 the State to enhance the capability of citizens and businesses residing
30 in these areas to access the high-speed Internet.
- 31 (2) An implementation plan for the training of citizens and businesses in
32 distressed urban areas.
- 33 (3) The technology and digital literacy training necessary to assist citizens
34 and existing businesses to create new technology-based enterprises in
35 these communities and to use the Internet to enhance the productivity
36 of their businesses.

37 The e-NC Authority shall, by January 31, 2006, and quarterly thereafter,
38 report to the Joint Legislative Commission on Governmental Operations on program
39 development and the evaluation of program activities.

40 **SECTION 13.12.(g)** G.S. 143B-437.46(b) reads as rewritten:

41 "(b) Commission. – The Authority shall be governed by a Commission. The
42 Commission shall consist of ~~nine voting members and six non voting ex officio~~ 15
43 voting members, as follows:

- 44 (1) Three members appointed by the Governor.
- 45 (2) Three members appointed by the General Assembly upon the
46 recommendation of the President Pro Tempore of the Senate in
47 accordance with G.S. 120-121.
- 48 (3) Three members appointed by the General Assembly upon the
49 recommendation of the Speaker of the House of Representatives in
50 accordance with G.S. 120-121.
- 51 (4) Six ~~ex officio, non voting ex officio~~ members to include the Secretary
52 of Commerce, the State Chief Information Officer, the President of the
53 North Carolina Rural Economic Development Center, Inc., the

1 Executive Director of the North Carolina Justice and Community
2 Development Center, the Executive Director of the North Carolina
3 League of Municipalities, the Executive Director of the North Carolina
4 Association of County Commissioners, or their designees.

5 It is the intent of the General Assembly that the appointing authorities, in making
6 appointments, shall consider members who represent the geographic, gender, and racial
7 diversity of the State, members who represent rural counties, members who represent
8 distressed urban areas, members who represent the regional partnerships, and members
9 who represent the communications industry. For the purpose of this subsection, the term
10 "communications industry" includes local telephone exchange companies, rural
11 telephone cooperatives, Internet service providers, commercial wireless
12 communications carriers, cable television companies, satellite companies, and other
13 communications businesses."
14

15 Requested by: Representatives Hunter, Warren

16 **OPPORTUNITIES INDUSTRIALIZATION CENTER FUNDS**

17 **SECTION 13.13.(a)** Of the funds appropriated in this act to the Rural
18 Economic Development Center, Inc., the sum of three hundred sixty-one thousand
19 dollars (\$361,000) for the 2005-2006 fiscal year and the sum of three hundred sixty-one
20 thousand dollars (\$361,000) for the 2006-2007 fiscal year shall be equally distributed
21 among the certified Opportunities Industrialization Centers for ongoing job training
22 programs.

23 **SECTION 13.13.(b)** For each of the Opportunities Industrialization Centers
24 receiving funds pursuant to subsection (a) of this section, the Rural Economic
25 Development Center, Inc., shall:

- 26 (1) By January 15, 2006, and more frequently as requested, report to the
27 Joint Legislative Commission on Governmental Operations and the
28 Fiscal Research Division the following information:
29 a. State fiscal year 2004-2005 program activities, objectives, and
30 accomplishments;
31 b. State fiscal year 2004-2005 itemized expenditures and fund
32 sources;
33 c. State fiscal year 2005-2006 planned activities, objectives, and
34 accomplishments, including actual results through December
35 31, 2005; and
36 d. State fiscal year 2005-2006 estimated itemized expenditures
37 and fund sources, including actual expenditures and fund
38 sources through December 31, 2005.
- 39 (2) By January 15, 2007, and more frequently as requested, report to the
40 Joint Legislative Commission on Governmental Operations and the
41 Fiscal Research Division the following information:
42 a. State fiscal year 2005-2006 program activities, objectives, and
43 accomplishments;
44 b. State fiscal year 2005-2006 itemized expenditures and fund
45 sources;
46 c. State fiscal year 2006-2007 planned activities, objectives, and
47 accomplishments, including actual results through December
48 31, 2006; and
49 d. State fiscal year 2006-2007 estimated itemized expenditures
50 and fund sources, including actual expenditures and fund
51 sources through December 31, 2006.
- 52 (3) Notwithstanding G.S. 143-6.1(d), file annually with the State Auditor
53 a financial statement in the form and on the schedule prescribed by the

1 State Auditor. The financial statements must be audited in accordance
2 with standards prescribed by the State Auditor to assure that State
3 funds are used for the purposes provided by law.

- 4 (4) Provide to the Fiscal Research Division a copy of the annual audited
5 financial statement required in subdivision (3) of this subsection within
6 30 days of issuance of the statement.

7 **SECTION 13.13.(c)** No funds appropriated under this act shall be released
8 to an Opportunities Industrialization Center (hereinafter Center) listed in subsection (a)
9 of this section if the Center has any overdue tax debts, as that term is defined in
10 G.S. 105-243.1, at the federal or State level.

11 **PART XIV. JUDICIAL DEPARTMENT**

12 Requested by: Representatives Kiser, Haire

13 **ESTABLISH CONFERENCE OF CLERKS OF SUPERIOR COURT**

14 **SECTION 14.1.(a)** Chapter 7A of the General Statutes is amended by
15 adding a new Subchapter to read:

16 **"SUBCHAPTER XV. CONFERENCE OF CLERKS OF SUPERIOR COURT.**

17 "Article 63.

18 "Conference of Clerks of Superior Court.

19 **"§ 7A-805. Establishment and purpose.**

20 There is created the Conference of Clerks of Superior Court of North Carolina, of
21 which each clerk of superior court is a member. The purpose of the Conference is to
22 assist in improving the administration of justice in North Carolina by coordinating the
23 efforts of the various clerks of superior court, by assisting them in the administration of
24 their offices, and by exercising the powers and performing the duties provided for in
25 this Article.

26 **"§ 7A-806. Annual meetings; organization; election of officers.**

27 (a) Annual Meetings. – The Conference shall meet each summer and winter at a
28 time and place selected by the President of the Conference.

29 (b) Election of Officers. – Officers of the Conference are a President, two Vice
30 Presidents, a Secretary, a Treasurer, and other officers from among its membership that
31 the Conference may designate in its bylaws. Officers are elected for one-year terms at
32 the annual summer conference and take office on July 1 immediately following their
33 election.

34 (c) Executive Committee. – The Executive Committee of the Conference consists
35 of the President, the two Vice Presidents, the Secretary, the Treasurer, and seven other
36 members of the Conference. One of these seven members shall be the immediate past
37 president if there is one and that past president continues to be a member.

38 (d) Organization and Functioning; Bylaws. – The bylaws may provide for the
39 organization and functioning of the Conference, including the powers and duties of its
40 officers and committees. The bylaws shall state the number of members required to
41 constitute a quorum at any meeting of the Conference or the Executive Committee. The
42 bylaws shall set out the procedure for amending the bylaws.

43 (e) Calling Meetings; Duty to Attend. – The President or the Executive
44 Committee may call a meeting of the Conference upon 10 days' notice to the members,
45 except upon written waiver of notice signed by at least three-fourths of the members. A
46 member should attend each meeting of the Conference and the Executive Committee of
47 which he is given notice. Members are entitled to reimbursement for travel and
48 subsistence expenses at the rate applicable to State employees.

49 **"§ 7A-807. Powers of Conference.**

50 (a) The Conference may:

- (1) Cooperate with citizens and other public and private agencies to promote the effective administration of justice.
- (2) Develop advisory manuals to assist in the organization and administration of their offices, case management, calendaring, case tracking, filing, and office procedures.
- (3) Work with the cooperation of the Administrative Office of the Courts and the Institute of Government of the School of Government at UNC-Chapel Hill to provide education and training programs for clerks and staff.

(b) The Conference may not adopt rules pursuant to Chapter 150B of the General Statutes.

"§ 7A-808. Executive secretary; clerical support.

The Conference may employ an executive secretary and any necessary supporting staff to assist it in carrying out its duties."

SECTION 14.1.(b) The organizational meeting of the Conference of Clerks of Superior Court shall be convened by the Director of the Administrative Office of the Courts as soon as feasible. Officers elected at that organizational meeting shall serve until their successors take office July 1, 2006.

Requested by: Representatives Kiser, Haire, Goodwin

DIVIDE DISTRICT COURT DISTRICT 20 INTO 20A AND 20B AND REALIGN SUPERIOR COURT DISTRICTS 20A AND 20B

SECTION 14.2.(a) G.S. 7A-41(a) reads as rewritten:

"(a) The counties of the State are organized into judicial divisions and superior court districts, and each superior court district has the counties, and the number of regular resident superior court judges set forth in the following table, and for districts of less than a whole county, as set out in subsection (b) of this section:

Judicial Division	Superior Court District	Counties	No. of Resident Judges
First	1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	2
First	2	Beaufort, Hyde, Martin, Tyrrell, Washington	1
First	3A	Pitt	2
Second	3B	Carteret, Craven, Pamlico	3
Second	4A	Duplin, Jones, Sampson	1
Second	4B	Onslow	1
Second	5A	(part of New Hanover, part of Pender see subsection (b))	1
	5B	(part of New Hanover, part of Pender see subsection (b))	1
	5C	(part of New Hanover, see subsection (b))	1
First	6A	Halifax	1
First	6B	Bertie, Hertford, Northampton	1
First	7A	Nash	1
First	7B	(part of Wilson,	1

1			part of Edgecombe,	
2			see subsection (b))	
3	First	7C	(part of Wilson,	1
4			part of Edgecombe, see	
5			subsection (b))	
6	Second	8A	Lenoir and Greene	1
7	Second	8B	Wayne	1
8	Third	9	Franklin, Granville,	2
9			Vance, Warren	
10	Third	9A	Person, Caswell	1
11	Third	10A	(part of Wake,	2
12			see subsection (b))	
13	Third	10B	(part of Wake,	2
14			see subsection (b))	
15	Third	10C	(part of Wake,	1
16			see subsection (b))	
17	Third	10D	(part of Wake,	1
18			see subsection (b))	
19	Fourth	11A	Harnett, Lee	1
20	Fourth	11B	Johnston	1
21	Fourth	12A	(part of Cumberland,	1
22			see subsection (b))	
23	Fourth	12B	(part of Cumberland,	1
24			see subsection (b))	
25	Fourth	12C	(part of Cumberland,	2
26			see subsection (b))	
27	Fourth	13	Bladen, Brunswick,	2
28			Columbus	
29	Third	14A	(part of Durham,	1
30			see subsection (b))	
31	Third	14B	(part of Durham,	3
32			see subsection (b))	
33	Third	15A	Alamance	2
34	Third	15B	Orange, Chatham	2
35	Fourth	16A	Scotland, Hoke	1
36	Fourth	16B	Robeson	2
37	Fifth	17A	Rockingham	2
38	Fifth	17B	Stokes, Surry	2
39	Fifth	18A	(part of Guilford,	1
40			see subsection (b))	
41	Fifth	18B	(part of Guilford,	1
42			see subsection (b))	
43	Fifth	18C	(part of Guilford,	1
44			see subsection (b))	
45	Fifth	18D	(part of Guilford,	1
46			see subsection (b))	
47	Fifth	18E	(part of Guilford,	1
48			see subsection (b))	
49	Sixth	19A	Cabarrus	1
50	Fifth	19B	Montgomery, Randolph	1
51	Sixth	19C	Rowan	1
52	Fifth	19D	Moore	1
53	Sixth	20A	Anson, <u>Richmond</u>	<u>± 2</u>

1			Richmond Stanly	
2	Sixth	20B	Stanly, Union	2 <u>1</u>
3	Fifth	21A	(part of Forsyth,	1
4			see subsection (b))	
5	Fifth	21B	(part of Forsyth,	1
6			see subsection (b))	
7	Fifth	21C	(part of Forsyth,	1
8			see subsection (b))	
9	Fifth	21D	(part of Forsyth,	1
10			see subsection (b))	
11	Sixth	22	Alexander, Davidson,	3
12			Davie, Iredell	
13	Fifth	23	Alleghany, Ashe,	1
14			Wilkes, Yadkin	
15	Eighth	24	Avery, Madison,	2
16			Mitchell, Watauga, Yancey	
17	Seventh	25A	Burke, Caldwell	2
18	Seventh	25B	Catawba	2
19	Seventh	26A	(part of Mecklenburg,	2
20			see subsection (b))	
21	Seventh	26B	(part of Mecklenburg,	3
22			see subsection (b))	
23	Seventh	26C	(part of Mecklenburg,	2
24			see subsection (b))	
25	Seventh	27A	Gaston	2
26	Seventh	27B	Cleveland, Lincoln	2
27	Eighth	28	Buncombe	2
28	Eighth	29	Henderson,	2
29			McDowell, Polk, Rutherford,	
30			Transylvania	
31	Eighth	30A	Cherokee, Clay,	1
32			Graham, Macon, Swain	
33	Eighth	30B	Haywood, Jackson	1."

SECTION 14.2.(b) The superior court judgeship established for District 20A by subsection (a) of this section shall be filled by the judge currently serving District 20B who resides in Stanly County. That judge's current term expires on December 31, 2006. No election shall be held in 2006 for that judge's seat, and that judge shall serve until a successor is elected in the 2008 general election, in order to provide for unstagged terms for multiple judgeships in the same district.

SECTION 14.2.(c) G.S. 7A-133(a) reads as rewritten:

"(a) Each district court district shall have the numbers of judges as set forth in the following table:

District	Judges	County
1	5	Camden Chowan Currituck Dare Gates Pasquotank Perquimans
2	4	Martin Beaufort Tyrrell

1			Hyde
2			Washington
3	3A	5	Pitt
4	3B	5	Craven
5			Pamlico
6			Carteret
7	4	8	Sampson
8			Duplin
9			Jones
10			Onslow
11	5	8	New Hanover
12			Pender
13	6A	2	Halifax
14	6B	3	Northampton
15			Bertie
16			Hertford
17	7	7	Nash
18			Edgecombe
19			Wilson
20	8	6	Wayne
21			Greene
22			Lenoir
23	9	4	Granville
24			(part of Vance
25			see subsection (b))
26			Franklin
27	9A	2	Person
28			Caswell
29	9B	2	Warren
30			(part of Vance
31			see subsection (b))
32	10	15	Wake
33	11	8	Harnett
34			Johnston
35			Lee
36	12	9	Cumberland
37	13	6	Bladen
38			Brunswick
39			Columbus
40	14	6	Durham
41	15A	4	Alamance
42	15B	4	Orange
43			Chatham
44	16A	3	Scotland
45			Hoke
46	16B	5	Robeson
47	17A	2	Rockingham
48	17B	4	Stokes
49			Surry
50	18	12	Guilford
51	19A	4	Cabarrus
52	19B	6	Montgomery
53			Moore

1			Randolph
2	19C	4	Rowan
3	20 <u>20A</u>	7 <u>4</u>	Stanly
4			Union
5			Anson
6			Richmond
7	<u>20B</u>	<u>3</u>	<u>Union</u>
8	21	9	Forsyth
9	22	9	Alexander
10			Davidson
11			Davie
12			Iredell
13	23	4	Alleghany
14			Ashe
15			Wilkes
16			Yadkin
17	24	4	Avery
18			Madison
19			Mitchell
20			Watauga
21			Yancey
22	25	8	Burke
23			Caldwell
24			Catawba
25	26	17	Mecklenburg
26	27A	6	Gaston
27	27B	4	Cleveland
28			Lincoln
29	28	6	Buncombe
30	29	7	Henderson
31			McDowell
32			Polk
33			Rutherford
34			Transylvania
35	30	5	Cherokee
36			Clay
37			Graham
38			Haywood
39			Jackson
40			Macon
41			Swain."

42 **SECTION 14.2.(d)** The four district court judgeships established for District
43 20A by subsection (c) of this section shall be filled by the district court judges from
44 current District 20 who reside in Anson, Stanly, and Richmond Counties. The term of
45 the judge living in Anson County expires the first Monday in December 2008. That
46 judge's successor shall be elected in the 2008 general election. The term of the judge
47 living in Stanly County expires the first Monday in December 2006. That judge's
48 successor shall be elected in the 2006 general election. The term of one of the judges
49 living in Richmond County expires the first Monday in December 2006. That judge's
50 successor shall be elected in the 2006 general election. The term of the other judge
51 living in Richmond County expires the first Monday in December 2008. That judge's
52 successor shall be elected in the 2008 general election.

1 **SECTION 14.2.(e)** The three district court judgeships established for
2 District 20B by subsection (c) of this section shall be filled by the district court judges
3 from current District 20 who reside in Union County. The terms of the three judges
4 living in Union County expire the first Monday in December 2008. Those judges'
5 successors shall be elected in the 2008 general election.

6 **SECTION 14.2.(f)** Subsections (a) and (b) of this section become effective
7 December 1, 2005, or the date upon which subsection (a) of this section is approved
8 under Section 5 of the Voting Rights Act of 1965, whichever is later. Subsections (c)
9 through (e) of this section become effective December 1, 2005, or the date upon which
10 subsection (c) of this section is approved under Section 5 of the Voting Rights Act of
11 1965, whichever is later.

12
13 Requested by: Representatives Kiser, Haire

14 **COLLECTION OF WORTHLESS CHECK FUNDS**

15 **SECTION 14.3.** Notwithstanding the provisions of G.S. 7A-308(c), the
16 Judicial Department may use any balance remaining in the Collection of Worthless
17 Checks Fund on June 30, 2005, for the purchase or repair of office or information
18 technology equipment during the 2005-2006 fiscal year. Prior to using any funds under
19 this section, the Judicial Department shall report to the Joint Legislative Commission on
20 Governmental Operations and the Chairs of the Senate and House of Representatives
21 Appropriations Subcommittees on Justice and Public Safety on the equipment to be
22 purchased or repaired and the reasons for the purchases.

23
24 Requested by: Representatives Kiser, Haire

25 **TRANSFER OF EQUIPMENT AND SUPPLY FUNDS**

26 **SECTION 14.4.** Funds appropriated to the Judicial Department in the
27 2005-2007 biennium for equipment and supplies shall be certified in a reserve account.
28 The Administrative Office of the Courts may transfer these funds to the appropriate
29 programs and between programs as the equipment priorities and supply consumptions
30 occur during the operating year. These funds shall not be expended for any other
31 purpose.

32
33 Requested by: Representatives Kiser, Haire

34 **STUDY ELECTRONIC PAYMENT**

35 **SECTION 14.5.** The Judicial Department shall study the feasibility of
36 implementing electronic and online payment options for court fees and other funds
37 collected by the courts. The study shall address the estimated costs and time frame for
38 implementing electronic payment as well as any necessary legislative changes. The
39 report shall specifically evaluate the feasibility and cost of requiring all court-ordered
40 payments to be entered into the Department's financial management system, and shall
41 provide options for ensuring that this data is entered, including information systems
42 enhancements that will allow fields to be automatically populated from the court
43 information system into the financial management system. The Judicial Department
44 shall report its findings as a result of the study to the Chairs of the Senate and House of
45 Representatives Appropriations Subcommittees on Justice and Public Safety by May 1,
46 2006.

47
48 Requested by: Representatives Kiser, Haire

49 **GRANT FUNDS**

50 **SECTION 14.6.** The Judicial Department shall use up to the sum of one
51 million two hundred fifty thousand dollars (\$1,250,000) from funds available to the
52 Department to provide the State match needed in order to receive grant funds. Prior to
53 using funds for this purpose, the Department shall report to the Chairs of the Senate and

1 House of Representatives Appropriations Subcommittees on Justice and Public Safety
2 and the Joint Legislative Commission on Governmental Operations on the grants to be
3 matched using these funds.

4
5 Requested by: Representatives Kiser, Haire

6 **INCREASE CHARGES FOR APPELLATE DIVISION REPORTS TO ACTUAL**
7 **COST**

8 **SECTION 14.7.** The Judicial Department shall charge the full cost of
9 production for all copies of the appellate division reports that are sold.

10
11 Requested by: Representatives Kiser, Haire

12 **NORTH CAROLINA STATE BAR FUNDS**

13 **SECTION 14.8.** Of the funds appropriated in the continuation budget as a
14 grant-in-aid to the North Carolina State Bar for the 2005-2007 biennium, the North
15 Carolina State Bar may in its discretion use up to the sum of five hundred one thousand
16 five hundred dollars (\$501,500) for the 2005-2006 fiscal year and up to the sum of five
17 hundred one thousand five hundred dollars (\$501,500) for the 2006-2007 fiscal year to
18 contract with the Center for Death Penalty Litigation to provide training, consultation,
19 brief banking, and other assistance to attorneys representing indigent capital defendants.
20 The Office of Indigent Defense Services shall report by February 1, 2006, to the Chairs
21 of the Senate and House Appropriations Subcommittees on Justice and Public Safety on
22 the activities funded by the grant-in-aid authorized by this section.

23
24 Requested by: Representatives Kiser, Haire

25 **WAKE COUNTY PUBLIC DEFENDER OFFICE FUNDS**

26 **SECTION 14.10.** Of the funds appropriated to the Judicial Department,
27 Office of Indigent Defense Services, in this act, the Office of Indigent Defense Services
28 shall use up to the sum of two million three hundred thousand five hundred thirty-four
29 dollars (\$2,300,534) for the 2005-2006 fiscal year and the sum of two million one
30 hundred eighty-one thousand three hundred twenty-three dollars (\$2,181,323) for the
31 2006-2007 fiscal year to establish a public defender's office in the Tenth Defender
32 District, as authorized by Section 14.4(b) of S.L. 2004-126. The funds shall be used to
33 establish the public defender, 20 assistant public defenders, four investigators, one
34 administrative assistant II, and five legal assistants.

35
36 Requested by: Representatives Kiser, Haire

37 **OFFICE OF INDIGENT DEFENSE SERVICES EXPANSION FUNDS**

38 **SECTION 14.11.** The Judicial Department, Office of Indigent Defense
39 Services, may use up to the sum of one million sixty-nine thousand six hundred
40 forty-five dollars (\$1,069,645) in appropriated funds during the 2005-2006 fiscal year
41 and up to the sum of one million twenty-three thousand one hundred thirty-five dollars
42 (\$1,023,135) in appropriated funds during the 2006-2007 fiscal year for the expansion
43 of existing offices currently providing legal services to the indigent population under the
44 oversight of the Office of Indigent Defense Services by creating up to 10 new attorney
45 positions and five new support staff positions. These funds may be used for salaries,
46 benefits, equipment, and related expenses. Prior to using funds for this purpose, the
47 Office of Indigent Defense Services shall report to the Chairs of the House and the
48 Senate Appropriations Subcommittees on Justice and Public Safety on the proposed
49 expansion.

50
51 Requested by: Representatives Kiser, Haire

52 **OFFICE OF INDIGENT DEFENSE SERVICES REPORT**

1 **SECTION 14.12.** The Office of Indigent Defense Services shall report to the
 2 Chairs of the Senate and House of Representatives Appropriations Committees and the
 3 Chairs of the Senate and House of Representatives Appropriations Subcommittees on
 4 Justice and Public Safety by March 1 of each year on:

- 5 (1) The volume and cost of cases handled in each district by assigned
 6 counsel or public defenders;
- 7 (2) Actions taken by the Office to improve the cost-effectiveness and
 8 quality of indigent defense, including the capital case program;
- 9 (3) Plans for changes in rules, standards, or regulations in the upcoming
 10 year; and
- 11 (4) Any recommended changes in law or funding procedures that would
 12 assist the Office in improving the management of funds expended for
 13 indigent defense services.

14 The Office shall also consult with the Conference of District Attorneys of
 15 North Carolina, the Conference of District Court Judges, and the Conference of
 16 Superior Court Judges in formulating proposals aimed at reducing future costs,
 17 including the possibility of decriminalizing minor traffic offenses, changing the way
 18 that criminal district court is scheduled, and reevaluating the handling of capital cases.
 19 The Office shall include these proposals in its reports during the 2005-2007 fiscal
 20 biennium.

21
 22 Requested by: Representatives Kiser, Haire

23 **CLARIFY THAT FEES PAID TO ATTORNEYS REPRESENTING INDIGENT**
 24 **CLIENTS SHALL BE FIXED IN ACCORDANCE WITH THE RULES**
 25 **ADOPTED BY THE OFFICE OF INDIGENT DEFENSE SERVICES AND**
 26 **MAY NOT BE SET AT HIGHER RATES WITHOUT THE APPROVAL OF**
 27 **THE OFFICE OF INDIGENT DEFENSE SERVICES**

28 **SECTION 14.13.** G.S. 7A-458 reads as rewritten:

29 **"§ 7A-458. Counsel fees.**

30 The fee to which an attorney who represents an indigent person is entitled shall be
 31 fixed in accordance with rules adopted by the Office of Indigent Defense Services. Fees
 32 shall be based on the factors normally considered in fixing attorneys' fees, such as the
 33 nature of the case, and the time, effort and responsibility involved. Fees shall not be set
 34 or ordered at rates higher than those established by the rules adopted under this section
 35 without the approval of the Office of Indigent Defense Services. Even if the trial,
 36 appeal, hearing or other proceeding is never held, preparation therefor is nevertheless
 37 compensable and, in capital cases and other extraordinary cases pending in superior
 38 court, a fee for services rendered and payment for expenses incurred may be allowed
 39 pending final determination of the case."

40
 41 Requested by: Representatives Kiser, Haire

42 **ESTABLISH PUBLIC DEFENDER'S OFFICE IN THE FIFTH DEFENDER**
 43 **DISTRICT**

44 **SECTION 14.14.(a)** G.S. 7A-498.7(a) reads as rewritten:

45 **"§ 7A-498.7. Public Defender Offices.**

46 (a) The following counties of the State are organized into the defender districts
 47 listed below, and in each of those defender districts an office of public defender is
 48 established:

Defender District	Counties
1	Camden, Chowan, Currituck, Dare, Gates,

1		Pasquotank, Perquimans
2	3A	Pitt
3	3B	Carteret
4	<u>5</u>	<u>New Hanover, Pender</u>
5	10	Wake
6	12	Cumberland
7	14	Durham
8	15B	Orange, Chatham
9	16A	Scotland, Hoke
10	16B	Robeson
11	18	Guilford
12	21	Forsyth
13	26	Mecklenburg
14	27A	Gaston
15	28	Buncombe

16
 17 After notice to, and consultation with, the affected district bar, senior resident superior
 18 court judge, and chief district court judge, the Commission on Indigent Defense
 19 Services may recommend to the General Assembly that a district or regional public
 20 defender office be established. A legislative act is required in order to establish a new
 21 office or to abolish an existing office."

22 **SECTION 14.14.(b)** Of the funds appropriated to the Judicial Department,
 23 Office of Indigent Defense Services, in this act, the Office of Indigent Defense Services
 24 shall use up to the sum of one million three hundred eighty-five thousand five hundred
 25 eighty-four dollars (\$1,385,584) for the 2005-2006 fiscal year and up to the sum of one
 26 million three hundred eighty-five thousand five hundred eighty-four dollars
 27 (\$1,385,584) for the 2006-2007 fiscal year to establish a public defender's office in the
 28 Fifth Defender District, as established in this section. The funds shall be used to
 29 establish the public defender, 11 assistant public defenders, two investigators, and three
 30 support positions.

31
 32 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
 33 Michaux

34 **SUBSISTENCE EXPENSES OF SUPERIOR COURT JUDGES**

35 **SECTION 14.15.** G.S. 7A-44(a) reads as rewritten:

36 "(a) A judge of the superior court, regular or special, shall receive the annual
 37 salary set forth in the Current Operations Appropriations Act, and in addition shall be
 38 paid the same travel allowance as State employees generally by ~~G.S. 138-6(a)(1) and~~
 39 ~~(2), G.S. 138-6(a),~~ provided that no travel allowance be paid for travel within ~~his the~~
 40 judge's county of residence. ~~In addition, a judge of the superior court shall be allowed~~
 41 ~~seven thousand dollars (\$7,000) per year, payable monthly, in lieu of necessary~~
 42 ~~subsistence expenses while attending court or transacting official business at a place~~
 43 ~~other than in the county of his residence and in lieu of other professional expenses~~
 44 ~~incurred in the discharge of his official duties.~~ The Administrative Officer of the Courts
 45 may also reimburse superior court judges, in addition to the above funds for travel and
 46 subsistence, for travel and subsistence expenses incurred for professional education."

47
 48 Requested by: Representative Michaux

49 **REALLOCATION OF MEDIATION FUNDS**

50 **SECTION 14.16.** Of the funds appropriated to the Judicial Department for
 51 transfer to the community mediation centers for the 2005-2006 fiscal year, the sum of
 52 eighty-seven thousand two hundred twelve dollars (\$87,212) designated for Carolina

1 Dispute Settlement Services, Inc., to serve Durham County, shall be allocated to
 2 Women-in-Action for the Prevention of Violence and Its Causes, Inc.

3
 4 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
 5 Michaux, Haire, Culpepper, Frye, Sutton

6 **ESTABLISH A NEW DISTRICT COURT JUDGE IN DISTRICT 14, A NEW**
 7 **ASSISTANT DISTRICT ATTORNEY IN DISTRICT 14, AND A NEW**
 8 **ASSISTANT DISTRICT ATTORNEY IN DISTRICT 24**

9 **SECTION 14.17.(a)** G.S. 7A-133(a) reads as rewritten:

10 "(a) Each district court district shall have the numbers of judges as set forth in the
 11 following table:

District	Judges	County
1	5	Camden Chowan Currituck Dare Gates Pasquotank Perquimans
2	4	Martin Beaufort Tyrrell Hyde Washington
3A	5	Pitt
3B	5	Craven Pamlico Carteret
4	8	Sampson Duplin Jones Onslow
5	8	New Hanover Pender
6A	2	Halifax
6B	3	Northampton Bertie Hertford
7	7	Nash Edgecombe Wilson
8	6	Wayne Greene Lenoir
9	4	Granville (part of Vance see subsection (b)) Franklin
9A	2	Person
9B	2	Caswell Warren (part of Vance see subsection (b))

1	10	15	Wake
2	11	8	Harnett
3			Johnston
4			Lee
5	12	9	Cumberland
6	13	6	Bladen
7			Brunswick
8			Columbus
9	14	6 7	Durham
10	15A	4	Alamance
11	15B	4	Orange
12			Chatham
13	16A	3	Scotland
14			Hoke
15	16B	5	Robeson
16	17A	2	Rockingham
17	17B	4	Stokes
18			Surry
19	18	12	Guilford
20	19A	4	Cabarrus
21	19B	6	Montgomery
22			Moore
23			Randolph
24	19C	4	Rowan
25	20	7	Stanly
26			Union
27			Anson
28			Richmond
29	21	9	Forsyth
30	22	9	Alexander
31			Davidson
32			Davie
33			Iredell
34	23	4	Alleghany
35			Ashe
36			Wilkes
37			Yadkin
38	24	4	Avery
39			Madison
40			Mitchell
41			Watauga
42			Yancey
43	25	8	Burke
44			Caldwell
45			Catawba
46	26	17	Mecklenburg
47	27A	6	Gaston
48	27B	4	Cleveland
49			Lincoln
50	28	6	Buncombe
51	29	7	Henderson
52			McDowell
53			Polk

Rutherford
 Transylvania
 Cherokee
 Clay
 Graham
 Haywood
 Jackson
 Macon
 Swain."

SECTION 14.17.(b) The Governor shall appoint the additional district court judge for District 14 authorized by subsection (a) of this section, and that judge's successor shall be elected in the 2006 general election for a four-year term commencing on the first Monday in December 2006.

SECTION 14.17.(c) G.S. 7A-60(a1) reads as rewritten:

"(a1) The counties of the State are organized into prosecutorial districts, and each district has the counties and the number of full-time assistant district attorneys set forth in the following table:

Prosecutorial District	Counties	No. of Full-Time Asst. District Attorneys
1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	10
2	Beaufort, Hyde, Martin, Tyrrell, Washington	6
3A	Pitt	9
3B	Carteret, Craven, Pamlico	10
4	Duplin, Jones, Onslow, Sampson	14
5	New Hanover, Pender	14
6A	Halifax	4
6B	Bertie, Hertford, Northampton	4
7	Edgecombe, Nash, Wilson	16
8	Greene, Lenoir, Wayne	11
9	Franklin, Granville, Vance, Warren	11
9A	Person, Caswell	4
10	Wake	31
11	Harnett, Johnston, Lee	14
12	Cumberland	18
13	Bladen, Brunswick, Columbus	11
14	Durham	13 14
15A	Alamance	8
15B	Orange, Chatham	7
16A	Scotland, Hoke	5
16B	Robeson	10
17A	Rockingham	5
17B	Stokes, Surry	5
18	Guilford	27
19A	Cabarrus	6
19B	Montgomery, Moore, Randolph	11
19C	Rowan	5

1	20	Anson, Richmond,	15
2		Stanly, Union	
3	21	Forsyth	17
4	22	Alexander, Davidson, Davie,	16
5		Iredell	
6	23	Alleghany, Ashe, Wilkes,	5
7		Yadkin	
8	24	Avery, Madison, Mitchell,	4 <u>5</u>
9		Watauga, Yancey	
10	25	Burke, Caldwell, Catawba	15
11	26	Mecklenburg	36
12	27A	Gaston	12
13	27B	Cleveland,	9
14		Lincoln	
15	28	Buncombe	11
16	29	Henderson, McDowell, Polk,	11
17		Rutherford, Transylvania	
18	30	Cherokee, Clay, Graham,	9
19		Haywood, Jackson, Macon,	
20		Swain."	

21 **SECTION 14.17.(d)** This section becomes effective October 1, 2005.

22
23 Requested by: Representatives Haire, Ross

24 **STUDY WAKE COUNTY FAMILY COURT**

25 **SECTION 14.18.** The Administrative Office of the Courts shall study the
26 feasibility of establishing a family court in District Court District 10. The
27 Administrative Office of the Courts shall report the results of its study to the Chairs of
28 the House and Senate Appropriations Subcommittees on Justice and Public Safety by
29 April 1, 2006.

30
31 Requested by: Representatives Kiser, Haire

32 **JUVENILE RECIDIVISM REPORT**

33 **SECTION 14.19.(a)** Chapter 164 of the General Statutes is amended by
34 adding a new section to read:

35 **"§ 164-48. Biennial report on juvenile recidivism.**

36 The Judicial Department, through the North Carolina Sentencing and Policy
37 Advisory Commission, shall conduct biennial recidivism studies of juveniles in North
38 Carolina. Each study shall be based upon a sample of juveniles adjudicated delinquent
39 and document subsequent involvement in both the juvenile justice system and criminal
40 justice system for at least two years following the sample adjudication. All State
41 agencies shall provide data as requested by the Commission.

42 The Sentencing and Policy Advisory Commission shall report the results of the first
43 recidivism study to the Chairs of the Senate and House of Representatives
44 Appropriations Committees and the Chairs of the Senate and House of Representatives
45 Appropriations Subcommittees on Justice and Public Safety by May 1, 2007, and future
46 reports shall be made by May 1 of each odd-numbered year."

47 **SECTION 14.19.(b)** The Sentencing and Policy Advisory Commission shall
48 report on its progress in developing the biennial juvenile recidivism report mandated by
49 G.S. 164-48, as enacted by subsection (a) of this section, to the Chairs of the Senate and
50 House of Representatives Appropriations Committees and the Chairs of the Senate and
51 House of Representatives Appropriations Subcommittees on Justice and Public Safety
52 by May 1, 2006.

1 **SECTION 14.19.(c)** Article 33 of Chapter 7B of the General Statutes is
2 repealed.

3
4 Requested by: Representatives Kiser, Haire

5 **TRAVEL ALLOWANCE FOR APPELLATE JUDGES WHO RESIDE FIFTY**
6 **MILES OR MORE FROM RALEIGH**

7 **SECTION 14.20.(a)** G.S. 7A-10(b) reads as rewritten:

8 "(b) The Chief Justice and each of the associate justices shall receive the annual
9 salary provided in Current Operations Appropriations Act. Each justice is entitled to
10 reimbursement for travel and subsistence expenses at the rate allowed State employees
11 ~~generally~~generally, except that each justice who lives at least 50 miles from the City of
12 Raleigh shall be paid a weekly travel allowance for each week the justice travels to the
13 City of Raleigh from the justice's home for business of the court. The allowance shall be
14 calculated for each justice by multiplying the actual round-trip mileage from that
15 justice's home to the City of Raleigh by the rate-per-mile which is the business standard
16 mileage rate set by the Internal Revenue Service in Rev. Proc. 93-51, December 27,
17 1993."

18 **SECTION 14.20.(b)** G.S. 7A-18(a) reads as rewritten:

19 "(a) The Chief Judge and each associate judge of the Court of Appeals shall
20 receive the annual salary provided in the Current Operations Appropriations Act. Each
21 judge is entitled to reimbursement for travel and subsistence expenses at the rate
22 allowed State employees ~~generally~~generally, except that each judge who lives at least
23 50 miles from the City of Raleigh shall be paid a weekly travel allowance for each week
24 the judge travels to the City of Raleigh from the judge's home for business of the court.
25 The allowance shall be calculated for each judge by multiplying the actual round-trip
26 mileage from that judge's home to the City of Raleigh by the rate-per-mile which is the
27 business standard mileage rate set by the Internal Revenue Service in Rev. Proc. 93-51,
28 December 27, 1993."

29 **SECTION 14.20.(c)** This section becomes effective January 1, 2006.

30
31 Requested by: Representatives Kiser, Haire

32 **REIMBURSEMENT FOR USE OF PERSONAL VEHICLES**

33 **SECTION 14.21.** Notwithstanding G.S. 138-6(a)(1), the Judicial
34 Department, during the 2005-2007 fiscal biennium, may elect to establish a per-mile
35 reimbursement rate for transportation by privately owned vehicles at a rate less than the
36 business standard mileage rate set by the Internal Revenue Service.

37
38 **PART XV. DEPARTMENT OF JUSTICE**

39
40 Requested by: Representatives Kiser, Haire

41 **USE OF SEIZED AND FORFEITED PROPERTY TRANSFERRED TO STATE**
42 **LAW ENFORCEMENT AGENCIES BY THE FEDERAL GOVERNMENT**

43 **SECTION 15.1.(a)** Assets transferred to the Departments of Justice,
44 Correction, and Crime Control and Public Safety during the 2005-2007 biennium
45 pursuant to applicable federal law shall be credited to the budgets of the respective
46 departments and shall result in an increase of law enforcement resources for those
47 departments. The Departments of Justice, Correction, and Crime Control and Public
48 Safety shall report to the Joint Legislative Commission on Governmental Operations
49 upon receipt of the assets and, before using the assets, shall report on the intended use of
50 the assets and the departmental priorities on which the assets may be expended.

51 **SECTION 15.1.(b)** The General Assembly finds that the use of assets
52 transferred pursuant to federal law for new personnel positions, new projects,
53 acquisition of real property, repair of buildings where the repair includes structural

1 change, and construction of or additions to buildings may result in additional expenses
2 for the State in future fiscal periods. Therefore, the Department of Justice, the
3 Department of Correction, and the Department of Crime Control and Public Safety are
4 prohibited from using these assets for such purposes without the prior approval of the
5 General Assembly.

6 **SECTION 15.1.(c)** Nothing in this section prohibits North Carolina law
7 enforcement agencies from receiving funds from the United States Department of
8 Justice, the United States Department of the Treasury, and the United States Department
9 of Health and Human Services.

10
11 Requested by: Representatives Kiser, Haire

12 **PRIVATE PROTECTIVE SERVICES AND ALARM SYSTEMS LICENSING**
13 **BOARDS PAY FOR USE OF STATE FACILITIES AND SERVICES**

14 **SECTION 15.2.** The Private Protective Services and Alarm Systems
15 Licensing Boards shall pay the appropriate State agency for the use of physical facilities
16 and services provided to those Boards by the State.

17
18 Requested by: Representatives Kiser, Haire

19 **CERTAIN LITIGATION EXPENSES TO BE PAID BY CLIENTS**

20 **SECTION 15.3.** Client departments, agencies, and boards shall reimburse
21 the Department of Justice for reasonable court fees, attorney travel and subsistence
22 costs, and other costs directly related to litigation in which the Department of Justice is
23 representing the department, agency, or board.

24
25 Requested by: Representatives Kiser, Haire

26 **REIMBURSEMENT FOR UNC BOARD OF GOVERNORS LEGAL**
27 **REPRESENTATION**

28 **SECTION 15.4.** The Department of Justice shall be reimbursed by the
29 Board of Governors of The University of North Carolina for two Attorney III positions
30 to provide legal representation to The University of North Carolina System.

31
32 Requested by: Representatives Kiser, Haire

33 **REPORT ON CRIMINAL RECORD CHECKS CONDUCTED FOR**
34 **CONCEALED HANDGUN PERMITS/STUDY FEE ADJUSTMENT FOR**
35 **CRIMINAL RECORD CHECKS**

36 **SECTION 15.5.(a)** The Department of Justice shall report by January 15
37 each year to the Joint Legislative Commission on Governmental Operations, the Chairs
38 of the Senate and House of Representatives Appropriations Committees, and the Chairs
39 of the Senate and House of Representatives Appropriations Subcommittees on Justice
40 and Public Safety on the receipts, costs for, and number of criminal record checks
41 performed in connection with applications for concealed weapons permits. The report
42 by the Department of Justice shall also include information on the number of
43 applications received and approved for firearms safety courses.

44 **SECTION 15.5.(b)** The Office of State Budget and Management, in
45 consultation with the Department of Justice, shall study the feasibility of adjusting the
46 fees charged for criminal record checks conducted by the Division of Criminal
47 Information of the Department of Justice as a result of the increase in receipts from
48 criminal record checks. The study shall include an assessment of the Division's
49 operational, personnel, and overhead costs related to providing criminal record checks
50 and how those costs have changed since the prior fiscal year. The Office of State Budget
51 and Management shall report its findings and recommendations to the Chairs of the
52 Senate and House of Representatives Appropriations Committees, the Chairs of the

1 Senate and House of Representatives Appropriations Subcommittees on Justice and
2 Public Safety, and the Fiscal Research Division on or before March 1, 2006.

3
4 Requested by: Representatives Kiser, Haire

5 **NC LEGAL EDUCATION ASSISTANCE FOUNDATION REPORT ON FUNDS**
6 **DISBURSED**

7 **SECTION 15.6.** The North Carolina Legal Education Assistance Foundation
8 shall report by March 1 of each year to the Joint Legislative Commission on
9 Governmental Operations on the expenditure of State funds, the purpose of the
10 expenditures, the number of attorneys receiving funds, the average award amount, the
11 average student loan amount, the number of attorneys on the waiting list, and the
12 average number of years for which attorneys receive loan assistance.

13
14 Requested by: Representatives Kiser, Haire

15 **REDUCE BACKLOG OF RAPE KITS**

16 **SECTION 15.7.(a)** Of the funds appropriated by this act to the Department
17 of Justice, the sum of two hundred fifty thousand dollars (\$250,000) in recurring funds
18 and the sum of two hundred fifty thousand dollars (\$250,000) in nonrecurring funds for
19 the 2005-2006 fiscal year and the sum of two hundred fifty thousand dollars (\$250,000)
20 in recurring funds for the 2006-2007 fiscal year shall be used to contract with private
21 entities to reduce the backlog of rape kits in storage in local law enforcement agencies
22 and to expedite other forensic DNA analysis. The Department shall contract with
23 private entities to analyze bodily fluids, DNA evidence, as "DNA" is defined in
24 G.S. 15A-266.2, or both, in cases in which a suspect has not been identified. The
25 Department shall maximize the use of federal grant funds to expedite the elimination of
26 the backlog.

27 **SECTION 15.7.(b)** The Department of Justice shall report, on or before
28 February 1, 2006, and annually thereafter to the Chairs of the House of Representatives
29 and Senate Appropriations Subcommittees on Justice and Public Safety on the number
30 of rape kits analyzed by private entities and how many of those analyses resulted in
31 arrests or convictions. The Department shall also report on the number of rape kits
32 analyzed by the SBI Crime Lab, the amount of the remaining backlog, and the estimated
33 time left to eliminate the backlog.

34 **SECTION 15.7.(c)** Except as provided otherwise by this subsection, the
35 Department of Justice shall hire only nonsworn personnel to fill vacant positions in the
36 State Bureau of Investigation laboratory. A position may be filled with a sworn agent in
37 any of the following circumstances: (i) the position is a promotion for a sworn agent
38 who was employed at the State Bureau of Investigation laboratory prior to July 1, 2005,
39 (ii) the position is a forensic drug chemist position that has as a primary duty
40 "responding to clandestine methamphetamine laboratories," or (iii) the position is a
41 forensic impressions analyst position that has as a primary duty "responding to
42 clandestine methamphetamine laboratories."

43
44 Requested by: Representatives Kiser, Haire

45 **STUDY DNA TESTING AND ANALYSIS COSTS**

46 **SECTION 15.8.** The Office of State Budget and Management, in
47 consultation with the Department of Justice, shall study the cost of testing and analyzing
48 DNA samples. The study shall include all of the following: a determination of the unit
49 cost for analyzing a rape kit and a comparison of that cost with the unit cost for the
50 same analysis when performed by other labs, both public and private; a comparison of
51 the amount of funds and length of time required to eliminate the backlog of rape kits
52 using private labs versus the SBI crime lab; and a survey of the funding sources used by
53 other states for their DNA testing and analysis lab costs. The Office of State Budget and

1 Management shall report its findings and recommendations to the Chairs of the Senate
2 and House of Representatives Appropriations Committees, the Chairs of the Senate and
3 House of Representatives Appropriations Subcommittees on Justice and Public Safety,
4 and the Fiscal Research Division on or before March 1, 2006.

5
6 Requested by: Representative Haire

7 **STATEWIDE AUTOMATED FINGERPRINT SYSTEM REPLACEMENT**

8 **SECTION 15.9.** The Department of Justice shall continue to plan for the
9 upgrade and replacement of the North Carolina Statewide Automated Fingerprint
10 Identification System (SAFIS). Prior to any determination to pursue sole-source
11 procurement for this project, the Department of Justice shall issue a request for
12 proposals from qualified vendors on a competitive basis in order to evaluate economies
13 available to the State and options for the transfer of data to the new system. The
14 Department of Justice shall negotiate with the current vendor to develop an agreement
15 regarding maintenance of the current equipment until the new system becomes fully
16 operational.

17 By November 1, 2005, the Department of Justice shall provide a plan to the
18 Subcommittee for Justice and Public Safety of the Joint Legislative Commission on
19 Governmental Operations that shall include all of the following:

- 20 (1) A description of the system and project status report.
- 21 (2) The cost estimates for equipment replacement, maintenance, and
22 operating costs, including proposed sources of funding.
- 23 (3) The method of procurement.
- 24 (4) The time line for completion of the project.

25
26 **PART XVI. DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY**
27 **PREVENTION**

28
29 Requested by: Representatives Kiser, Haire

30 **S.O.S. ADMINISTRATIVE COST LIMITS**

31 **SECTION 16.1.** Of the funds appropriated to the Department of Juvenile
32 Justice and Delinquency Prevention in this act, not more than four hundred fifty
33 thousand dollars (\$450,000) for the 2005-2006 fiscal year and not more than four
34 hundred fifty thousand dollars (\$450,000) for the 2006-2007 fiscal year may be used to
35 administer the S.O.S. Program, to provide technical assistance to applicants and to local
36 S.O.S. programs, and to evaluate the local S.O.S. programs. The Department may
37 contract with appropriate public or nonprofit agencies to provide the technical
38 assistance, including training and related services.

39
40 Requested by: Representatives Kiser, Haire

41 **JCPC GRANT REPORTING AND CERTIFICATION**

42 **SECTION 16.2.(a)** On or before May 1 each year, the Department of
43 Juvenile Justice and Delinquency Prevention shall submit to the Joint Legislative
44 Commission on Governmental Operations and the Appropriations Committees of the
45 Senate and House of Representatives a list of the recipients of the grants awarded, or
46 preapproved for award, from funds appropriated to the Department for local Juvenile
47 Crime Prevention Council grants. The list shall include for each recipient the amount of
48 the grant awarded, the membership of the local committee or council administering the
49 award funds on the local level, and a short description of the local services, programs, or
50 projects that will receive funds. The list shall also identify any programs that received
51 grant funds at one time but for which funding has been eliminated by the Department of
52 Juvenile Justice and Delinquency Prevention. A written copy of the list and other

1 information regarding the projects shall also be sent to the Fiscal Research Division of
2 the General Assembly.

3 **SECTION 16.2.(b)** Each county in which local programs receive Juvenile
4 Crime Prevention Council grant funds from the Department of Juvenile Justice and
5 Delinquency Prevention shall certify annually through its local council to the
6 Department that funds received are not used to duplicate or supplant other programs
7 within the county.

8
9 Requested by: Representatives Kiser, Haire

10 **REPORTS ON CERTAIN PROGRAMS**

11 **SECTION 16.3.(a)** Project Challenge North Carolina, Inc., shall report to
12 the Chairs of the Senate and House of Representatives Appropriations Subcommittees
13 on Justice and Public Safety by April 1 each year on the operation and the effectiveness
14 of its program in providing alternative dispositions and services to juveniles who have
15 been adjudicated delinquent or undisciplined. The report shall include information on:

- 16 (1) The source of referrals for juveniles.
- 17 (2) The types of offenses committed by juveniles participating in the
18 program.
- 19 (3) The amount of time those juveniles spend in the program.
- 20 (4) The number of juveniles who successfully complete the program.
- 21 (5) The number of juveniles who commit additional offenses after
22 completing the program.
- 23 (6) The program's budget and expenditures, including all funding sources.

24 **SECTION 16.3.(b)** The Juvenile Assessment Center shall report to the
25 Chairs of the Senate and House of Representatives Appropriations Subcommittees on
26 Justice and Public Safety on the effectiveness of the Center by April 1 each year. The
27 report shall include information on the number of juveniles served and an evaluation of
28 the effectiveness of juvenile assessment plans and services provided as a result of these
29 plans. In addition, the report shall include information on the Center's budget and
30 expenditures, including all funding sources.

31 **SECTION 16.3.(c)** Communities in Schools shall report to the Chairs of the
32 Senate and House of Representatives Appropriations Subcommittees on Justice and
33 Public Safety, the Joint Legislative Commission on Governmental Operations, the Joint
34 Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, and
35 the Joint Legislative Education Oversight Committee by April 1 each year on the
36 operation and effectiveness of its program. The report shall include information on:

- 37 (1) The number of children served.
- 38 (2) The number of volunteers used.
- 39 (3) The impact on children who have received services from Communities
40 in Schools.
- 41 (4) The program's budget and expenditures, including all funding sources.

42 **SECTION 16.3.(d)** Project P.R.I.D.E. (Providing Regimented Instruction,
43 Drug Treatment, and Education) shall report to the Chairs of the Senate and House of
44 Representatives Appropriations Subcommittees on Justice and Public Safety, the Joint
45 Legislative Commission on Governmental Operations, the Joint Legislative Corrections,
46 Crime Control, and Juvenile Justice Oversight Committee, and the Joint Legislative
47 Education Oversight Committee by April 1 each year on the operation and the
48 effectiveness of its program. The report shall include information on the source of
49 referrals for juveniles, the types of offenses committed by juveniles participating in the
50 program, the amount of time those juveniles spend in the program, the number of
51 juveniles who successfully complete the program, and the number of juveniles who
52 commit additional offenses after completing the program. In addition, the report shall

1 include information on the program's budget and expenditures, including all funding
2 sources.

3
4 Requested by: Representatives Kiser, Haire

5 **ANNUAL EVALUATION OF COMMUNITY PROGRAMS**

6 **SECTION 16.4.** The Department of Juvenile Justice and Delinquency
7 Prevention shall conduct an evaluation of the Eckerd and Camp Woodson wilderness
8 camp programs, the teen court programs, the program that grants funds to the local
9 organizations of the Boys and Girls Clubs established pursuant to Section 21.10 of S.L.
10 1999-237, the Save Our Students program, the Governor's One-on-One Programs, and
11 multipurpose group homes. The teen court report shall include statistical information on
12 the number of juveniles served, the number and type of offenses considered by teen
13 courts, referral sources for teen courts, and the number of juveniles that become
14 court-involved after participation in teen courts. The report on the Boys and Girls Clubs
15 program shall include information on:

- 16 (1) The expenditure of State appropriations on the program;
- 17 (2) The operations and the effectiveness of the program; and
- 18 (3) The number of juveniles served under the program.

19 In conducting the evaluation of each of these programs, the Department shall
20 consider whether participation in each program results in a reduction of court
21 involvement among juveniles. The Department shall also identify whether the programs
22 are achieving the goals and objectives of the Juvenile Justice Act, S.L. 1998-202. The
23 Department shall report the results of the evaluation to the Chairs of the House of
24 Representatives and Senate Appropriations Committees and the Chairs of the
25 Subcommittees on Justice and Public Safety of the House of Representatives and Senate
26 Appropriations Committees by March 1 of each year.

27
28 Requested by: Representatives Kiser, Haire

29 **STATE FUNDS MAY BE USED AS FEDERAL MATCHING FUNDS**

30 **SECTION 16.5.** Funds appropriated in this act to the Department of Juvenile
31 Justice and Delinquency Prevention for the 2005-2006 fiscal year may be used as
32 matching funds for the Juvenile Accountability Incentive Block Grants. If North
33 Carolina receives Juvenile Accountability Incentive Block Grants, or a notice of funds
34 to be awarded, the Office of State Budget and Management and the Governor's Crime
35 Commission shall consult with the Department of Juvenile Justice and Delinquency
36 Prevention regarding the criteria for awarding federal funds. The Office of State Budget
37 and Management, the Governor's Crime Commission, and the Department of Juvenile
38 Justice and Delinquency Prevention shall report to the Appropriations Committees of
39 the Senate and House of Representatives and the Joint Legislative Commission on
40 Governmental Operations prior to allocation of the federal funds. The report shall
41 identify the amount of funds to be received for the 2005-2006 fiscal year, the amount of
42 funds anticipated for the 2006-2007 fiscal year, and the allocation of funds by program
43 and purpose.

44
45 Requested by: Representatives Kiser, Haire

46 **IMPLEMENTATION OF TREATMENT STAFFING MODEL AT YOUTH**
47 **DEVELOPMENT CENTERS**

48 **SECTION 16.6.(a)** The Department of Juvenile Justice and Delinquency
49 Prevention shall report December 31, 2005, and quarterly thereafter during the
50 2005-2007 biennium to the Chairs of the Senate and House of Representatives
51 Appropriations Subcommittees on Justice and Public Safety and to the Joint
52 Corrections, Crime Control, and Juvenile Justice Oversight Committee on the treatment
53 staffing model being piloted at Samarkand and Stonewall Jackson Youth Development

1 Centers. The report shall include a list of total positions at each facility by job class,
2 whether the position is vacant or filled, whether positions were filled from internal
3 employees or new employees, and the training and certification status of each position.
4 The report shall also describe the nature of the treatment program, the criteria for
5 evaluating the program, and how the program is performing in comparison to these
6 criteria. The report shall also describe the training approach to be used to train staff in
7 using treatment methods in youth development centers and provide information on
8 current staff training and staff training planned for the next quarter. The Department
9 shall also develop indicators for evaluating staff performance once the model has been
10 implemented.

11 **SECTION 16.6.(b)** The Department of Juvenile Justice and Delinquency
12 Prevention shall report December 31, 2005, and quarterly thereafter during the
13 2005-2007 biennium to the Chairs of the Senate and House of Representatives
14 Appropriations Subcommittees on Justice and Public Safety on the implementation of
15 the treatment staffing model at Dobbs, Dillon, and Juvenile Evaluation Center Youth
16 Development Centers. The Department shall identify the number of positions
17 reallocated to the new treatment job classes and the source of funding for those
18 positions.

19
20 Requested by: Representatives Kiser, Haire

21 **PROGRESS REPORTS ON YOUTH DEVELOPMENT CENTER CAPITAL**
22 **PROJECTS**

23 **SECTION 16.7.** The Department of Juvenile Justice and Delinquency
24 Prevention shall report each December 31, March 31, June 30, and September 30 of the
25 2005-2007 biennium to the Chairs of the Senate and House of Representatives
26 Appropriations Subcommittees on Justice and Public Safety and to the Joint
27 Corrections, Crime Control, and Juvenile Justice Oversight Committee on the
28 Department's progress in the planning, design, and construction of new youth
29 development centers. The report shall include:

- 30 (1) An overall project schedule for each new youth development center
31 showing the original estimated date for construction completion and
32 the original estimated date for occupancy by juvenile offenders,
33 compared to the latest projected dates.
34 (2) An explanation of significant delays in the schedule or any potential
35 cost increase.

36 The Office of State Construction and the Capital Improvement Section of the
37 Office of State Budget and Management shall assist the Department of Juvenile Justice
38 and Delinquency Prevention in the preparation of the report required by this section.
39

40 Requested by: Representatives Kiser, Haire, Michaux, Clary

41 **JCPC GRANTS TO PREVENT GANG VIOLENCE**

42 **SECTION 16.8.(a)** Of the funds appropriated in this act to the Department
43 of Juvenile Justice and Delinquency Prevention for Juvenile Crime Prevention Council
44 grants, the sum of three million dollars (\$3,000,000) shall be used to provide two-year
45 grants to Juvenile Crime Prevention Councils to use for street gang violence prevention
46 and intervention programs. The Department, in conjunction with the Governor's Crime
47 Commission, shall develop a competitive grant award process that gives consideration
48 to programs in rural areas, geographical representation, collaboration among counties,
49 and programs that involve law enforcement agencies or the courts. The criteria shall
50 include a matching requirement of twenty-five percent (25%), one-half of which may be
51 in in-kind contributions, and presentation of a written plan for the services to be
52 provided by the funds. Juvenile Crime Prevention Councils shall allocate the funds to

1 public and private entities or agencies for programs that meet the criteria established by
2 the Department.

3 No individual program grant may exceed one hundred thousand dollars
4 (\$100,000).

5 **SECTION 16.8.(b)** The Department of Juvenile Justice and Delinquency
6 Prevention shall report to the Chairs of the House of Representatives and Senate
7 Appropriations Committees and the Chairs of the Appropriations Subcommittees on
8 Justice and Public Safety of the House of Representatives and the Senate on the total
9 number of grants awarded, a description of each grantee's program, and the amount
10 awarded to each grantee. The Department shall submit its report by April 1, 2006.
11

12 Requested by: Representatives Kiser, Haire, Earle

13 **STUDY OF LOCAL DETENTION CENTERS**

14 **SECTION 16.9.** The Joint Legislative Corrections, Crime Control, and
15 Juvenile Justice Oversight Committee ("Committee") shall study the four juvenile
16 detention centers located in Durham, Guilford, Forsyth, and Mecklenburg Counties that
17 are operated by the counties. For each of the facilities, the review shall include:

- 18 (1) Recent admission trends and projections of future population.
- 19 (2) The offense history and assessed needs of the population.
- 20 (3) Whether staffing levels are appropriate for the number and types of
21 offenders housed in the facility.
- 22 (4) Whether the center has adequate housing capacity.
- 23 (5) The cost to operate the center, including the formula for allocating
24 costs between the county that operates the facility and the State.
- 25 (6) The feasibility of the State operating the local detention center, if
26 recommended by one or more of the counties that operate the facility.
- 27 (7) Determine the repair and renovation needs and estimate the cost of any
28 repairs or renovations.
- 29 (8) The estimated cost to plan, design, and construct new detention
30 centers, if appropriate.

31 The Committee shall conduct the study in conjunction with the local
32 detention centers, the Office of State Budget and Management, the Office of State
33 Construction of the Department of Administration, and the Department of Juvenile
34 Justice and Delinquency Prevention.

35 The Committee shall report its findings to the Chairs of the House of
36 Representatives and Senate Appropriations Committees and the Chairs of the
37 Appropriations Subcommittees on Justice and Public Safety of the House of
38 Representatives and the Senate upon the convening of the 2006 Regular Session of the
39 2005 General Assembly.
40

41 Requested by: Representative Haire

42 **PLAN, DESIGN, AND CONSTRUCTION OF YOUTH DEVELOPMENT** 43 **CENTERS**

44 **SECTION 16.10.** The Department of Juvenile Justice and Delinquency
45 Prevention and the Department of Administration, State Construction Office, shall
46 continue the planning, design, and construction of up to 224 youth development center
47 beds. The 224 youth development center beds shall be allocated as follows: two 32-bed
48 facilities, one 64-bed facility, and one 96-bed facility. The 64-bed facility shall be
49 located in Guilford County, and one of the 32-bed facilities shall be located in Chatham
50 County. The remainder of the facilities shall be located at sites to be chosen by the
51 Secretary of the Department of Juvenile Justice and Delinquency Prevention.
52

53 **PART XVII. DEPARTMENT OF CORRECTION**

1
2 Requested by: Representatives Kiser, Haire

3 **FEDERAL GRANT REPORTING**

4 **SECTION 17.1.** The Department of Correction, the Department of Justice,
5 the Department of Crime Control and Public Safety, the Judicial Department, and the
6 Department of Juvenile Justice and Delinquency Prevention shall report by May 1 of
7 each year to the Joint Legislative Commission on Governmental Operations, the Chairs
8 of the Senate and House of Representatives Appropriations Committees, and the Chairs
9 of the Senate and House of Representatives Appropriations Subcommittees on Justice
10 and Public Safety on federal grant funds received or preapproved for receipt by those
11 departments. The report shall include information on the amount of grant funds received
12 or preapproved for receipt by each department, the use of the funds, the State match
13 expended to receive the funds, and the period to be covered by each grant. If the
14 department intends to continue the program beyond the end of the grant period, the
15 department shall report on the proposed method for continuing the funding of the
16 program at the end of the grant period. Each department shall also report on any
17 information it may have indicating that the State will be requested to provide future
18 funding for a program presently supported by a local grant.

19
20 Requested by: Representatives Kiser, Haire

21 **REIMBURSE COUNTIES FOR HOUSING AND EXTRAORDINARY**
22 **MEDICAL COSTS FOR INMATES, PAROLEES, AND POST-RELEASE**
23 **SUPERVISEES AWAITING TRANSFER TO STATE PRISON SYSTEM**

24 **SECTION 17.2.** The Department of Correction may use funds available to
25 the Department for the 2005-2007 biennium to pay the sum of forty dollars (\$40.00) per
26 day as reimbursement to counties for the cost of housing convicted inmates, parolees,
27 and post-release supervisees awaiting transfer to the State prison system, as provided in
28 G.S. 148-29. The Department shall report quarterly to the Joint Legislative Commission
29 on Governmental Operations, the Joint Legislative Corrections, Crime Control, and
30 Juvenile Justice Oversight Committee, the Chairs of the Senate and House of
31 Representatives Appropriations Committees, and the Chairs of the Senate and House of
32 Representatives Appropriations Subcommittees on Justice and Public Safety on the
33 expenditure of funds to reimburse counties for prisoners awaiting transfer and on its
34 progress in reducing the jail backlog.

35
36 Requested by: Representatives Kiser, Haire

37 **HOLIDAY PAY FOR DEPARTMENT OF CORRECTION STAFF**

38 **SECTION 17.3.** Holiday pay for Department of Correction staff entitled to
39 holiday pay shall be one hundred fifty percent (150%) of regular pay during the
40 2005-2007 biennium, except that the Department of Correction may use funds available
41 to pay up to one hundred seventy-five percent (175%) of regular pay for holiday pay
42 during the 2005-2007 biennium.

43
44 Requested by: Representatives Kiser, Haire

45 **DEPARTMENT OF CORRECTION SECURITY STAFFING FORMULAS**

46 **SECTION 17.4.(a)** G.S. 143B-262.5 reads as rewritten:

47 **"§ 143B-262.5. Security Staffing.**

48 (a) The Department of Correction shall ~~conduct security staffing post audits of~~
49 ~~each prison at least biannually, the first such audit to be completed during the~~
50 ~~2002-2003 fiscal year. The initial post audit shall be conducted jointly by Department~~
51 ~~staff and a consultant, external to the Department, and shall include analysis of the~~
52 ~~staffing levels assigned for supervision of correctional officers. conduct:~~

53 (1) On-site postaudits of every prison at least once every three years;

1 (2) Regular audits of postaudit charts through the automated postaudit
2 system; and

3 (3) Other staffing audits as necessary.

4 (b) The Department of Correction shall update the security staffing relief formula
5 biannually, the first update to be completed during the 2002-2003 fiscal year, at least
6 every three years. Each update shall include a review of all annual training requirements
7 for security staff to determine which of these requirements should be mandatory and the
8 appropriate frequency of the training. The Department shall survey other states to
9 determine which states use a vacancy factor in their staffing relief formulas."

10 **SECTION 17.4.(b)** The Department of Correction shall begin
11 implementation of the 2004-2005 postaudit by July 1, 2005, and provide a progress
12 report by October 1, 2005, to the Senate and House of Representatives Appropriations
13 Subcommittees on Justice and Public Safety on the implementation of the new postaudit
14 at each prison.

15 **SECTION 17.4.(c)** The Department of Correction shall report on the final
16 implementation of the 2004-2005 postaudit of each prison to the Senate and House of
17 Representatives Appropriations Subcommittees on Justice and Public Safety by April 1,
18 2006. The report shall also include an update on the Department's progress in
19 implementing the staffing recommendations of the National Institute of Corrections,
20 including a status report on the implementation of a centralized postaudit control
21 system, the automation of leave records, and the survey of other states' use of a vacancy
22 factor in staffing relief formulas.

23
24 Requested by: Representatives Kiser, Haire

25 **USE OF CLOSED PRISON FACILITIES**

26 **SECTION 17.5.** In conjunction with the closing of prison facilities,
27 including small expensive prison units recommended for consolidation by the
28 Government Performance Audit Committee, the Department of Correction shall consult
29 with the county or municipality in which the unit is located, with the elected State and
30 local officials, and with State agencies about the possibility of converting that unit to
31 other use. The Department may also consult with any private for-profit or nonprofit firm
32 about the possibility of converting the unit to other use. In developing a proposal for
33 future use of each unit, the Department shall give priority to converting the unit to other
34 criminal justice use. Consistent with existing law and the future needs of the
35 Department of Correction, the State may provide for the transfer or the lease of any of
36 these units to counties, municipalities, State agencies, or private firms wishing to
37 convert them to other use. The Department of Correction may also consider converting
38 some of the units recommended for closing from one security custody level to another,
39 where that conversion would be cost-effective. A prison unit under lease to a county
40 pursuant to the provisions of this section for use as a jail is exempt for the period of the
41 lease from any of the minimum standards adopted by the Secretary of Health and
42 Human Services pursuant to G.S. 153A-221 for the housing of adult prisoners that
43 would subject the unit to greater standards than those required of a unit of the State
44 prison system.

45 Prior to any transfer or lease of these units, the Department of Correction
46 shall report on the terms of the proposed transfer or lease to the Joint Legislative
47 Commission on Governmental Operations and the Joint Legislative Corrections, Crime
48 Control, and Juvenile Justice Oversight Committee. The Department of Correction shall
49 also provide annual summary reports to the Joint Legislative Commission on
50 Governmental Operations and the Joint Legislative Corrections, Crime Control, and
51 Juvenile Justice Oversight Committee on the conversion of these units to other use and
52 on all leases or transfers entered into pursuant to this section.

1 Requested by: Representatives Kiser, Haire

2 **INMATE COSTS/MEDICAL BUDGET FOR PRESCRIPTION DRUGS AND**
3 **INMATE CLOTHING AND LAUNDRY SERVICES**

4 **SECTION 17.6.(a)** If the cost of providing food and health care to inmates
5 housed in the Division of Prisons is anticipated to exceed the continuation budget
6 amounts provided for that purpose in this act, the Department of Correction shall report
7 the reasons for the anticipated cost increase and the source of funds the Department
8 intends to use to cover those additional needs to the Joint Legislative Commission on
9 Governmental Operations, the Chairs of the Senate and House of Representatives
10 Appropriations Committees, and the Chairs of the Senate and House of Representatives
11 Appropriations Subcommittees on Justice and Public Safety.

12 **SECTION 17.6.(b)** Notwithstanding the provisions of G.S. 143-23(a2), the
13 Department of Correction may use funds available during the 2005-2006 fiscal year for
14 the purchase of prescription drugs for inmates if expenditures are projected to exceed
15 the Department's inmate medical continuation budget for prescription drugs. The
16 Department shall consult with the Joint Legislative Commission on Governmental
17 Operations prior to exceeding the continuation budget amount.

18 **SECTION 17.6.(c)** Notwithstanding the provisions of G.S. 143-23(a2), the
19 Department of Correction may use funds available during the 2005-2006 fiscal year for
20 the purchase of clothing and laundry services for inmates if expenditures are projected
21 to exceed the Department's budget for clothing and laundry services. The Department
22 shall consult with the Joint Legislative Commission on Governmental Operations prior
23 to exceeding the continuation budget amount.
24

25 Requested by: Representatives Kiser, Haire

26 **CONVERSION OF CONTRACTED MEDICAL POSITIONS**

27 **SECTION 17.7.(a)** The Department of Correction may convert contract
28 medical positions to permanent State medical positions if the Department can document
29 that the total savings generated will exceed the total cost of the new positions for each
30 facility. Where practical, the Department shall convert contract positions to permanent
31 positions by using existing vacancies in medical positions.

32 **SECTION 17.7.(b)** The Department of Correction shall report by April 1,
33 2006, to the Joint Legislative Commission on Governmental Operations and the Chairs
34 of the Senate and House of Representatives Appropriations Subcommittees on Justice
35 and Public Safety on all conversions made pursuant to this section, by type of position
36 and location, and on the savings generated at each correctional facility.
37

38 Requested by: Representatives Kiser, Haire

39 **LIMIT USE OF OPERATIONAL FUNDS**

40 **SECTION 17.8.** Funds appropriated in this act to the Department of
41 Correction for operational costs for additional facilities shall be used for personnel and
42 operating expenses set forth in the budget approved by the General Assembly in this act.
43 These funds shall not be expended for any other purpose, except as provided for in this
44 act, and shall not be expended for additional prison personnel positions until the new
45 facilities are within 120 days of projected completion, except for certain management,
46 security, and support positions necessary to prepare the facility for opening, as
47 authorized in the budget approved by the General Assembly.
48

49 Requested by: Representatives Kiser, Haire

50 **FEDERAL GRANT MATCHING FUNDS**

51 **SECTION 17.9.** Notwithstanding the provisions of G.S. 148-2, the
52 Department of Correction may use up to the sum of seven hundred fifty thousand
53 dollars (\$750,000) from funds available to the Department to provide the State match

1 needed in order to receive federal grant funds. Prior to using funds for this purpose, the
2 Department shall report to the Chairs of the Senate and House of Representatives
3 Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative
4 Commission on Governmental Operations on the grants to be matched using these
5 funds.

6
7 Requested by: Representatives Kiser, Haire

8 **COMPUTER/DATA PROCESSING SERVICES FUNDS**

9 **SECTION 17.10.** Notwithstanding the provisions of G.S. 143-23(a2), the
10 Department of Correction may use funds available during the 2005-2006 fiscal year for
11 expenses for computer/data processing services if expenditures exceed the Department's
12 continuation budget amount for those services. The Department shall report to the Joint
13 Legislative Commission on Governmental Operations prior to exceeding the
14 continuation budget amount.

15
16 Requested by: Representatives Kiser, Haire

17 **MEDIUM CUSTODY ROAD CREW COMPENSATION/COMMUNITY WORK**
18 **CREWS**

19 **SECTION 17.11.(a)** Of funds appropriated to the Department of
20 Transportation by this act, the sum of ten million dollars (\$10,000,000) per year shall be
21 transferred by the Department of Transportation to the Department of Correction during
22 the 2005-2007 biennium for the actual costs of highway-related labor performed by
23 medium-custody prisoners, as authorized by G.S. 148-26.5. This transfer shall be made
24 quarterly in the amount of two million five hundred thousand dollars (\$2,500,000). The
25 Department of Transportation may use funds appropriated by this act to pay an
26 additional amount exceeding the ten million dollars (\$10,000,000), but those payments
27 shall be subject to negotiations among the Department of Transportation, the
28 Department of Correction, and the Office of State Budget and Management prior to
29 payment by the Department of Transportation.

30 **SECTION 17.11.(b)** The Department of Correction may use up to 39 work
31 crews for Department of Transportation litter control projects. The Department of
32 Transportation shall transfer at least one million three hundred thousand dollars
33 (\$1,300,000) per year from the Highway Fund to the Department of Correction during
34 the 2005-2007 biennium to cover the cost of those work crews. Should the two
35 departments determine that the actual cost of operating 39 work crews exceeds that
36 amount, the Department of Transportation shall transfer an additional amount as agreed
37 upon by the two departments and the Office of State Budget and Management.

38
39 Requested by: Representatives Kiser, Haire

40 **INMATE CUSTODY AND CLASSIFICATION SYSTEM**

41 **SECTION 17.12.(a)** The Department of Correction shall review the current
42 inmate custody and classification system, with the assistance of consultants from the
43 National Institute of Corrections. The review shall focus primarily on the custody
44 classification instrument used to assess inmate custody and the policies and practice of
45 overriding the assessed custody level. The review should focus particularly on
46 determining whether the instrument is effective in predicting custody classification,
47 analyzing the current override rate by custody level, and assessing any need for changes
48 in the override policy. The Department should request assistance from the National
49 Institute of Corrections in obtaining (i) a comparison between Department of Correction
50 override rates and policies and those of other states; (ii) suggestions on an acceptable
51 override rate for classification systems; and (iii) any recommendations the NIC may
52 have on the Department's custody classification instrument and override policy.

1 **SECTION 17.12.(b)** The Department shall report its findings and
2 recommendations to the Chairs of the House and Senate Appropriations Subcommittees
3 on Justice and Public Safety no later than April 15, 2006.

4
5 Requested by: Representatives Kiser, Haire

6 **EXTEND LIMITS OF CONFINEMENT/TERMINALLY ILL AND**
7 **PERMANENTLY AND TOTALLY DISABLED INMATES**

8 **SECTION 17.13.** G.S. 148-4 reads as rewritten:

9 **"§ 148-4. Control and custody of prisoners; authorizing prisoner to leave place of**
10 **confinement.**

11 The Secretary of Correction shall have control and custody of all prisoners serving
12 sentence in the State prison system, and such prisoners shall be subject to all the rules
13 and regulations legally adopted for the government thereof. Any sentence to
14 imprisonment in any unit of the State prison system, or to jail to be assigned to work
15 under the State Department of Correction, shall be construed as a commitment, for such
16 terms of imprisonment as the court may direct, to the custody of the Secretary of
17 Correction or his authorized representative, who shall designate the places of
18 confinement within the State prison system where the sentences of all such persons shall
19 be served. The authorized agents of the Secretary shall have all the authority of peace
20 officers for the purpose of transferring prisoners from place to place in the State as their
21 duties might require and for apprehending, arresting, and returning to prison escaped
22 prisoners, and may be commissioned by the Governor, either generally or specially, as
23 special officers for returning escaped prisoners or other fugitives from justice from
24 outside the State, when such persons have been extradited or voluntarily surrendered.
25 Employees of departments, institutions, agencies, and political subdivisions of the State
26 hiring prisoners to perform work outside prison confines may be designated as the
27 authorized agents of the Secretary of Correction for the purpose of maintaining control
28 and custody of prisoners who may be placed under the supervision and control of such
29 employees, including guarding and transferring such prisoners from place to place in the
30 State as their duties might require, and apprehending and arresting escaped prisoners
31 and returning them to prison. The governing authorities of the State prison system are
32 authorized to determine by rules and regulations the manner of designating these agents
33 and placing prisoners under their supervision and control, which rules and regulations
34 shall be established in the same manner as other rules and regulations for the
35 government of the State prison system.

36 The Secretary of Correction may extend the limits of the place of confinement of a
37 prisoner, as to whom there is reasonable cause to believe he will honor his trust, by
38 authorizing him, under prescribed conditions, to leave the confines of that place
39 unaccompanied by a custodial agent for a prescribed period of time to

- 40 (1) Contact prospective employers; or
41 (2) Secure a suitable residence for use when released on parole or upon
42 discharge; or
43 (3) Obtain medical services not otherwise available; or
44 (4) Participate in a training program in the community; or
45 (5) Visit or attend the funeral of a spouse, child (including stepchild,
46 adopted child or child as to whom the prisoner, though not a natural
47 parent, has acted in the place of a parent), parent (including a person
48 though not a natural parent, has acted in the place of a parent), brother,
49 or sister; or
50 (6) Participate in community-based programs of rehabilitation, including,
51 but not limited to the existing community volunteer and home-leave
52 programs, pre-release and after-care programs as may be provided for
53 and administered by the Secretary of Correction and other programs

- 1 determined by the Secretary of Correction to be consistent with the
 2 prisoner's rehabilitation and return to society; or
 3 (7) Be on maternity leave, for a period of time not to exceed 60 days. The
 4 county departments of social services are expected to cooperate with
 5 officials at the North Carolina Correctional Center for Women to
 6 coordinate prenatal care, financial services, and placement of the child;
 7 or
 8 (8) Receive palliative care, only in the case of a terminally ill inmate or a
 9 permanently and totally disabled inmate that the Secretary finds no
 10 longer poses ~~a threat to society, a significant public safety risk,~~ and
 11 only after consultation with any victims of the inmate or the victims'
 12 families. For purposes of this subdivision, the term "terminally ill"
 13 describes an inmate who, as determined by a licensed physician, has an
 14 incurable condition caused by illness or disease that was unknown at
 15 the time of sentencing and was not diagnosed upon entry to prison, that
 16 will likely produce death within 12 months-six months, and that is so
 17 debilitating that it is highly unlikely that the inmate poses a significant
 18 public safety risk. For purposes of this subdivision, the term
 19 "permanently and totally disabled" describes an inmate who, as
 20 determined by a licensed physician, suffers from permanent and
 21 irreversible physical incapacitation as a result of an existing physical
 22 or medical ~~condition.~~condition that was unknown at the time of
 23 sentencing and was not diagnosed upon entry to prison, and that is so
 24 incapacitating that it is highly unlikely that the inmate poses a
 25 significant public safety risk. The Department's medical director shall
 26 notify the Secretary immediately when an inmate has been classified
 27 as terminally ill and shall provide regular reports on inmates classified
 28 as permanently and totally disabled. The Secretary shall act
 29 expeditiously in determining whether to extend the limits of
 30 confinement under this subdivision upon receiving notice that an
 31 inmate has been classified as terminally ill or permanently and totally
 32 disabled and, in the case of a terminally ill inmate, the Secretary shall
 33 make a good faith effort to reach a determination within 30 days of
 34 receiving notice of the inmate's terminal condition.

35 The willful failure of a prisoner to remain within the extended limits of his confinement,
 36 or to return within the time prescribed to the place of confinement designated by the
 37 Secretary of Correction, shall be deemed an escape from the custody of the Secretary of
 38 Correction punishable as provided in G.S. 148-45."
 39

40 Requested by: Representatives Kiser, Haire

41 **REPORT ON INMATE COMMUNITY WORK CREWS AND INMATE LABOR**
 42 **CONTRACTS**

43 **SECTION 17.14.** The Department of Correction shall report by March 1,
 44 2006, to the Chairs of the Senate and House of Representatives Appropriations
 45 Subcommittees on Justice and Public Safety and the Joint Legislative Corrections,
 46 Crime Control, and Juvenile Justice Oversight Committee on the inmate labor contracts
 47 and community work programs, identifying total project man-hours provided by
 48 inmates and Department of Correction employees to client agencies, the total
 49 Department operating costs for these programs, and the benefits of these programs. The
 50 report shall also group the man-hour and cost information by the major client groups
 51 and estimate the average project cost and average project duration. The report shall also
 52 provide suggested administrative procedures for collecting a portion of the cost of
 53 inmate work crews and inmate labor contracts.

1
2 Requested by: Representatives Kiser, Haire

3 **REIMBURSEMENT RATES FOR HEALTH SERVICES TO PRISON INMATES**

4 **SECTION 17.15.(a)** G.S. 148-19 reads as rewritten:

5 **"§ 148-19. Health services.**

6 (a) The general policies, rules and regulations of the Department of Correction
7 shall prescribe standards for health services to prisoners, which shall include preventive,
8 diagnostic, and therapeutic measures on both an outpatient and a hospital basis, for all
9 types of patients. A prisoner may be taken, when necessary, to a medical facility outside
10 the State prison system. The Department of Correction shall seek the cooperation of
11 public and private agencies, institutions, officials and individuals in the development of
12 adequate health services to prisoners.

13 (b) Upon request of the Secretary of Correction, the Secretary of Health and
14 Human Services may detail personnel employed by the Department of Health and
15 Human Services to the Department of Correction for the purpose of supervising and
16 furnishing medical, psychiatric, psychological, dental, and other technical and scientific
17 services to the Department of Correction. The compensation, allowances, and expenses
18 of the personnel detailed under this section may be paid from applicable appropriations
19 to the Department of Health and Human Services, and reimbursed from applicable
20 appropriations to the Department of Correction. The Secretary of Correction may make
21 similar arrangements with any other agency of State government able and willing to aid
22 the Department of Correction to meet the needs of prisoners for health services.
23 Reimbursement rates to health care providers for health care services rendered to
24 prisoners shall be established as provided in G.S. 148-22.

25 (c) Each prisoner committed to the State Department of Correction shall receive
26 a physical and mental examination by a health care professional authorized by the North
27 Carolina Medical Board to perform such examinations as soon as practicable after
28 admission and before being assigned to work. The prisoner's work and other
29 assignments shall be made with due regard for the prisoner's physical and mental
30 condition.

31 (d) The Commission for Mental Health, Developmental Disabilities, and
32 Substance Abuse Services shall adopt standards for the delivery of mental health and
33 mental retardation services to inmates in the custody of the Department of Correction.
34 The Commission for Mental Health, Developmental Disabilities, and Substance Abuse
35 Services shall give the Secretary of Correction an opportunity to review and comment
36 on proposed standards prior to promulgation of such standards; however, final authority
37 to determine such standards remains with the Commission. The Secretary of the
38 Department of Health and Human Services shall designate an agency or agencies within
39 the Department of Health and Human Services to monitor the implementation by the
40 Department of Correction of these standards and of substance abuse standards adopted
41 by the Department of Correction upon the advice of the Substance Abuse Advisory
42 Council established pursuant to G.S. 143B-270. The Secretary of Health and Human
43 Services shall send a written report on the progress which the Department of Correction
44 has made on the implementation of such standards to the Governor, the Lieutenant
45 Governor, and the Speaker of the House. Such reports shall be made on an annual basis
46 beginning January 1, 1978."

47 **SECTION 17.15.(b)** G.S. 148-22 reads as rewritten:

48 **"§ 148-22. Treatment programs.**

49 (a) The general policies, rules and regulations of the Department of Correction
50 shall provide for humane treatment of prisoners and for programs to effect their
51 correction and return to the community as promptly as practicable. Visits and
52 correspondence between prisoners and approved friends shall be authorized under
53 reasonable conditions, and family members shall be permitted and encouraged to

1 maintain close contact with the prisoners unless such contacts prove to be hurtful.
2 Casework, counseling, and psychotherapy services provided to prisoners may be
3 extended to include members of the prisoner's family if practicable and necessary to
4 achieve the purposes of such programs. Education, library, recreation, and vocational
5 training programs shall be developed so as to coordinate with corresponding services
6 and opportunities which will be available to the prisoner when he is released. Programs
7 may be established for the treatment and training of mentally retarded prisoners and
8 other special groups. These programs may be operated in segregated sections of
9 facilities housing other prisoners or in separate facilities.

10 (b) The Department of Correction may cooperate with and seek the cooperation
11 of public and private agencies, institutions, officials, and individuals in the development
12 and conduct of programs designed to give persons committed to the Department
13 opportunities for physical, mental and moral improvement. The Department may enter
14 into agreements with other agencies of federal, State or local government and with
15 private agencies to promote the most effective use of available resources.

16 Specifically the Secretary of Correction may enter into contracts or agreements with
17 appropriate public or private agencies offering needed services including health, mental
18 health, mental retardation, substance abuse, rehabilitative or training services for such
19 inmates of the Department of Correction as the Secretary may deem eligible. These
20 agencies shall be reimbursed from applicable appropriations to the Department of
21 Correction for services rendered at a rate not to exceed that which such agencies
22 normally receive for serving their regular clients. The Secretary of Correction shall
23 provide for the reimbursement of health care providers for services rendered at a rate
24 not to exceed the rate paid for the same or similar service or diagnostic-related grouping
25 under the Teachers' and State Employees' Comprehensive Major Medical Plan. The
26 Secretary of Correction shall have access to rate information held by the Teachers' and
27 State Employees' Comprehensive Major Medical Plan as authorized under G.S. 135-37
28 and G.S. 135-40.4.

29 The Secretary may contract for the housing of work-release inmates at county jails
30 and local confinement facilities. Inmates may be placed in the care of such agencies but
31 shall remain the responsibility of the Department and shall be subject to the complete
32 supervision of the Department. The Department may reimburse such agencies for the
33 support of such inmates at a rate not in excess of the average daily cost of inmate care in
34 the corrections unit to which the inmate would otherwise be assigned."

35 **SECTION 17.15.(c)** G.S. 135-37 reads as rewritten:

36 "**§ 135-37. Confidentiality.**

37 Any information as herein described in this section which is in the possession of the
38 Executive Administrator and the Board of Trustees of the Teachers' and State
39 Employees' Comprehensive Major Medical Plan or its Claims Processor under the
40 Teachers' and State Employees' Comprehensive Major Medical Plan shall be
41 confidential and shall be exempt from the provisions of Chapter 132 of the General
42 Statutes or any other provision requiring information and records held by State agencies
43 to be made public or accessible to the public. This section shall apply to all information
44 concerning individuals, including the fact of coverage or noncoverage, whether or not a
45 claim has been filed, medical information, whether or not a claim has been paid, and
46 any other information or materials concerning a plan participant. Provided, however,
47 such information may be released to the State Auditor, or to the Attorney General, or to
48 the persons designated under G.S. 135-39.3 in furtherance of their statutory duties and
49 responsibilities, or to the Secretary of Correction in furtherance of the Secretary's duty
50 under G.S. 148-19 and G.S. 148-22, or to such persons or organizations as may be
51 designated and approved by the Executive Administrator and Board of Trustees of the
52 Teachers' and State Employees' Comprehensive Major Medical Plan, but any
53 information so released shall remain confidential as stated above and any party

1 obtaining such information shall assume the same level of responsibility for maintaining
2 such confidentiality as that of the Executive Administrator and Board of Trustees of the
3 Teachers' and State Employees' Comprehensive Major Medical Plan."

4 **SECTION 17.15.(d)** G.S. 135-40.4 reads as rewritten:

5 **"§ 135-40.4. Benefits in general.**

6 (a) In the event a covered person, as a result of accidental bodily injury, disease
7 or pregnancy, incurs covered expenses, the Plan will pay benefits up to the amounts
8 described in G.S. 135-40.5 through G.S. 135-40.9.

9 The Plan is divided into two parts. The first part includes certain benefits which are
10 not subject to a deductible or coinsurance. The second part is a comprehensive plan and
11 includes those benefits which are subject to both a three hundred fifty dollar (\$350.00)
12 deductible for each covered individual to an aggregate maximum of one thousand fifty
13 dollars (\$1,050) per employee and child(ren) or employee and family coverage contract
14 and coinsurance of 80%/20%. There is a limit on out-of-pocket expenses under the
15 second part.

16 Notwithstanding the provisions of this Article, the Executive Administrator and
17 Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical
18 Plan may contract with providers of institutional and professional medical care and
19 services to established preferred provider networks. The terms pertaining to
20 reimbursement rates or other terms of consideration of any contract between hospitals,
21 hospital authorities, doctors or other medical providers, or a pharmacy benefit manager
22 and the Plan shall not be a public record under Chapter 132 of the General Statutes for a
23 period of thirty months after the date of the expiration of the contract. Provided,
24 however, nothing in this subsection shall be deemed to prevent or restrict the release of
25 any information made not a public record under this subsection to the State Auditor, the
26 Attorney General, the Director of the State Budget, the Secretary of Correction, the
27 Plan's Executive Administrator, and the Committee on Employee Hospital and Medical
28 Benefits solely and exclusively for their use in the furtherance of their duties and
29 responsibilities. The design, adoption, and implementation of the preferred provider
30 contracts and networks are not subject to the requirements of Chapter 143 of the
31 General Statutes, provided that for any hospital preferred provider network all hospitals
32 will have an opportunity to contract with the Plan if they meet the contract
33 requirements. The Executive Administrator and Board of Trustees shall, under the
34 provisions of G.S. 135-39.5(12), pursue such preferred provider contracts on a timely
35 basis and shall make reports as requested to the President of the Senate, the President
36 Pro Tempore of the Senate, the Speaker of the House of Representatives, and the
37 Committee on Employee Hospital and Medical Benefits on its progress in negotiating
38 the preferred provider contracts. The Executive Administrator and Board of Trustees
39 shall implement a refined diagnostic-related grouping or diagnostic-related
40 grouping-based reimbursement system for hospitals as soon as practicable, but no later
41 than January 1, 1995.

42 (b) As used in this section the term "preferred provider contracts or networks"
43 includes, but is not limited to, a refined diagnostic-related grouping or
44 diagnostic-related grouping-based system of reimbursement for hospitals."

45 **SECTION 17.15.(e)** The Secretary of Correction shall provide a progress
46 report on the implementation of this section to the Joint Legislative Corrections, Crime
47 Control, and Juvenile Justice Oversight Committee by January 1, 2006, and a final
48 report to the Chairs of the House of Representatives and Senate Appropriations
49 Committee and the Chairs of the House of Representatives and Senate Appropriations
50 Subcommittees on Justice and Public Safety by May 1, 2006. The report shall detail any
51 savings generated from this new policy as well as any administrative or procedural
52 problems in the implementation of the policy. The report shall also identify any
53 reduction or changes in the availability of medical services for inmates as a result of this

1 section. The Department of Correction shall also identify in the report those providers
2 that have decided not to continue to provide medical services to inmates as a result of
3 this section.

4 The Department of Correction shall also report on any cost savings generated
5 in the inmate medical budget as a result of the new Department of Correction medical
6 positions funded in this act or as a result of any new departmental initiatives established
7 during the 2005-2006 fiscal year.

8 **SECTION 17.15.(f)** The Executive Administrator of the Teachers' and State
9 Employees' Comprehensive Major Medical Plan shall work with the North Carolina
10 Association of County Commissioners to determine the potential savings and cost of
11 authorizing local confinement facilities to reimburse health care providers for inmate
12 medical services rendered at a rate not to exceed the rate paid for the same or similar
13 services or diagnostic-related groupings under the Teachers' and State Employees'
14 Comprehensive Major Medical Plan.

15
16 Requested by: Representatives Kiser, Haire, Owens

17 **CORRECTION ENTERPRISES LONG-RANGE PLAN/REPLACEMENT OF**
18 **UMSTEAD LAUNDRY**

19 **SECTION 17.16.(a)** The Department of Correction, through the Correction
20 Enterprises Program, shall update its long-range business plan to identify alternatives
21 for (i) increasing productivity and expanding markets for current Enterprise products;
22 (ii) increasing the number of inmates employed in Correction Enterprises; and (iii)
23 identifying new or expanded industries that will best meet the goals of training inmates
24 while providing reasonable profits that allow Correction Enterprises to expand industry
25 sites and maintain current sites where appropriate. The study shall include a review of
26 the potential to expand the Prison Industry Enhancement (PIE) Programs with private
27 industry. The Plan shall also identify capital and operating costs for implementing the
28 long-range plan.

29 The Department of Correction shall submit the long-range business plan
30 required by this section to the Joint Legislative Corrections, Crime Control, and
31 Juvenile Justice Oversight Committee by March 1, 2006.

32 **SECTION 17.16.(b)** In preparation for the scheduled closing of Umstead
33 Hospital in 2007, the Department of Correction shall develop a plan for the replacement
34 of the Correction Enterprises laundry operation at Umstead Hospital and include that
35 report with the long-range plan required by this section.

36
37 Requested by: Representatives Kiser, Haire

38 **STAFFING STUDY OF UNIT MANAGEMENT**

39 **SECTION 17.17.** The Department of Correction shall conduct an
40 organization and staffing study of unit management in the State prison system, focusing
41 on the 18 prison facilities that use unit management. The Department shall review
42 workload and staffing at each of the prisons and make recommendations for staffing
43 changes and staffing efficiencies. The study shall consider the responsibilities and
44 workloads of custody supervisors and program staff in relation to unit managers and
45 determine whether certain functions should be the responsibility of custody supervisors
46 or program staff.

47 The Department shall report its findings and recommendations to the Chairs
48 of the House and Senate Appropriations Subcommittees on Justice and Public Safety
49 and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight
50 Committee by March 1, 2006.

51
52 Requested by: Representatives Kiser, Haire

53 **ENERGY COMMITTED TO OFFENDERS/CONTRACT AND REPORT**

1 **SECTION 17.17A.** The Department of Correction may continue to contract
2 with Energy Committed To Offenders, Inc., for the purchase of prison beds for
3 minimum security female inmates during the 2005-2007 biennium. Energy Committed
4 To Offenders, Inc., shall report by February 1 of each year to the Joint Legislative
5 Commission on Governmental Operations on the annual cost per inmate and the average
6 daily inmate population compared to bed capacity using the same methodology as that
7 used by the Department of Correction.

8
9 Requested by: Representatives Kiser, Haire, Miller

10 **REPORT ON ELECTRONIC MONITORING COSTS/STUDY THE USE OF**
11 **GLOBAL POSITIONING SYSTEMS IN THE LOCATION AND TRACKING**
12 **OF CONVICTED SEX OFFENDERS**

13 **SECTION 17.19.(a)** The Department of Correction shall report by March 1
14 of each year to the Chairs of the Senate and House of Representatives Appropriations
15 Committees and the Chairs of the Senate and House of Representatives Appropriations
16 Subcommittees on Justice and Public Safety on its efforts to increase the use of
17 electronic monitoring of sentenced offenders in the community as an alternative to the
18 incarceration of probation violators. The report shall also document the geographical
19 distribution of electronic monitoring use compared to other intermediate sanctions. The
20 Department shall also analyze the reasons for the underutilization of the electronic
21 monitoring program and include its findings in the report.

22 **SECTION 17.19.(b)** The Joint Legislative Corrections, Crime Control, and
23 Juvenile Justice Oversight Committee shall study the use of global positioning
24 monitoring devices for released felons convicted of crimes of sexual predation. The
25 review shall include the consideration of ways to enhance the effectiveness of the
26 Division of Criminal Statistics in locating individuals required to register as sex
27 offenders.

28
29 Requested by: Representatives Kiser, Haire

30 **REPORT ON PROBATION AND PAROLE CASELOADS**

31 **SECTION 17.20.(a)** The Department of Correction shall report by March 1
32 of each year to the Chairs of the Senate and House of Representatives Appropriations
33 Subcommittees on Justice and Public Safety and the Joint Legislative Corrections,
34 Crime Control, and Juvenile Justice Oversight Committee on caseload averages for
35 probation and parole officers. The report shall include:

- 36 (1) Data on current caseload averages for Probation Parole Officer I,
37 Probation Parole Officer II, and Probation Parole Officer III positions;
- 38 (2) An analysis of the optimal caseloads for these officer classifications;
- 39 (3) An assessment of the role of surveillance officers;
- 40 (4) The number and role of paraprofessionals in supervising low-risk
41 caseloads;
- 42 (5) An update on the Department's implementation of the
43 recommendations contained in the National Institute of Correction
44 study conducted on the Division of Community Corrections in 2004;
- 45 (6) The selection of a risk assessment and the resulting distribution of
46 offenders among risk levels; and
- 47 (7) Any position reallocations in the previous 12 months, and the reasons
48 for and fiscal impact of those reallocations.

49 **SECTION 17.20.(b)** The Department of Correction shall conduct a study of
50 probation/parole officer workload at least biannually. The study shall include analysis of
51 the type of offenders supervised, the distribution of the probation/parole officers' time
52 by type of activity, the caseload carried by the officers, and comparisons to practices in
53 other states. The study shall be used to determine whether the caseload goals established

1 by the Structured Sentencing Act are still appropriate, based on the nature of the
2 offenders supervised and the time required to supervise those offenders.

3 **SECTION 17.20.(c)** The Department of Correction shall report the results of
4 the study and recommendations for any adjustments to caseload goals to the Senate and
5 House of Representatives Appropriations Subcommittees on Justice and Public Safety
6 by January 1, 2007.

7
8 Requested by: Representatives Kiser, Haire
9 **COMMUNITY SERVICE WORK PROGRAM**

10 **SECTION 17.21.** The Department of Correction shall report to the Chairs of
11 the Senate and House of Representatives Appropriations Subcommittees on Justice and
12 Public Safety by February 1 of each year on the integration of the Community Service
13 Work Program into the Division of Community Corrections, including the Department's
14 ability to monitor the collection of offender payments from unsupervised offenders
15 sentenced to community service. The Department shall also report to the Chairs of the
16 Senate and House of Representatives Appropriations Subcommittees on Justice and
17 Public Safety by February 1 of each year on the average caseloads of Community
18 Service Work Program coordinators, by district, division, and statewide. The report
19 shall also include the money collected, the type and value of the work performed, and
20 the number of offenders in the Community Service Work Program, by type of referral
21 (i.e. parole, supervised probation, unsupervised probation or community punishment,
22 DWI, or any other agency referrals).

23
24 Requested by: Representatives Kiser, Haire
25 **REPORTS ON NONPROFIT PROGRAMS**

26 **SECTION 17.22.(a)** Funds appropriated in this act to the Department of
27 Correction to support the programs of Harriet's House may be used for program
28 operating costs, the purchase of equipment, and the rental of real property to serve
29 women released from prison with children in their custody. Harriet's House shall report
30 by February 1 of each year to the Joint Legislative Commission on Governmental
31 Operations on the expenditure of State appropriations and on the effectiveness of the
32 program, including information on the number of clients served, the number of clients
33 who successfully complete the Harriet's House program, and the number of clients who
34 have been rearrested within three years of successfully completing the program. The
35 report shall provide financial and program data for the complete fiscal year prior to the
36 year in which the report is submitted. The financial report shall identify all funding
37 sources and amounts.

38 **SECTION 17.22.(b)** Summit House shall report by February 1 of each year
39 to the Joint Legislative Commission on Governmental Operations on the expenditure of
40 State appropriations and on the effectiveness of the program, including information on
41 the number of clients served, the number of clients who have had their probation
42 revoked, the number of clients who successfully complete the program while housed at
43 Summit House, Inc., and the number of clients who have been rearrested within three
44 years of successfully completing the program. The report shall provide financial and
45 program data for the complete fiscal year prior to the year in which the report is
46 submitted. The financial report shall identify all funding sources and amounts.

47 **SECTION 17.22.(c)** Women at Risk shall report by February 1 of each year
48 to the Joint Legislative Commission on Governmental Operations on the expenditure of
49 State funds and on the effectiveness of the program, including information on the
50 number of clients served, the number of clients who have had their probation revoked,
51 the number of clients who have successfully completed the program, and the number of
52 clients who have been rearrested within three years of successfully completing the
53 program. The report shall provide financial and program data for the complete fiscal

1 year prior to the year in which the report is submitted. The financial report shall identify
2 all funding sources and amounts.

3
4 Requested by: Representatives Kiser, Haire

5 **CRIMINAL JUSTICE PARTNERSHIP PROGRAM**

6 **SECTION 17.23.(a)** It is the intent of the General Assembly that State
7 Criminal Justice Partnership Program funds not be used to fund case manager positions
8 when those services can be reasonably provided by Division of Community Corrections
9 personnel or by the Treatment Alternatives to Street Crime (TASC) Program in the
10 Department of Health and Human Services.

11 **SECTION 17.23.(b)** Notwithstanding the provisions of G.S. 143B-273.15
12 specifying that grants to participating counties are for the full fiscal year and that
13 unobligated funds are returned to the State-County Criminal Justice Partnership
14 Account at the end of the grant period, the Department of Correction may reallocate
15 unspent or unclaimed funds distributed to counties participating in the State-County
16 Criminal Justice Partnership Program in an effort to maintain the level of services
17 realized in previous fiscal years.

18 **SECTION 17.23.(c)** The Department of Correction may not deny funds to a
19 county to support both a residential program and a day reporting center if the
20 Department of Correction determines that the county has a demonstrated need and a
21 fully developed plan for each type of sanction.

22 **SECTION 17.23.(d)** The Department of Correction shall report by February
23 1 of each year to the Chairs of the Senate and House of Representatives Appropriations
24 Committees, the Senate and House of Representatives Appropriations Subcommittees
25 on Justice and Public Safety, and the Joint Legislative Corrections, Crime Control, and
26 Juvenile Justice Oversight Committee on the status of the State-County Criminal Justice
27 Partnership Program. The report shall include the following information:

- 28 (1) The amount of funds carried over from the prior fiscal year;
- 29 (2) The dollar amount and purpose of grants awarded to counties as
30 discretionary grants for the current fiscal year;
- 31 (3) Any counties the Department anticipates will submit requests for new
32 implementation grants;
- 33 (4) An update on efforts to ensure that all counties make use of the
34 electronic reporting system, including the number of counties
35 submitting offender participation data via the system;
- 36 (5) An analysis of offender participation data received, including data on
37 each program's utilization and capacity;
- 38 (6) An analysis of comparable programs, prepared by the Division of
39 Research and Planning, Department of Correction, including a
40 comparison of programs in each program type on selected outcome
41 measures developed by the Division of Community Corrections in
42 consultation with the Fiscal Research Division and the Division of
43 Research and Planning, and a summary of the reports prepared by
44 county Criminal Justice Partnerships Advisory Boards; and
- 45 (7) An evaluation of whether each sentenced offender program meets
46 program standards developed by the Division of Community
47 Corrections in consultation with the Division of Research and
48 Planning.

49 **SECTION 17.23.(e)** G.S. 143B-273.14(c) reads as rewritten:

50 "(c) When a county receives more than fifty thousand dollars (\$50,000) in
51 community-based corrections funds, then that county shall use at least fifty percent
52 (50%) of those funds to develop programs for offenders who receive intermediate

1 punishments. No county shall use more than twenty-five percent (25%) of its funds to
2 serve offenders released from jail prior to trial."

3 **SECTION 17.23.(f)** G.S. 143B-273.15 reads as rewritten:

4 **"§ 143B-273.15. Funding formula.**

5 To determine the grant amount for which a county or counties may apply, the
6 granting authority shall apply the following formula:

- 7 (1) ~~Twenty percent (20%)~~Twenty-five percent (25%) based on a fixed
8 equal dollar amount for each county;
9 (2) ~~Sixty percent (60%)~~Fifty percent (50%) based on the county share of
10 the State population; and
11 (3) ~~Twenty percent (20%)~~Twenty-five percent (25%) based on the
12 supervised probation admissions-intermediate punishment entry rate
13 for the county-county, using the total of the three most recent years of
14 data available divided by the average county population for that same
15 period.

16 The sum of the amounts in subdivisions (1), (2), and (3) is the total amount of the
17 funding that a county may apply for under this subsection.

18 Grants to participating counties are for a period of one fiscal year with unobligated
19 funds being returned to the Account at the end of the grant period. Funds are provided
20 to participating counties on a reimbursement basis unless a county documents a need for
21 an advance of grant funds. The data used for this funding formula shall be updated at
22 least once every three years."

23 **SECTION 17.23.(g)** For the 2005-2006 fiscal year, notwithstanding the
24 formula in G.S. 143B-273.15, each county's formula allocation shall be capped at no
25 less than ninety-nine percent (99%) and no greater than one hundred twenty percent
26 (120%) of the funds allocated to that county for the 2004-2005 fiscal year. Funding caps
27 shall be accomplished by the redistribution of three hundred forty-four thousand four
28 hundred ninety-one dollars (\$344,491) that was spent on case management services in
29 day reporting centers prior to 2002. For the 2006-2007 fiscal year, the same procedures
30 shall be used, except that the capped amounts shall be no less than ninety-five percent
31 (95%) and no greater than one hundred twenty-five percent (125%) of the funds
32 allocated to that county for the 2004-2005 fiscal year. No funds shall be used to fund
33 programs that did not participate in the Criminal Justice Partnership Program in fiscal
34 year 2004-2005.

35
36 Requested by: Representatives Kiser, Haire

37 **REPORT ON INMATES ELIGIBLE FOR PAROLE**

38 **SECTION 17.24.** The Post-Release Supervision and Parole Commission
39 shall report by January 15 and July 15 of each year to the Senate and House of
40 Representatives Appropriations Subcommittees on Justice and Public Safety and the
41 Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee
42 on inmates eligible for parole. These reports shall include at least the following:

- 43 (1) The total number of Fair Sentencing and Pre-Fair Sentencing inmates
44 that were parole-eligible during the current fiscal year and the total
45 number of those inmates that were paroled. The report should group
46 these inmates by offense type, custody classification, and type of
47 parole. The report should also include a more specific analysis of those
48 inmates who were parole-eligible and assigned to minimum custody
49 classification but not released;
50 (2) The average time served, by offense class, of Fair Sentencing and
51 Pre-Fair Sentencing inmates compared to inmates sentenced under
52 Structured Sentencing; and

- 1 (3) The projected number of parole-eligible inmates to be paroled or
 2 released by the end of the 2007-2008 fiscal year and by the end of each
 3 of the next five fiscal years, beginning with the 2008-2009 fiscal year.
 4

5 Requested by: Representatives Kiser, Haire

6 **PROVIDE THAT THE TERMS OF THE MEMBERS OF THE POST-RELEASE**
 7 **SUPERVISION AND PAROLE COMMISSION SERVING ON JUNE 30,**
 8 **2005, EXPIRE ON THAT DATE AND RESTRUCTURE THE COMMISSION**
 9 **TO CONSIST OF ONE FULL-TIME MEMBER AND TWO HALF-TIME**
 10 **MEMBERS**

11 **SECTION 17.25.(a)** G.S. 143B-267 reads as rewritten:

12 **"§ 143B-267. Post-Release Supervision and Parole Commission – members;**
 13 **selection; removal; chairman; compensation; quorum; services.**

14 The Effective July 1, 2005, the Post-Release Supervision and Parole Commission
 15 shall consist of ~~three one full-time members. member and two half-time members.~~ The
 16 three ~~full-time~~ members shall be appointed by the Governor from persons whose
 17 recognized ability, training, experience, and character qualify them for service on the
 18 Commission. The terms of office of ~~the five members presently any members serving~~
 19 on the Commission on June 30, 2005, shall expire on July 31, 1999. that date. ~~The term~~
 20 ~~of one of the members appointed effective August 1, 1999, shall be for one year. The~~
 21 ~~term of one of the members appointed effective August 1, 1999, shall be for two years.~~
 22 ~~The term of one of the members appointed effective August 1, 1999, shall be for three~~
 23 ~~years. Thereafter, the~~ The terms of office of persons appointed by the Governor as
 24 members of the Commission shall be for four years or until their successors are
 25 appointed and qualify. Any appointment to fill a vacancy on the Commission created by
 26 the resignation, removal, death or disability of a full-time member shall be for the
 27 balance of the unexpired term only.

28 The Governor shall have the authority to remove any member of the Commission
 29 from office for misfeasance, malfeasance or nonfeasance, pursuant to the provisions of
 30 G.S. 143B-13. The Governor shall designate a ~~full-time~~ member of the Commission to
 31 serve as ~~chairman~~ chair of the Commission at the pleasure of the Governor.

32 The granting, denying, revoking, or rescinding of parole, the authorization of
 33 work-release privileges to a prisoner, or any other matters of business coming before the
 34 Commission for consideration and action shall be decided by majority vote of the full
 35 Commission.

36 The ~~full-time~~ members of the Commission shall receive the salary fixed by the
 37 General Assembly in the Current Operations Appropriations Act and shall receive
 38 necessary travel and subsistence expenses in accordance with the provisions of
 39 G.S. 138-6.

40 All clerical and other services required by the Commission shall be supplied by the
 41 Secretary of Correction."

42 **SECTION 17.25.(b)** This section becomes effective June 30, 2005.
 43

44 Requested by: Representatives Kiser, Haire

45 **POST-RELEASE SUPERVISION AND PAROLE COMMISSION/REPORT ON**
 46 **STAFFING REORGANIZATION AND REDUCTION**

47 **SECTION 17.26.** The Post-Release Supervision and Parole Commission
 48 shall report by October 1 of each year to the Chairs of the Senate and House of
 49 Representatives Appropriations Subcommittees on Justice and Public Safety on a plan
 50 for restructuring the organization and operation of the Commission and implementing
 51 staff reductions to reflect both declines and changes in workload.
 52

53 Requested by: Representatives Kiser, Haire

MUTUAL AGREEMENT PAROLE PROGRAM

SECTION 17.27. The Department of Correction and the Post-Release Supervision and Parole Commission shall make a good faith effort to enroll at least twenty percent (20%) of all program-eligible, pre-Structured Sentencing felons in the Mutual Agreement Parole Program by January 1, 2006. The Department shall report to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by March 1 of each year on the number of inmates actually enrolled in the program, the number of inmates who have been paroled as a result of participation in the program, and the number of inmates who have enrolled but terminated as a result of unsuccessful participation in the program. If the twenty percent (20%) participation goal established by this section has not been reached, the report shall explain why the goal was not realized.

Requested by: Representatives Sutton, Haire, Kiser

PAROLE ELIGIBILITY REPORT

SECTION 17.28.(a) The Post-Release Supervision and Parole Commission shall analyze the amount of time each parole-eligible inmate has served compared to the time served by offenders under Structured Sentencing for comparable crimes. The Commission shall determine if the person has served more time in custody than the person would have served if sentenced to the maximum sentence under the provisions of Article 81B of Chapter 15A of the General Statutes. The "maximum sentence", for the purposes of this section, shall be calculated as set forth in subsection (b) of this section.

SECTION 17.28.(b) For the purposes of this section, the following rules apply for the calculation of the maximum sentence:

- (1) The offense upon which the person was convicted shall be classified as the same felony class as the offense would have been classified if committed after the effective date of Article 81B of Chapter 15A of the General Statutes.
- (2) The minimum sentence shall be the maximum number of months in the presumptive range of minimum durations in Prior Record Level VI of G.S. 15A-1340.17(c) for the felony class determined under subdivision (1) of this subsection. The maximum sentence shall be calculated using G.S. 15A-1340.17(d), (e), or (e1).
- (3) If a person is serving sentences for two or more offenses that are concurrent in any respect, then the offense with the greater classification shall be used to determine a single maximum sentence for the concurrent offenses. The fact that the person has been convicted of multiple offenses may be considered by the Commission in making its determinations under subsection (a) of this section.

SECTION 17.28.(c) The Commission shall report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the results of its analysis by February 1, 2006, and shall reinitiate the parole review process for each offender who has served more time than that person would have under Structured Sentencing.

Requested by: Representatives Kiser, Haire

PAYMENT OF COURT COSTS, FINES, AND RESTITUTION BY PROBATIONERS

SECTION 17.29. G.S. 15A-1343(b) reads as rewritten:

- "(b) Regular Conditions. – As regular conditions of probation, a defendant must:
...

- (9) Pay the costs of court, any fine ordered by the court, and make restitution or reparation as provided in subsection (d). A defendant shall not pay costs associated with a substance abuse monitoring program or any other special condition of probation in lieu of, or prior to, the payments required by this subdivision.

...."

PART XVIII. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY

Requested by: Representatives Kiser, Haire

ANNUAL EVALUATION OF TARHEEL CHALLENGE PROGRAM

SECTION 18.1. The Department of Crime Control and Public Safety shall report to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by April 1 of each year of the biennium on the operations and effectiveness of the National Guard Tarheel Challenge Program. The report should evaluate the program's effectiveness as an intervention method for preventing juveniles from becoming undisciplined or delinquent. The report shall also evaluate the Program's role in improving individual skills and employment potential for participants and shall include:

- (1) The source of referrals for individuals participating in the Program;
- (2) The summary of types of actions or offenses committed by the participants of the Program;
- (3) An analysis outlining the cost of providing services for each participant, including a breakdown of all expenditures related to the administration and operation of the Program and the education and treatment of the Program participants;
- (4) The number of individuals who successfully complete the Program; and
- (5) The number of participants who commit offenses after completing the Program.

Requested by: Representatives Kiser, Haire

VICTIMS ASSISTANCE NETWORK REPORT

SECTION 18.2. The Department of Crime Control and Public Safety shall report on the expenditure of funds allocated pursuant to this act for the Victims Assistance Network. The Department shall also report on the Network's efforts to gather data on crime victims and their needs, act as a clearinghouse for crime victims' services, provide an automated crime victims' bulletin board for subscribers, identify the training needs of crime victims' services providers and criminal justice personnel, and coordinate training for these personnel. The Department shall submit its report to the Chairs of the Appropriations Subcommittees on Justice and Public Safety of the Senate and House of Representatives by December 1 of each year of the biennium.

PART XIX. DEPARTMENT OF ADMINISTRATION

Requested by: Representatives Adams, West

CONTINUATION OF THE STUDY OF ADVOCACY PROGRAMS IN THE DEPARTMENT OF ADMINISTRATION

SECTION 19.1. The Secretary of the Department of Administration, in collaboration with appropriate entities that concentrate on public policy and business management, shall continue the study that was completed during the 2003-2004 fiscal year of the functions of the advocacy programs that are housed in the Department of

1 Administration to determine the appropriate organizational placement of the programs
2 within State government. The study shall include both the advocacy and service
3 functions of the Division of Veterans Affairs, the Council for Women and the Domestic
4 Violence Commission, the Commission of Indian Affairs, the Governor's Advocacy
5 Council for Persons with Disabilities, the Human Relations Commission, and the Youth
6 Advocacy and Involvement Office. The study shall also consider whether the functions
7 of the programs could be more efficiently and effectively performed by an appropriate
8 nonprofit organization. The Secretary shall report the findings and recommendations to
9 the Joint Legislative Commission on Governmental Operations and to the Chairs of the
10 Senate and House of Representatives Appropriations Committees by April 1, 2006.

11
12 Requested by: Representatives Adams, West

13 **VETERANS SCHOLARSHIPS PARTIALLY FUNDED FROM ESCHEAT**
14 **FUND**

15 **SECTION 19.2.** In accordance with G.S. 116B-7(b), there is appropriated
16 from the Escheat Fund to the Department of Administration the sum of four million two
17 hundred ninety-seven thousand five hundred forty-four dollars (\$4,297,544) for the
18 2005-2006 fiscal year and four million three hundred fifty-eight thousand forty-six
19 dollars (\$4,358,046) for the 2006-2007 fiscal year.

20
21 Requested by: Representatives Adams, West

22 **STATE VETERANS CEMETERIES**

23 **SECTION 19.3.** The Department of Administration may use funds credited
24 to the Veterans Burial Fund for the 2005-2007 biennium to cover costs incurred as a
25 result of burials on Saturday or Sunday.

26
27 Requested by: Representatives Adams, West

28 **ALLOCATION OF PETROLEUM VIOLATION ESCROW FUNDS**

29 **SECTION 19.4.** Of the unallocated balance of the funds and interest thereon
30 received from the cases of United States v. Stripper Well, United States v. Exxon,
31 United States v. Diamond Shamrock, United States v. Amoco, United States v.
32 Chevron, and United States v. Occidental that remain in the Special Reserve for Oil
33 Overcharge Funds, there is appropriated to the Department of Administration the sum of
34 one million five hundred thousand dollars (\$1,500,000) for the 2005-2006 fiscal year to
35 be allocated for projects approved by the State Energy Policy Council.

36
37 **PART XX. OFFICE OF THE GOVERNOR**

38
39 Requested by: Representatives Adams, West

40 **HOUSING FINANCE AGENCY HOME MATCHING FUNDS**

41 **SECTION 20.1.(a)** Funds appropriated in this act to the Housing Finance
42 Agency for the federal HOME Program shall be used to match federal funds
43 appropriated for the HOME Program. In allocating State funds appropriated to match
44 federal HOME Program funds, the Agency shall give priority to HOME Program
45 projects, as follows:

- 46 (1) First priority to projects that are located in counties designated as Tier
47 One, Tier Two, or Tier Three Enterprise Counties under
48 G.S. 105-129.3; and
- 49 (2) Second priority to projects that benefit persons and families whose
50 incomes are fifty percent (50%) or less of the median family income
51 for the local area, with adjustments for family size, according to the
52 latest figures available from the United States Department of Housing
53 and Urban Development.

1 The Housing Finance Agency shall report to the Joint Legislative
2 Commission on Governmental Operations by April 1 of each year concerning the status
3 of the HOME Program and shall include in the report information on priorities met,
4 types of activities funded, and types of activities not funded.

5 **SECTION 20.1.(b)** If the United States Congress changes the HOME
6 Program such that matching funds are not required for a given program year, then the
7 Agency shall not spend the matching funds appropriated under this act for that program
8 year.

9 **SECTION 20.1.(c)** Funds appropriated in this act to match federal HOME
10 Program funds shall not revert to the General Fund on June 30, 2006, or on June 30,
11 2007.

12 **PART XX-A. INFORMATION TECHNOLOGY**

13 Requested by: Representatives Adams, West

14 **MULTIYEAR MAINTENANCE CONTRACTS**

15 **SECTION 20A.1.(a)** Notwithstanding the cash management provisions of
16 G.S. 147-86.11, the State Controller may authorize the Office of Information
17 Technology Services (ITS) to purchase not more than four infrastructure maintenance
18 agreements for periods not exceeding three years where the terms of those maintenance
19 agreements require payment of the full purchase price at the beginning of the
20 maintenance period. The State Controller shall not authorize the agreements authorized
21 by this section unless all of the following conditions are met:

- 22 (1) The proposed infrastructure maintenance agreement is entered into
23 after June 30, 2005, and before July 1, 2007.
- 24 (2) The State Controller receives conclusive evidence that the proposed
25 infrastructure agreement would be more cost-effective than any similar
26 agreement that complies with G.S. 147-86.11.
- 27 (3) The Office of State Budget and Management (OSBM) verifies to the
28 State Controller that the savings resulting from the proposed
29 infrastructure agreement will be passed on to users in the form of
30 lower rates for ITS Internal Service Fund services.
- 31 (4) The purchase of the proposed maintenance agreement complies in all
32 other respects with applicable statutes and rules.
- 33 (5) ITS shall make adjustments of excess revenue, based on rates
34 approved by OSBM, over allowable costs.

35 **SECTION 20A.1.(b)** OSBM shall verify that each proposed infrastructure
36 agreement results in lower ITS rates for Internal Service Fund services, and
37 subsequently reduces the appropriate State agencies' budgets by the same amount of the
38 projected rate reductions.

39 **SECTION 20A.1.(c)** OSBM shall report on budget reductions and provide
40 full justification for any authorizations granted under this section to the Joint Legislative
41 Commission on Governmental Operations and to the Fiscal Research Division of the
42 General Assembly within 30 days after the authorization is granted.

43 **PART XXI. DEPARTMENT OF INSURANCE**

44 Requested by: Representatives Adams, West

45 **INSURANCE REGULATORY FUND TRANSFER TO GENERAL FUND**

46 **SECTION 21.1.** The Commissioner of Insurance shall transfer funds
47 quarterly from the Insurance Regulatory Fund to the General Fund to repay the funds
48 appropriated to the Department of Insurance from the General Fund for each fiscal year,
49 plus accrued interest at a rate determined by the State Treasurer.
50
51
52
53

1
2 **PART XXII. DEPARTMENT OF REVENUE**
3

4 Requested by: Representatives Adams, West

5 **DEPARTMENT OF REVENUE DEBT FEE FOR TAXPAYER LOCATER**
6 **SERVICES AND COLLECTION**

7 **SECTION 22.1.(a)** G.S. 105-243.1(e) reads as rewritten:

8 "(e) Use. – The fee is a receipt of the Department and must be applied to the costs
9 of collecting overdue tax debts. The proceeds of the fee must be credited to a special
10 account within the Department and may be expended only as provided in this
11 subsection. The proceeds of the fee may not be used for any purpose that is not directly
12 and primarily related to collecting overdue tax debts. The Department may apply the
13 proceeds of the fee for the purposes listed in this subsection. The remaining proceeds of
14 the fee may be spent only pursuant to appropriation by the General Assembly. The fee
15 proceeds do not revert but remain in the special account until spent for the costs of
16 collecting overdue tax debts. The Department and the Office of State Budget and
17 Management must account for all expenditures using accounting procedures that clearly
18 distinguish costs allocable to collecting overdue tax debts from costs allocable to other
19 purposes and must demonstrate that none of the fee proceeds are used for any purpose
20 other than collecting overdue tax debts.

21 The Department may apply the fee proceeds for the following purposes:

- 22 (1) To pay contractors for collecting overdue tax debts under subsection
23 (b) of this section.
24 (2) To pay the fee the United States Department of the Treasury charges
25 for setoff to recover tax owed to North Carolina.
26 (3) To pay for taxpayer locater services, not to exceed one hundred
27 thousand dollars (\$100,000) a year.
28 (4) To pay for postage or other delivery charges for correspondence
29 directly and primarily relating to collecting overdue tax debts.
30 (5) To pay for operating expenses for Project Collection Tax and the
31 Taxpayer Assistance Call Center.
32 (6) To pay for expenses of the Examination and Collection Division
33 directly and primarily relating to collecting overdue tax debts."

34 **SECTION 22.1.(b)** G.S. 105-243.1(f) reads as rewritten:

35 "(f) Reports. – The Department must report semiannually to the Joint Legislative
36 Commission on Governmental Operations and to the Revenue Laws Study Committee
37 on its efforts to collect tax debts. Each report must include a breakdown of the amount
38 and age of tax debts collected by collection agencies on contract, the amount and age of
39 tax debts collected by the Department through warning letters, and the amount and age
40 of tax debts otherwise collected by Department personnel. The report must itemize
41 collections by type of tax. Each report must also include a long-term collection plan, a
42 timeline for implementing each step of the plan, a summary of steps taken since the last
43 report and their results, and any other data requested by the Commission or the
44 Committee.

45 The Department must report by April 1, 2006, and annually thereafter, to the
46 Revenue Laws Study Committee and the Fiscal Research Division of the General
47 Assembly on the use of the fee proceeds for collecting overdue tax debts."
48

49 Requested by: Representatives Adams, West

50 **POSITIONS FOR REVENUE TAX EVASION PROJECT**

51 **SECTION 22.3.** The 10 time-limited positions established in the Fuel Tax
52 Compliance Division of the Department of Revenue for the Revenue Tax Evasion
53 Project in S.L. 2004-124 are converted to permanent positions.

1
2 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
3 Michaux

4 **REPORT ON ENHANCED COMPLIANCE, ENFORCEMENT, AND**
5 **COLLECTION EFFORTS**

6 **SECTION 22.4.** On or before April 1, 2006, the Department must report to
7 the Joint Legislative Commission on Governmental Operations and to the Revenue
8 Laws Study Committee on its enhanced compliance, enforcement, and collection
9 efforts. The report must include the following:

- 10 (1) A detailed description of enhanced compliance, enforcement, and
11 collection programs and methodologies and a detailed accounting of
12 additional revenues collected as a result of each of those specific
13 programs and methodologies.
14 (2) An analysis of the effectiveness and cost-efficiency of the various
15 programs and methodologies with respect to each type of tax.
16 (3) A description of efforts to coordinate these enhanced compliance,
17 enforcement, and collection efforts with existing compliance and
18 collection efforts and recommendations for streamlining these various
19 efforts.
20 (4) Recommendations for specific, nonbudgetary legislative actions to
21 further enhance compliance, enforcement, and collection efforts.
22

23 **PART XXIII. SECRETARY OF STATE**
24

25 Requested by: Representatives Adams, West

26 **SECRETARY OF STATE TO REASSIGN VACANT POSITION**

27 **SECTION 23.1.** The Secretary of State shall reassign position
28 3222-0000-0000-361 from the Uniform Commercial Code Division to its General
29 Administration Division to assist with investigations of trademark violations and
30 training for other law enforcement personnel in the State and with investigations of
31 violations of the Charitable Solicitation Licensing Act. The Secretary shall report to the
32 Chairs of the Appropriations Subcommittees on General Government of the Senate and
33 House of Representatives by December 1, 2005.
34

35 **PART XXIV. OFFICE OF STATE BUDGET AND MANAGEMENT**
36

37 Requested by: Representatives Adams, West

38 **NC HUMANITIES COUNCIL**

39 **SECTION 24.1.** The North Carolina Humanities Council shall:

- 40 (1) By January 15, 2006, and more frequently as requested, report to the
41 Joint Legislative Commission on Governmental Operations and the
42 Fiscal Research Division the following information:
43 a. State fiscal year 2004-2005 program activities, objectives, and
44 accomplishments;
45 b. State fiscal year 2004-2005 itemized expenditures and fund
46 sources;
47 c. State fiscal year 2005-2006 planned activities, objectives, and
48 accomplishments, including actual results through December
49 31, 2005; and
50 d. State fiscal year 2005-2006 estimated itemized expenditures
51 and fund sources, including actual expenditures and fund
52 sources through December 31, 2005.

- 1 (2) By January 15, 2007, and more frequently as requested, report to the
2 Joint Legislative Commission on Governmental Operations and the
3 Fiscal Research Division the following information:
4 a. State fiscal year 2005-2006 program activities, objectives, and
5 accomplishments;
6 b. State fiscal year 2005-2006 itemized expenditures and fund
7 sources;
8 c. State fiscal year 2006-2007 planned activities, objectives, and
9 accomplishments, including actual results through December
10 31, 2006; and
11 d. State fiscal year 2006-2007 estimated itemized expenditures
12 and fund sources, including actual expenditures and fund
13 sources through December 31, 2006.
14 (3) Provide to the Fiscal Research Division a copy of the organization's
15 annual audited financial statement within 30 days of issuance of the
16 statement.
17

18 Requested by: Representatives Jeffus, Sherrill
19 **NC HUMANITIES COUNCIL TEACHERS INSTITUTE**

20 **SECTION 24.2.** Of the funds appropriated in this act to the Office of State
21 Budget and Management – Reserve for Special Appropriations for the 2005-2006 fiscal
22 year, the sum of \$50,000 on a nonrecurring basis shall be allocated to the North
23 Carolina Humanities Council Teachers Institute.
24

25 **PART XXV. OFFICE OF THE STATE CONTROLLER**

26
27 Requested by: Representatives Adams, West

28 **OVERPAYMENTS AUDIT**

29 **SECTION 25.1.(a)** During the 2005-2007 biennium, receipts generated by
30 the collection of inadvertent overpayments by State agencies to vendors as a result of
31 pricing errors, neglected rebates and discounts, miscalculated freight charges, unclaimed
32 refunds, erroneously paid excise taxes, and related errors as required by
33 G.S. 147-86.22(c) are to be deposited in the Special Reserve Account 24172.

34 **SECTION 25.1.(b)** For each fiscal year of the 2005-2007 biennium, two
35 hundred thousand dollars (\$200,000) of the funds transferred from the Special Reserve
36 Account 24172 shall be used by the Office of the State Controller for data processing,
37 debt collection, or e-commerce costs.

38 **SECTION 25.1.(c)** All funds available in the Special Reserve Account
39 24172 on July 1 of each year of the 2005-2007 biennium are transferred to the General
40 Fund on that date.

41 **SECTION 25.1.(d)** Any unobligated funds in the Special Reserve Account
42 24172 that are realized above the allowance in subsection (b) of this section are subject
43 to appropriation by the General Assembly in the 2006 Regular Session of the 2005
44 General Assembly.

45 **SECTION 25.1.(e)** The State Controller shall report quarterly to the Joint
46 Legislative Commission on Governmental Operations and the Fiscal Research Division
47 on the revenue deposited into the Special Reserve Account 24172 and the disbursement
48 of that revenue.
49

50 **PART XXVII. DEPARTMENT OF THE STATE TREASURER**

51 Requested by: Representatives Adams, West
52

1 **REPORT OF THE STATUS OF THE TECHNOLOGY INFRASTRUCTURE**
2 **ENHANCEMENTS**

3 **SECTION 27.1.** The Department of State Treasurer shall report to the Joint
4 Legislative Commission on Governmental Operations and to the Chairs of the
5 Appropriations Committees for the Senate and the House of Representatives on the
6 status of the replacement of the multitude of information technology systems with an
7 integrated system for all the retirement plans and other programs administered by the
8 Retirement Systems Division. The Department shall report semiannually by October 1
9 and April 1 until the enhancements are fully implemented.

10
11 Requested by: Representatives Adams, West

12 **STAFFING ANALYSIS FOLLOW-UP**

13 **SECTION 27.2.(a)** The Office of State Budget and Management shall
14 conduct semiannual follow-up analyses to the Staffing Analysis that was completed in
15 April 2003 on the Retirement Systems Division within the Department of State
16 Treasurer by October 1 and April 1 of each year to assure that the staffing levels remain
17 appropriate. The semiannual analyses shall be conducted throughout the implementation
18 of the enhancements to the information technology infrastructure within the Retirement
19 Systems Division that were authorized by this act. The follow-up analyses shall also
20 continue for a reasonable time after the completion of the enhancements to ensure that
21 the staffing levels are adjusted based on the increased efficiency provided by the
22 enhancements.

23 **SECTION 27.2.(b)** The Retirement Systems Division shall maintain
24 monthly workload statistics and productivity data for the various functions within the
25 Division. The Department of State Treasurer shall report the workload statistics and
26 productivity data to the Fiscal Research Division and to the Office of State Budget and
27 Management on a quarterly basis.

28
29 Requested by: Representatives Adams, West

30 **TREASURER REPORT ON STATE INVESTMENT OFFICER POSITION**
31 **INCENTIVE BONUS**

32 **SECTION 27.3.** G.S. 147-69.3 is amended by adding a new subsection to
33 read:

34 "(i1) The State Treasurer shall report the incentive bonus paid to the Chief
35 Investment Officer to the Joint Legislative Commission on Governmental Operations by
36 October 1 of each year."

37
38 Requested by: Representatives Adams, West

39 **STATE TREASURER/REALLOCATION OF EXISTING PORTFOLIO**
40 **MANAGER POSITION**

41 **SECTION 27.4.** The State Treasurer shall reallocate twenty-five percent
42 (25%) of the time and effort of one existing Portfolio Manager position to oversee the
43 investment performance of the third-party administration for the 401(k) Supplemental
44 Retirement Plan. In reimbursing the General Fund for the appropriation for the Portfolio
45 Manager position, the State Treasurer shall allocate a proportionate share of the cost of
46 the position to the 401(k) Plan.

47
48 **PART XXVIII. DEPARTMENT OF TRANSPORTATION**

49
50 Requested by: Representatives Cole, Coates

51 **REMOVE GOV OPS CONSULTATION ON FEDERAL-AID ACTS**

52 **SECTION 28.1.** G.S. 136-44.2 reads as rewritten:

53 **"§ 136-44.2. Budget and appropriations.**

1 The Director of the Budget shall include in the "Current Operations Appropriations
2 Bill" an enumeration of the purposes or objects of the proposed expenditures for each of
3 the construction and maintenance programs for that budget period for the State primary,
4 secondary, urban, and State parks road systems. The State primary system shall include
5 all portions of the State highway system located outside municipal corporate limits
6 which are designated by N.C., U.S. or Interstate numbers. The State secondary system
7 shall include all of the State highway system located outside municipal corporate limits
8 that is not a part of the State primary system. The State urban system shall include all
9 portions of the State highway system located within municipal corporate limits. The
10 State parks system shall include all State parks roads and parking lots which are not also
11 part of the State highway system.

12 All construction and maintenance programs for which appropriations are requested
13 shall be enumerated separately in the budget. Programs that are entirely State funded
14 shall be listed separately from those programs involving the use of federal-aid funds.
15 Proposed appropriations of State matching funds for each of the federal-aid construction
16 programs shall be enumerated separately as well as the federal-aid funds anticipated for
17 each program in order that the total construction requirements for each program may be
18 provided for in the budget. Also, proposed State matching funds for the highway
19 planning and research program shall be included separately along with the anticipated
20 federal-aid funds for that purpose.

21 Other program categories for which appropriations are requested, such as, but not
22 limited to, maintenance, channelization and traffic control, bridge maintenance, public
23 service and access road construction, and ferry operations shall be enumerated in the
24 budget.

25 The Department of Transportation shall have all powers necessary to comply fully
26 with provisions of present and future federal-aid acts. No federally eligible construction
27 project may be funded entirely with State funds unless the Department of Transportation
28 has first ~~consulted with~~ reported to the Joint Legislative Commission on Governmental
29 Operations. For purposes of this section, "federally eligible construction project" means
30 any construction project except secondary road projects developed pursuant to
31 G.S. 136-44.7 and 136-44.8 eligible for federal funds under any federal-aid act, whether
32 or not federal funds are actually available.

33 The "Current Operations Appropriations Bill" shall also contain the proposed
34 appropriations of State funds for use in each county for maintenance and construction of
35 secondary roads, to be allocated in accordance with G.S. 136-44.5 and 136-44.6. State
36 funds appropriated for secondary roads shall not be transferred nor used except for the
37 construction and maintenance of secondary roads in the county for which they are
38 allocated pursuant to G.S. 136-44.5 and 136-44.6.

39 If the unreserved credit balance in the Highway Fund on the last day of a fiscal year
40 is greater than the amount estimated for that date in the Current Operations
41 Appropriations Act for the following fiscal year, the excess shall be used in accordance
42 with this paragraph. The Director of the Budget may allocate part or all of the excess
43 among reserves for access and public roads, for unforeseen events requiring prompt
44 action, or for other urgent needs. The amount not allocated to any of these reserves by
45 the Director of the Budget shall be credited to a reserve for maintenance. The Board of
46 Transportation shall report monthly to the Joint Legislative Transportation Oversight
47 Committee and the Fiscal Research Division on the use of funds in the maintenance
48 reserve.

49 The Department of Transportation may provide for costs incurred or accrued for
50 traffic control measures to be taken by the Department at major events which involve a
51 high degree of traffic concentration on State highways, and which cannot be funded
52 from regular budgeted items. This authorization applies only to events which are
53 expected to generate 30,000 vehicles or more per day. The Department of

1 Transportation shall provide for this funding by allocating and reserving up to one
 2 hundred thousand dollars (\$100,000) before any other allocations from the
 3 appropriations for State maintenance for primary, secondary, and urban road systems
 4 are made, based upon the same proportion as is appropriated to each system."
 5

6 Requested by: Representatives Cole, Coates

7 **TRANSPORTATION SERVICES FOR TRADE SHOWS**

8 **SECTION 28.2.** The Department of Transportation, from funds available for
 9 public transportation in this act, may use up to one million two hundred thousand
 10 dollars (\$1,200,000) in each year of the biennium for transportation services for annual
 11 or semiannual trade shows of international significance. The Department of
 12 Transportation shall report to the Joint Legislative Transportation Oversight Committee,
 13 annually on or before March 1, on the use of these funds.
 14

15 Requested by: Representatives Cole, Coates

16 **CASH-FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND**
 17 **APPROPRIATIONS.**

18 **SECTION 28.3.(a)** The General Assembly authorizes and certifies
 19 anticipated revenues of the Highway Fund as follows:

20	For Fiscal Year 2007-2008	\$1,551.1 million
21	For Fiscal Year 2008-2009	\$1,593.0 million
22	For Fiscal Year 2009-2010	\$1,647.9 million
23	For Fiscal Year 2010-2011	\$1,716.1 million

24 **SECTION 28.3.(b)** The General Assembly authorizes and certifies
 25 anticipated revenues of the Highway Trust Fund as follows:

26	For Fiscal Year 2007-2008	\$1,136.9 million
27	For Fiscal Year 2008-2009	\$1,186.4 million
28	For Fiscal Year 2009-2010	\$1,229.6 million
29	For Fiscal Year 2010-2011	\$1,283.2 million

30
 31 Requested by: Representatives Cole, Coates

32 **SMALL CONSTRUCTION AND CONTINGENCY FUNDS**

33 **SECTION 28.4.** Of the funds appropriated in this act to the Department of
 34 Transportation:

- 35 (1) Twenty-one million dollars (\$21,000,000) shall be allocated in each
 36 fiscal year for small construction projects reviewed and approved by
 37 the Division Engineer and the member of the Board of Transportation
 38 representing the Division in which the project is to be constructed.
 39 These funds shall be allocated equally in each fiscal year of the
 40 biennium among the 14 Highway Divisions for small construction
 41 projects.
- 42 (2) Fifteen million dollars (\$15,000,000) in fiscal year 2005-2006 and
 43 fifteen million dollars (\$15,000,000) in fiscal year 2006-2007 shall be
 44 used statewide for rural or small urban highway improvements and
 45 related transportation enhancements to public roads and public
 46 facilities, industrial access roads, and spot safety projects, including
 47 pedestrian walkways that enhance highway safety. Projects funded
 48 pursuant to this subdivision shall be reviewed and approved by the
 49 member of the Board of Transportation representing the Division in
 50 which the project is to be constructed.

51 None of these funds used for rural secondary road construction are subject to
 52 the county allocation formulas in G.S. 136-44.5(b) and (c).

53 These funds are not subject to G.S. 136-44.7.

1 The Department of Transportation shall report to the members of the General
2 Assembly on projects funded pursuant to this section in each member's district prior to
3 the Board of Transportation's action. The Department shall make a quarterly
4 comprehensive report on the use of these funds to the Joint Legislative Transportation
5 Oversight Committee and the Fiscal Research Division.

6
7 Requested by: Representatives Cole, Coates

8 **USE OF EXCESS OVERWEIGHT/OVERSIZE FEES**

9 **SECTION 28.5.** Chapter 20 of the General Statutes is amended by adding a
10 new section to read:

11 **"§ 20-119.1. Use of excess overweight and oversize fees.**

12 Funds generated by overweight and oversize permit fees in excess of the cost of
13 administering the program, as determined pursuant to G.S. 20-119(e), shall be used for
14 highway and bridge maintenance required as a result of damages caused from
15 overweight/oversize loads."

16
17 Requested by: Representatives Cole, Coates

18 **STATE USE OF NORTH CAROLINA RAILROAD DIVIDENDS**

19 **SECTION 28.7.** G.S. 124-5.1(a) reads as rewritten:

20 "(a) Notwithstanding the provisions of G.S. 136-16.6, in order to increase the
21 capital of the North Carolina Railroad Company, any dividends of the North Carolina
22 Railroad Company received by the State shall be applied to reduce the obligations
23 described in subsection (c) of Section 32.30 of S.L. 1997-443, as amended by
24 subsection (d) of Section 27.11 of S.L. 1999-237. Any dividends of the North Carolina
25 Railroad Company received by the State shall be used by the Department of
26 Transportation for the improvement of the property of the North Carolina Railroad
27 Company as recommended and approved by the Board of Directors of the North
28 Carolina Railroad Company. The improvements may include the following project
29 types:

- 30 (1) Railroad and industrial track rehabilitation and installation in high
31 traffic areas.
32 (2) Railroad signal and grade crossing protection.
33 (3) Bridge improvements.
34 (4) Corridor protection.
35 (5) Industrial site acquisition."

36
37 Requested by: Representatives Cole, Coates

38 **ANALYSIS AND APPROVAL OF RULES, POLICIES, OR GUIDELINES**
39 **AFFECTING DEPARTMENT OF TRANSPORTATION PROJECTS**

40 **SECTION 28.8.(a)** G.S. 150B-21.4 is amended by adding a new subsection
41 to read:

42 "(a1) DOT Analyses. – In addition to the requirements of subsection (a) of this
43 section, any agency that adopts a rule affecting environmental permitting of Department
44 of Transportation projects shall conduct an analysis to determine if the rule will result in
45 an increased cost to the Department of Transportation. The analysis shall be conducted
46 and submitted to the Board of Transportation before the agency publishes the proposed
47 text of the rule change in the North Carolina Register. The agency shall consider any
48 recommendations offered by the Board of Transportation prior to adopting the rule.
49 Once a rule subject to this subsection is adopted, the Board of Transportation may
50 submit any objection to the rule it may have to the Rules Review Commission. If the
51 Rules Review Commission receives an objection to a rule from the Board of
52 Transportation no later than 5:00 P.M. of the day following the day the Commission

1 approves the rule, then the rule shall only become effective as provided in
 2 G.S. 150B-21.3(b1)."

3 **SECTION 28.8.(b)** Chapter 136 of the General Statutes is amended by
 4 adding a new section to read:

5 **"§ 136-44.7C. Analysis and approval of Department of Transportation**
 6 **environmental policies or guidelines affecting transportation projects.**

7 (a) Analysis Required. – The Department of Transportation shall conduct an
 8 analysis of any proposed environmental policy or guideline adopted by the Department
 9 that affects Department of Transportation projects to determine if the policy or guideline
 10 will result in an increased cost to Department of Transportation projects.

11 (b) Report of Analysis; Approval of Policy or Guideline Required. – The analysis
 12 of a proposed policy or guideline required by subsection (a) of this section shall be
 13 reported to the Board of Transportation at least 30 days prior to the proposed effective
 14 date of the policy or guideline, and shall not go into effect until approved by the Board
 15 of Transportation."

16
 17 Requested by: Representatives Cole, Coates

18 **DEPARTMENT OF TRANSPORTATION PRODUCTIVITY PILOT**
 19 **PROGRAMS**

20 **SECTION 28.9.(a)** The Department of Transportation may continue the
 21 productivity pilot programs in the road oil and bridge inspection units implemented
 22 under Section 29.3 of S.L. 2003-284. The Department of Transportation may expend up
 23 to one-half of one percent (.50%) of the budget allocation for these programs for
 24 employee incentive payments to maintain the increased efficiency and productivity
 25 under these programs.

26 **SECTION 28.9.(b)** The Department of Transportation may establish two
 27 additional pilot programs to test incentive pay for employees as a means of increasing
 28 and maintaining efficiency and productivity.

29 One of the new pilot programs shall involve the Pavement Markings Unit.
 30 The other pilot program may be selected by the Department of Transportation. Up to
 31 one-half of one percent (.50%) of the budget allocation for these programs may be used
 32 to provide employee incentive payments.

33 Incentive payments shall be based on quantifiable measures and production
 34 schedules determined prior to the implementation of the pilot programs. Pilot programs
 35 implemented under this subsection shall last no more than two years.

36 The Department of Transportation shall report to the Joint Legislative
 37 Transportation Oversight Committee on the pilot programs developed under this
 38 subsection at least 30 days prior to their implementation.
 39

40 Requested by: Representatives Cole, Coates

41 **DEPARTMENT OF TRANSPORTATION PERFORMANCE-BASED**
 42 **CONTRACTS**

43 **SECTION 28.10.** The Department of Transportation may implement up to
 44 two performance-based contracts for routine maintenance and operations, exclusive of
 45 resurfacing. Selection of firms to perform this work shall be made using a best-value
 46 procurement process.

47 Prior to any advertisement for a proposed project the Department shall report
 48 to the Joint Legislative Transportation Oversight Committee on the contractor selection
 49 criteria to be used.
 50

51 Requested by: Representatives Cole, Coates

52 **DEPARTMENT OF TRANSPORTATION REORGANIZATION**

1 **SECTION 28.11.(a)** The Secretary of Transportation shall transfer the
2 Program Development Branch, as it existed on May 1, 2005, from the Deputy Secretary
3 for Environmental, Planning and Local Government Affairs to the Chief Financial
4 Officer of the Department of Transportation.

5 **SECTION 28.11.(b)** The Secretary of Transportation shall transfer the
6 Transportation Planning Branch, as it existed on May 1, 2005, from the Deputy
7 Secretary for Environmental, Planning and Local Government Affairs to the State
8 Highway Administrator.

9 **SECTION 28.11.(c)** The Secretary of Transportation shall transfer the
10 Project Development and Environmental Analysis Branch, as it existed on May 1, 2005,
11 from the Deputy Secretary for Environmental, Planning and Local Government Affairs
12 to the State Highway Administrator.

13 **SECTION 28.11.(d)** The position of Deputy Secretary for Environmental,
14 Planning and Local Government Affairs shall be eliminated.

15 **SECTION 28.11.(e)** The position of Special Assistant for Environmental,
16 Planning and Local Government Affairs shall be eliminated.

17 **SECTION 28.11.(f)** All vacant positions in the Project Development and
18 Environmental Analysis Branch as of April 15, 2005, shall be eliminated except for any
19 vacant position associated with an employee on an approved leave without pay status.
20 Once these positions are eliminated, the Department of Transportation shall not reinstate
21 these positions without the authorization of the General Assembly.

22
23 Requested by: Representatives Cole, Coates

24 **CONTINUING AVIATION APPROPRIATIONS**

25 **SECTION 28.12.(a)** G.S. 136-16.4 is repealed.

26 **SECTION 28.12.(b)** G.S. 136-16.5 is repealed.

27
28 Requested by: Representatives Cole, Coates

29 **DEPARTMENT OF TRANSPORTATION AUTHORITY TO PROVIDE**
30 **WAY-FINDING SIGNS FOR THE ROANOKE VOYAGES CORRIDOR**
31 **COMMISSION AND THE BLUE RIDGE NATIONAL HERITAGE AREA**
32 **PARTNERSHIP**

33 **SECTION 28.14.(a)** Chapter 1194 of the 1981 Session Laws is amended by
34 adding a new section that reads:

35 "Sec. 7.2. At the request of the Roanoke Voyages Corridor Commission, the
36 Department of Transportation may manufacture and install, on Roanoke Island and up
37 to 30 miles off the island, way-finding signs that, by color, design, and lettering, do not
38 comply with normal transportation signage standards. These signs shall be used to
39 identify and give directions to historic, educational, and cultural attractions on the
40 island. The Department of Transportation shall not erect any signage that would be
41 impracticable, unfeasible, or that would result in an unsafe or hazardous condition."

42 **SECTION 28.14.(b)** At the request of the Blue Ridge National Heritage
43 Area Partnership, as established by Public Law 108-108, Title I, Section 140(d)(3), the
44 Department of Transportation may manufacture and install way-finding signs that, by
45 color, design, and lettering, do not comply with normal transportation signage
46 standards. Signage throughout the 25-county area, as defined in Public Law 108-108,
47 Title I, Section 140(d)(2), of the Blue Ridge National Heritage Area shall be used to
48 identify and give directions to historic, educational, and cultural attractions. The
49 Department of Transportation shall not erect any signage that would be impracticable,
50 unfeasible, or that would result in an unsafe or hazardous condition.

51
52 Requested by: Representatives Cole, Coates

53 **REVENUE TAX EVASION PROJECT**

1 **SECTION 28.15.** Of funds appropriated to Highway Trust Fund
2 Administration, the sum of five hundred forty-eight thousand six hundred thirty-three
3 dollars (\$548,633) for the 2005-2006 fiscal year and the sum of four hundred seventy
4 thousand seven hundred one dollars (\$470,701) for the 2006-2007 fiscal year shall be
5 used to establish and support nine positions in the Department of Revenue, Motor Fuels
6 Tax Division, to fully implement the Revenue Tax Evasion Project.

7
8 Requested by: Representatives Cole, Coates

9 **MODIFY GLOBAL TRANSPARK DEBT**

10 **SECTION 28.17.** G.S. 147-69.2(b)(11) reads as rewritten:

11 "(b) It shall be the duty of the State Treasurer to invest the cash of the funds
12 enumerated in subsection (a) of this section in excess of the amount required to meet the
13 current needs and demands on such funds, selecting from among the following:

- 14 ..
- 15 (11) With respect to assets of the Escheat Fund, obligations of the North
16 Carolina Global TransPark Authority authorized by G.S. 63A-4(a)(22),
17 not to exceed twenty-five million dollars (\$25,000,000), that have a
18 final maturity not later than ~~July 1, 2005.~~ October 1, 2007. The
19 obligations shall bear interest at the rate set by the State Treasurer. No
20 commitment to purchase obligations may be made pursuant to this
21 subdivision after September 1, 1993, and no obligations may be
22 purchased after September 1, 1994. In the event of a loss to the
23 Escheat Fund by reason of an investment made pursuant to this
24 subdivision, it is the intention of the General Assembly to hold the
25 Escheat Fund harmless from the loss by appropriating to the Escheat
26 Fund funds equivalent to the loss.

27 If any part of the property owned by the North Carolina Global
28 TransPark Authority now or in the future is divested, proceeds of the
29 divestment shall be used to fulfill any unmet obligations on an
30 investment made pursuant to this subdivision."

31
32 Requested by: Representatives Cole, Coates

33 **REPORT ON STORMWATER PILOT PROJECT**

34 **SECTION 28.19.** The Department of Transportation shall report to the Joint
35 Legislative Transportation Oversight Committee by August 1, 2005 on its plan to clean
36 up ocean outfalls in accordance with Section 30.20 of S.L. 2004-124.

37
38 Requested by: Representatives Cole, Coates

39 **ESTABLISHING TOLLWAYS ON FEDERALLY FUNDED HIGHWAYS**
40 **DESIGNATED AS INTERSTATES**

41 **SECTION 28.21.(a)** The North Carolina Department of Transportation shall
42 apply to the United States Department of Transportation for a permit to allow tolling on
43 established interstate highways in North Carolina.

44 **SECTION 28.21.(b)** Chapter 136 of the General Statutes is amended by
45 adding a new section to read:

46 **"§ 136-89.198. Authority to toll existing interstate highways.**

47 Notwithstanding any other provision of this Article, the Authority may collect tolls
48 on any existing interstate highway for which the United States Department of
49 Transportation has granted permission by permit, or any other lawful means, to do so.
50 The revenue generated from the collected tolls shall be used by the Authority to repair
51 and maintain the interstate on which the tolls were collected. These revenues shall not
52 be used to repair, maintain, or upgrade any State primary or secondary road adjacent to
53 or connected with the interstate highways."

Requested by: Representatives Cole, Coates, Brubaker, Stam

FUNDING FOR CONDEMNATION PROJECTS

SECTION 28.22. The Department of Transportation shall not expend any federal or State funds, or any private or donated funds as a deposit for, or for the condemnation of, any land in Randolph County on the west side of New Salem Road within 150 feet of its intersection with Bethel Church Road or on the south side of Bethel Church Road within 50 feet of its intersection with New Salem Road. The Department shall cause any pending condemnation actions affecting the property described in this section, and filed in compliance with G.S. 136-103, to be dismissed.

Requested by: Representative Cole

FUNDS FOR PIEDMONT AND CAROLINIAN OPERATIONS

SECTION 28.23. In Section 3.1 of this Act, funds are appropriated for the operation of the Piedmont and Carolinian Rail Services.

Requested by: Representatives Williams

ADDITIONAL TROOPERS FOR THE STATE HIGHWAY PATROL

SECTION 28.24. In Section 3.1 of this Act, funds are appropriated for a total of 25 addition Trooper positions in the Department of Crime Control and Public Safety, Division of State Highway Patrol.

PART XXIX. SALARIES AND EMPLOYEE BENEFITS

Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill, Michaux

GOVERNOR AND COUNCIL OF STATE/SALARY INCREASES

SECTION 29.1.(a) Effective July 1, 2005, G.S. 147-11(a) reads as rewritten:

"(a) The salary of the Governor shall be ~~one hundred twenty one thousand three hundred ninety one dollars (\$121,391)~~ one hundred twenty-two thousand four hundred seventy-seven dollars (\$122,477) annually, payable monthly."

SECTION 29.1.(b) Effective July 1, 2005, the annual salaries for the members of the Council of State, payable monthly, for the 2005-2006 and 2006-2007 fiscal years are:

<u>Council of State</u>	<u>Annual Salary</u>
Lieutenant Governor	\$108,222
Attorney General	108,222
Secretary of State	108,222
State Treasurer	108,222
State Auditor	108,222
Superintendent of Public Instruction	108,222
Agriculture Commissioner	108,222
Insurance Commissioner	108,222
Labor Commissioner	108,222

Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill, Michaux

NONELECTED DEPARTMENT HEADS/SALARY INCREASES

SECTION 29.2. In accordance with G.S. 143B-9, the maximum annual salaries, payable monthly, for the nonelected heads of the principal State departments for the 2005-2006 and 2006-2007 fiscal years are:

	<u>Nonelected Department Heads</u>	<u>Annual Salary</u>
1		
2	Secretary of Administration	\$105,758
3	Secretary of Correction	105,758
4	Secretary of Crime Control and Public Safety	105,758
5	Secretary of Cultural Resources	105,758
6	Secretary of Commerce	105,758
7	Secretary of Environment and Natural Resources	105,758
8	Secretary of Health and Human Services	105,758
9	Secretary of Juvenile Justice and Delinquency Prevention	105,758
10	Secretary of Revenue	105,758
11	Secretary of Transportation	105,758
12		

13
14 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
15 Michaux

16 **CERTAIN EXECUTIVE BRANCH OFFICIALS/SALARY INCREASES**

17 **SECTION 29.3.** The annual salaries, payable monthly, for the 2005-2006
18 and 2006-2007 fiscal years for the following executive branch officials are:

	<u>Executive Branch Officials</u>	<u>Annual Salary</u>
19		
20	Chairman, Alcoholic Beverage Control Commission	\$96,356
21	State Controller	134,416
22	Commissioner of Motor Vehicles	96,356
23	Commissioner of Banks	108,222
24	Chairman, Employment Security Commission	133,161
25	State Personnel Director	105,758
26	Chairman, Parole Commission	88,079
27	Members of the Parole Commission	40,701
28	Chairman, Utilities Commission	120,401
29	Members of the Utilities Commission	108,222
30	Executive Director, Agency for Public Telecommunications	81,401
31	Director, Museum of Art	98,707
32	Executive Director, North Carolina Agricultural	
33	Finance Authority	93,818
34	State Chief Information Officer	134,336
35		
36		

37 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
38 Michaux

39 **JUDICIAL BRANCH OFFICIALS/SALARY INCREASES**

40 **SECTION 29.4.(a)** The annual salaries, payable monthly, for specified
41 Judicial Branch officials for the 2005-2006 and 2006-2007 fiscal years are:

	<u>Judicial Branch Officials</u>	<u>Annual Salary</u>
42		
43	Chief Justice, Supreme Court	\$122,477
44	Associate Justice, Supreme Court	119,305
45	Chief Judge, Court of Appeals	116,349
46	Judge, Court of Appeals	114,379
47	Judge, Senior Regular Resident Superior Court	111,301
48	Judge, Superior Court	108,222
49	Chief Judge, District Court	98,371
50	Judge, District Court	95,293
51	Administrative Officer of the Courts	111,301
52	Assistant Administrative Officer of the Courts	101,757
53		

1 **SECTION 29.4.(b)** The district attorney or public defender of a judicial
 2 district, with the approval of the Administrative Officer of the Courts or the
 3 Commission on Indigent Defense Services, respectively, shall set the salaries of
 4 assistant district attorneys or assistant public defenders, respectively, in that district such
 5 that the average annual salaries of assistant district attorneys or assistant public
 6 defenders in that district do not exceed sixty-two thousand seven hundred eighty-two
 7 dollars (\$62,782), and the minimum annual salary of any assistant district attorney or
 8 assistant public defender is at least thirty-three thousand one hundred twenty-one dollars
 9 (\$33,121), effective July 1, 2005.

10 **SECTION 29.4.(c)** Effective July 1, 2005, the annual salaries of permanent,
 11 full-time employees of the Judicial Department whose salaries are not itemized in this
 12 act shall be increased by ninety dollars and fifty cents (\$90.50) per month.

13 **SECTION 29.4.(d)** Effective July 1, 2005, the annual salaries of permanent,
 14 part-time employees of the Judicial Department whose salaries are not itemized in this
 15 act shall be increased by ninety dollars and fifty cents (\$90.50) per month.

16
 17 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
 18 Michaux

19 **CLERK OF SUPERIOR COURT/SALARY INCREASES**

20 **SECTION 29.5.** Effective July 1, 2005, G.S. 7A-101(a) reads as rewritten:

21 "(a) The clerk of superior court is a full-time employee of the State and shall
 22 receive an annual salary, payable in equal monthly installments, based on the population
 23 of the county as determined in subsection (a1) of this section, according to the following
 24 schedule:

Population	Annual Salary
Less than 100,000	\$71,659 <u>\$72,745</u>
100,000 to 149,999	80,413 <u>81,499</u>
150,000 to 249,999	89,169 <u>90,255</u>
250,000 and above	97,925 <u>99,011</u>

30 The salary schedule in this subsection is intended to represent the following
 31 approximate percentage of the salary of a chief district court judge:

Population	Annual Salary
Less than 100,000	73%
100,000 to 149,999	82%
150,000 to 249,999	91%
250,000 and above	100%.

37 When a county changes from one population group to another, the salary of the clerk
 38 shall be changed, on July 1 of the fiscal year for which the change is reported, to the
 39 salary appropriate for the new population group, except that the salary of an incumbent
 40 clerk shall not be decreased by any change in population group during his continuance
 41 in office."

42
 43 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
 44 Michaux

45 **ASSISTANT AND DEPUTY CLERKS OF COURT/SALARY INCREASES**

46 **SECTION 29.6.** Effective July 1, 2005, G.S. 7A-102(c1) reads as rewritten:

47 "(c1) A full-time assistant clerk or a full-time deputy clerk, and up to one full-time
 48 deputy clerk serving as head bookkeeper per county, shall be paid an annual salary
 49 subject to the following minimum and maximum rates:

Assistant Clerks and Head Bookkeeper	Annual Salary
Minimum	\$27,515 <u>\$28,601</u>
Maximum	47,626 <u>48,712</u>

1	Deputy Clerks	Annual Salary
2	Minimum	\$23,565 <u>\$24,651</u>
3	Maximum	36,934. <u>38,020.</u> "

4
5 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
6 Michaux

7 **MAGISTRATES' SALARY INCREASES**

8 **SECTION 29.7.(a)** Effective July 1, 2005, G.S. 7A-171.1(a) reads as
9 rewritten:

10 "(a) The Administrative Officer of the Courts, after consultation with the chief
11 district judge and pursuant to the following provisions, shall set an annual salary for
12 each magistrate.

- 13 (1) A full-time magistrate shall be paid the annual salary indicated in the
14 table set out in this subdivision. A full-time magistrate is a magistrate
15 who is assigned to work an average of not less than 40 hours a week
16 during the term of office. The Administrative Officer of the Courts
17 shall designate whether a magistrate is full-time. Initial appointment
18 shall be at the entry rate. A magistrate's salary shall increase to the
19 next step every two years on the anniversary of the date the magistrate
20 was originally appointed for increases to Steps 1 through 3, and every
21 four years on the anniversary of the date the magistrate was originally
22 appointed for increases to Steps 4 through 6.

23
24 **Table of Salaries of Full-Time Magistrates**

25	Step Level	Annual Salary
26	Entry Rate	\$27,889 <u>\$28,975</u>
27	Step 1	30,525 <u>31,611</u>
28	Step 2	33,393 <u>34,479</u>
29	Step 3	36,523 <u>37,609</u>
30	Step 4	39,952 <u>41,038</u>
31	Step 5	43,789 <u>44,875</u>
32	Step 6	48,036. <u>49,122.</u>

- 33
34 (2) A part-time magistrate is a magistrate who is assigned to work an
35 average of less than 40 hours of work a week during the term, except
36 that no magistrate shall be assigned an average of less than 10 hours of
37 work a week during the term. A part-time magistrate is included, in
38 accordance with G.S. 7A-170, under the provisions of G.S. 135-1(10)
39 and G.S. 135-40.2(a). The Administrative Officer of the Courts
40 designates whether a magistrate is a part-time magistrate. A part-time
41 magistrate shall receive an annual salary based on the following
42 formula: The average number of hours a week that a part-time
43 magistrate is assigned work during the term shall be multiplied by the
44 annual salary payable to a full-time magistrate who has the same
45 number of years of service prior to the beginning of that term as does
46 the part-time magistrate and the product of that multiplication shall be
47 divided by the number 40. The quotient shall be the annual salary
48 payable to that part-time magistrate.

- 49 (3) Notwithstanding any other provision of this subsection, a magistrate
50 who is licensed to practice law in North Carolina or any other state
51 shall receive the annual salary provided in the Table in subdivision (1)
52 of this subsection for Step 4."

1 **SECTION 29.7.(b)** Effective July 1, 2005, G.S. 7A-171.1(a1) reads as
 2 rewritten:

3 "(a1) Notwithstanding subsection (a) of this section, the following salary provisions
 4 apply to individuals who were serving as magistrates on June 30, 1994:

5 (1) The salaries of magistrates who on June 30, 1994, were paid at a salary
 6 level of less than five years of service under the table in effect that date
 7 shall be as follows:

8	Less than 1 year of service	\$22,325	\$23,411
9	1 or more but less than 3 years of service	23,389	24,475
10	3 or more but less than 5 years of service	25,530.	26,616.

11 Upon completion of five years of service, those magistrates shall
 12 receive the salary set as the Entry Rate in the table in subsection (a).

13 (2) The salaries of magistrates who on June 30, 1994, were paid at a salary
 14 level of five or more years of service shall be based on the rates set out
 15 in subsection (a) as follows:

16	Salary Level	Salary Level
17	on June 30, 1994	on July 1, 1994
18	5 or more but less than 7 years of service	Entry Rate
19	7 or more but less than 9 years of service	Step 1
20	9 or more but less than 11 years of service	Step 2
21	11 or more years of service	Step 3

22 Thereafter, their salaries shall be set in accordance with the
 23 provisions in subsection (a).

24 (3) The salaries of magistrates who are licensed to practice law in North
 25 Carolina shall be adjusted to the annual salary provided in the table in
 26 subsection (a) as Step 4, and, thereafter, their salaries shall be set in
 27 accordance with the provisions in subsection (a).

28 (4) The salaries of "part-time magistrates" shall be set under the formula
 29 set out in subdivision (2) of subsection (a) but according to the rates
 30 set out in this subsection."
 31

32 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
 33 Michaux

34 **GENERAL ASSEMBLY PRINCIPAL CLERKS/SALARY INCREASES**

35 **SECTION 29.8.** Effective July 1, 2005, G.S. 120-37(c) reads as rewritten:

36 "(c) The principal clerks shall be full-time officers. Each principal clerk shall be
 37 entitled to other benefits available to permanent legislative employees and shall be paid
 38 an annual salary of ~~ninety thousand five hundred fourteen dollars (\$90,514)~~ninety-one
 39 thousand six hundred dollars (\$91,600) payable monthly. The Legislative Services
 40 Commission shall review the salary of the principal clerks prior to submission of the
 41 proposed operating budget of the General Assembly to the Governor and Advisory
 42 Budget Commission and shall make appropriate recommendations for changes in those
 43 salaries. Any changes enacted by the General Assembly shall be by amendment to this
 44 paragraph."
 45

46 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
 47 Michaux

48 **SERGEANTS-AT-ARMS AND READING CLERKS**

49 **SECTION 29.9.** Effective July 1, 2005, G.S. 120-37(b) reads as rewritten:

50 "(b) The sergeant-at-arms and the reading clerk in each house shall be paid a
 51 salary of ~~three hundred eleven dollars (\$311.00)~~three hundred thirty-two dollars
 52 (\$332.00) per week plus subsistence at the same daily rate provided for members of the
 53 General Assembly, plus mileage at the rate provided for members of the General

1 Assembly for one round trip only from their homes to Raleigh and return. The
2 sergeants-at-arms shall serve during sessions of the General Assembly and at such time
3 prior to the convening of, and subsequent to adjournment or recess of, sessions as may
4 be authorized by the Legislative Services Commission. The reading clerks shall serve
5 during sessions only."
6

7 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
8 Michaux

9 **LEGISLATIVE EMPLOYEES**

10 **SECTION 29.10.** Effective July 1, 2005, the Legislative Services Officer
11 shall increase the salaries of nonelected employees of the General Assembly in effect
12 for fiscal year 2005-2006 by ninety dollars and fifty cents (\$90.50) per month. Nothing
13 in this act limits any of the provisions of G.S. 120-32.
14

15 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
16 Michaux

17 **COMMUNITY COLLEGE PERSONNEL/SALARY INCREASES**

18 **SECTION 29.11.** The Director of the Budget shall transfer from the Reserve
19 for Compensation Increases, created in this act for fiscal years 2005-2006 and
20 2006-2007, funds to the North Carolina Community Colleges System Office necessary
21 to provide an annual salary increase of the greater of five hundred dollars (\$500.00) or
22 two and five-tenths percent (2.5%), including funds for the employer's retirement and
23 social security contributions, commencing July 1, 2005, for all community college
24 employees supported by State funds.
25

26 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
27 Michaux

28 **UNIVERSITY OF NORTH CAROLINA SYSTEM/EPA COMPENSATION**

29 **SECTION 29.12.(a)** The Director of the Budget shall transfer to the Board
30 of Governors of The University of North Carolina sufficient funds from the Reserve for
31 Compensation Increases, created in this act for fiscal years 2005-2006 and 2006-2007,
32 to provide an annual salary increase of ninety dollars and fifty cents (\$90.50) per month,
33 including funds for the employer's retirement and social security contributions,
34 commencing July 1, 2005, for all employees of The University of North Carolina, as
35 well as employees other than teachers of the North Carolina School of Science and
36 Mathematics, supported by State funds and whose salaries are exempt from the State
37 Personnel Act (EPA). These funds shall not be used for any purpose other than for
38 salary increases and necessary employer contributions provided by this section.
39

40 **SECTION 29.12.(b)** The Director of the Budget shall transfer to the Board
41 of Governors of The University of North Carolina sufficient funds from the Reserve for
42 Compensation Increases, created in this act for fiscal years 2005-2006 and 2006-2007,
43 to provide an average annual salary increase of two and five-tenths percent (2.5),
44 including funds for the employer's retirement and social security contributions,
45 commencing July 1, 2005, for all teaching employees of the North Carolina School of
46 Science and Mathematics, supported by State funds and whose salaries are exempt from
47 the State Personnel Act (EPA). These funds shall not be used for any purpose other
48 than for salary increases and necessary employer contributions provided by this section.
49

49 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
50 Michaux

51 **MOST STATE EMPLOYEES/SALARY INCREASES**

52 **SECTION 29.13.(a)** The salaries in effect June 30, 2005, of all permanent
53 full-time State employees whose salaries are set in accordance with the State Personnel

1 Act and who are paid from the General Fund or the Highway Fund shall be increased,
2 effective July 1, 2005, by ninety dollars and fifty cents (\$90.50) per month, unless
3 otherwise provided by this act.

4 **SECTION 29.13.(b)** Except as otherwise provided in this act, the salaries in
5 effect June 30, 2005, for permanent full-time State officials and persons in exempt
6 positions that are recommended by the Governor or the Governor and the Advisory
7 Budget Commission and set by the General Assembly shall be increased by ninety
8 dollars and fifty cents (\$90.50) per month, effective July 1, 2005, unless otherwise
9 provided by this act.

10 **SECTION 29.13.(c)** The salaries in effect June 30, 2005, for all permanent
11 part-time State employees shall be increased, effective July 1, 2005, by pro rata amounts
12 of ninety dollars and fifty cents (\$90.50) per month.

13 **SECTION 29.13.(d)** The Director of the Budget may allocate out of special
14 operating funds or from other sources of the employing agency, except tax revenues,
15 sufficient funds to allow a salary increase, effective July 1, 2005, in accordance with
16 subsection (a), (b), or (c) of this section, including funds for the employer's retirement
17 and social security contributions, for the permanent full-time and part-time employees
18 of the agency, provided the employing agency elects to make available the necessary
19 funds.

20 **SECTION 29.13.(e)** Within regular Executive Budget Act procedures as
21 limited by this act, all State agencies and departments may increase on an equitable
22 basis the rate of pay of temporary and permanent hourly State employees, subject to
23 availability of funds in the particular agency or department, by pro rata amounts of the
24 ninety dollars and fifty cents (\$90.50) per month increase provided for permanent
25 full-time employees covered by the provisions of subsection (a) of this section,
26 commencing July 1, 2005.

27
28 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
29 Michaux

30 **ALL STATE-SUPPORTED PERSONNEL/SALARY INCREASES**

31 **SECTION 29.14.(a)** Salaries and related benefits for positions that are
32 funded partially from the General Fund or Highway Fund and partially from sources
33 other than the General Fund or Highway Fund shall be increased from the General Fund
34 or Highway Fund appropriation only to the extent of the proportionate part of the
35 salaries paid from the General Fund or Highway Fund.

36 **SECTION 29.14.(b)** The granting of the salary increases under this act does
37 not affect the status of eligibility for salary increments for which employees may be
38 eligible unless otherwise required by this act.

39 **SECTION 29.14.(c)** The salary increases provided in this act are to be
40 effective July 1, 2005, and do not apply to persons separated from State service due to
41 resignation, dismissal, reduction in force, death, or retirement, or whose last workday is
42 prior to July 1, 2005.

43 Payroll checks issued to employees after July 1, 2005, which represent
44 payment of services provided prior to July 1, 2005, shall not be eligible for salary
45 increases provided for in this act. This subsection shall apply to all employees, subject
46 to or exempt from the State Personnel Act, paid from State funds, including public
47 schools, community colleges, and The University of North Carolina.

48 **SECTION 29.14.(d)** The Director of the Budget shall transfer from the
49 Reserve for Compensation Increases in this act for fiscal year 2005-2006 all funds
50 necessary for the salary increases provided by this act, including funds for the
51 employer's retirement and social security contributions.

52 **SECTION 29.14.(e)** Nothing in this act authorizes the transfer of funds
53 between the General Fund and the Highway Fund for salary increases.

1
2 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
3 Michaux

4 **SALARY ADJUSTMENT FUND**

5 **SECTION 29.15.(a)** Any remaining appropriations in the Reserve for
6 Compensation Increases authorized for employee salary increases not required for that
7 purpose may be used to supplement the Salary Adjustment Fund.

8 **SECTION 29.15.(b)** Funds appropriated or otherwise transferred to the
9 Salary Adjustment Fund by this act or any other provision of law shall be used to fund
10 agency requests for the following purposes:

- 11 (1) Salary range revisions to provide competitive salary rates for affected
12 job classifications in response to changes in labor market salary rates
13 as documented through data collection and analysis according to
14 accepted human resource professional practices and standards.
15 (2) Reallocation of positions to higher-level job classifications to
16 compensate employees for more difficult duties at competitive salary
17 rates as documented through data collection and analysis according to
18 accepted human resource professional practices and standards.

19 Priority funding shall be given to those salary range revisions previously
20 approved by the State Personnel Commission and reallocations previously approved by
21 the Office of State Personnel or designee.

22 **SECTION 29.15.(c)** The Director of the Budget shall consult with the Joint
23 Legislative Commission on Governmental Operations prior to transferring any salary
24 adjustment funds for any State agency.

25 **SECTION 29.15.(d)** The Director of the Budget may transfer to General
26 Fund budget codes from the General Fund Salary Adjustment Fund and may transfer to
27 Highway Fund budget codes from the Highway Fund Salary Adjustment Fund amounts
28 required to support salary adjustments authorized by this section.

29 **SECTION 29.15.(e)** The Judicial Department is eligible for the funding
30 authorized in subsection (a) of this section.

31
32 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
33 Michaux

34 **STATE AGENCY TEACHERS' COMPENSATION**

35 **SECTION 29.17.** Funds in the Reserve for Compensation Increases shall be
36 used for experience step increases for employees of schools operated by the Department
37 of Health and Human Services, the Department of Correction, or the Department of
38 Juvenile Justice and Delinquency Prevention, who are paid on the Teacher Salary
39 Schedule or the School Based Administrator Salary Schedule.

40
41 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
42 Michaux

43 **STATE GOVERNMENT EMPLOYMENT FAIR MINIMUM WAGE**

44 **SECTION 29.18.(a)** All permanent, full-time employees subject to the State
45 Personnel Act shall be paid a minimum salary of at least twenty thousand one hundred
46 twelve dollars (\$20,112) per year. Permanent, full-time employees subject to the State
47 Personnel Act working on a schedule requiring less than 12 months' service per year
48 shall be paid the minimum salary pro rata.

49 **SECTION 29.18.(b)** The Director of the Budget may transfer from the
50 Reserve for Compensation Increases funds necessary to effectuate the State minimum
51 wage established by subsection (a) of this section, except that The University of North
52 Carolina shall use available funds to make State minimum wage salary adjustments.

1 **SECTION 29.18.(c)** The fair minimum wage salary adjustment provided by
 2 this section shall be calculated and awarded after any across-the-board salary increases
 3 authorized by this act.

4
 5 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
 6 Michaux

7 **SALARY SUPPLEMENTS FOR PERSONNEL EMPLOYED IN CERTAIN**
 8 **STATE AGENCIES**

9 **SECTION 29.19.(a)** G.S. 143B-146.21 is amended by adding a new
 10 subsection to read:

11 "(e) The Secretary of Health and Human Services, in consultation with the Office
 12 of State Personnel, shall set the salary supplement paid to personnel who are employed
 13 in the programs operated by the Department of Health and Human Services and are
 14 licensed by the State Board of Education. The minimum salary supplement shall be at
 15 least five percent (5%). The maximum salary supplement shall be ten percent (10%) or
 16 the percentage supplement the personnel would receive if the personnel were employed
 17 in the LEA where the job site is located, whichever is less. These salary supplements
 18 shall not be paid to central office staff. Nothing in this subsection shall be construed to
 19 include "merit pay" under the term "salary supplement".

20 **SECTION 29.19.(b)** G.S. 143B-516(b) is amended by adding the following
 21 new subdivision to read:

22 (b) The Secretary shall have the following powers and duties:

23 ...
 24 (17a) Set, in consultation with the Office of State Personnel, the salary
 25 supplement paid to personnel who are employed at juvenile facilities
 26 and are licensed by the State Board of Education. The minimum salary
 27 supplement shall be at least five percent (5%). The maximum salary
 28 supplement shall be ten percent (10%) or the percentage supplement
 29 the personnel would receive if the personnel were employed in the
 30 LEA where the job site is located, whichever is less. These salary
 31 supplements shall not be paid to central office staff. Nothing in this
 32 subdivision shall be construed to include "merit pay" under the term
 33 "salary supplement".

34 "

35 **SECTION 29.19.(c)** G.S. 148-22.1 is amended by adding a new subsection
 36 to read:

37 "(c) The Secretary of Correction, in consultation with the Office of State
 38 Personnel, shall set the salary supplement paid to personnel who are Division of Prison
 39 employees and are licensed by the State Board of Education. The minimum salary
 40 supplement shall be at least five percent (5%). The maximum salary supplement shall be
 41 ten percent (10%) or the percentage supplement the personnel would receive if the
 42 personnel were employed in the LEA where the job site is located, whichever is less.
 43 These salary supplements shall not be paid to central office staff. Nothing in this
 44 subsection shall be construed to include "merit pay" under the term "salary supplement".

45
 46 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
 47 Michaux

48 **INDUSTRIAL COMMISSION SALARIES/IN-RANGE SALARY**
 49 **ADJUSTMENTS**

50 **SECTION 29.20.(a)** Of the revenue generated by implementing a fee for the
 51 required review of Form 21 and Form 26 Agreements, the Industrial Commission may
 52 use up to four hundred sixty-five thousand dollars (\$465,000) in each year of the

1 2005-2007 biennium to provide the salary adjustments authorized by subsection (b) of
2 this section and in-range salary adjustments for Industrial Commission staff.

3 **SECTION 29.20.(b)** Effective July 1, 2005, G.S. 97-78 reads as rewritten:

4 "**§ 97-78. Salaries and expenses; administrator, executive secretary, deputy**
5 **commissioners, and other staff assistance; annual report.**

6 (a) The salary of each commissioner shall be the same as that fixed from time to
7 time for district attorneys except that the commissioner designated as chair shall receive
8 one thousand five hundred dollars (\$1,500) additional per annum.

9 (b) The Commission may appoint an administrator whose duties shall be
10 prescribed by the Commission, and who shall be subject to the State Personnel System.
11 The Commission may appoint an executive secretary whose duties shall be prescribed
12 by the Commission, and who shall be subject to the State Personnel System and who,
13 upon entering upon his duties, shall give bond in such sum as may be fixed by the
14 Commission. The Commission may also employ such clerical or other assistance as it
15 may deem necessary, and fix the compensation of its staff, except that the salaries of the
16 administrator and the executive secretary shall be fixed by subsection (b1) of this
17 section. The compensation of Commission staff shall be in keeping with the
18 compensation paid to the persons employed to do similar work in other State
19 departments.

20 (b1) The salary of the administrator shall be ninety percent (90%) of the salary of
21 a commissioner. The salary of the executive secretary shall be ~~eighty percent (80%)~~
22 ninety percent (90%) of the salary of a commissioner. ~~In lieu of merit and other~~
23 ~~incremental raises, the administrator and the executive secretary shall receive longevity~~
24 ~~pay on the same basis as is provided to other employees subject to the State Personnel~~
25 ~~Act.~~

26 (b2) The Chairman of the Industrial Commission shall designate one deputy
27 commissioner as chief deputy commissioner. Deputy commissioners with seven or more
28 years of service as a deputy commissioner shall be designated and compensated as
29 senior deputy commissioners.

30 (b3) The salary of the chief deputy commissioner shall be ninety percent (90%) of
31 the salary of a commissioner. The salary of a senior deputy commissioner shall be
32 eight-five percent (85%) of the salary of a commissioner. The salary of a deputy
33 commissioner shall be eight percent (80%) of the salary of a commissioner.

34 (b4) The salary of an agency legal specialist assigned to the Executive Secretary's
35 Office and designated as a special deputy commissioner shall be fifty-five percent
36 (55%) of the salary of a commissioner.

37 (b5) In lieu of merit and other incremental raises, the administrator, executive
38 secretary, chief deputy commissioner, senior deputy commissioners, deputy
39 commissioners, and special deputy commissioners shall receive longevity pay on the
40 same basis as is provided to other employees subject to the State Personnel Act.

41 (c) The members of the Commission and its assistants shall be entitled to receive
42 from the State their actual and necessary expenses while traveling on the business of the
43 Commission, but such expenses shall be certified by the person who incurred the same,
44 and shall be approved by the chairman of the Commission before payment is made.

45 (d) All salaries and expenses of the Commission shall be audited and paid out of
46 the State treasury, in the manner prescribed for similar expenses in other departments or
47 branches of the State service, and to defray such salaries and expenses a sufficient
48 appropriation shall be made under the General Appropriation Act as made to other
49 departments, commissions and agencies of the State government.

50 (e) The Commission shall publish annually for free distribution a report of the
51 administration of this Article, together with such recommendations as the Commission
52 deems advisable."
53

1 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
2 Michaux

3 **ESC CHAIRMAN PROSPECTIVE SALARY CHANGE**

4 **SECTION 29.20A.** Effective upon the appointment of the next Chairman of
5 the Employment Security Commission of North Carolina, G.S. 96-3(c) reads as
6 rewritten:

7 "(c) Salaries. – The chairman of the Employment Security Commission of North
8 Carolina, appointed by the Governor, shall be paid from the Employment Security
9 Administration Fund a salary payable on a monthly basis, which salary shall be the
10 same as the salary fixed by the General Assembly in the Current Operations
11 Appropriations Act; ~~Act for the Secretary of Commerce~~, and the members of the
12 Commission, other than the chairman, shall each receive the same amount per diem for
13 their services as is provided for the members of other State boards, commissions, and
14 committees who receive compensation for their services as such, including necessary
15 time spent in traveling to and from his place of residence within the State to the place of
16 meeting while engaged in the discharge of the duties of his office and his actual
17 traveling expenses, the same to be paid from the aforesaid fund."
18

19 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
20 Michaux

21 **NCSU AGRICULTURAL PROGRAM EMPLOYEES**

22 **SECTION 29.22.** The Board of Governors of The University of North
23 Carolina shall use up to three million seven hundred thousand dollars (\$3,700,000) from
24 tuition receipts to support additional salary increases for Agricultural Program
25 employees of North Carolina State University who are exempt from the State Personnel
26 Act.
27

28 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
29 Michaux

30 **LONGEVITY SERVICE DEFINITION/ADDITIONAL LONGEVITY STEP**

31 **SECTION 29.23.(a)** G.S. 7A-10(c) reads as rewritten:

32 "(c) In lieu of merit and other increment raises paid to regular State employees,
33 the Chief Justice and each of the Associate Justices shall receive as longevity pay an
34 annual amount equal to four and eight-tenths percent (4.8%) of the annual salary set
35 forth in the Current Operations Appropriations Act payable monthly after five years of
36 service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and
37 four-tenths percent (14.4%) after 15 years of service, ~~and~~ nineteen and two-tenths
38 percent (19.2%) after 20 years of ~~service.~~ service, and twenty-four percent (24%) after
39 25 years of service. "Service" means service as a justice or judge of the General Court
40 of Justice or as a member of the Utilities Commission. Service shall also mean service
41 as a district attorney or as a clerk of superior ~~court.~~ court, or service as a member of the
42 General Assembly."

43 **SECTION 29.23.(b)** G.S. 7A-18(b) reads as rewritten:

44 "(b) In lieu of merit and other increment raises paid to regular State employees, a
45 judge of the Court of Appeals shall receive as longevity pay an annual amount equal to
46 four and eight-tenths percent (4.8%) of the annual salary set forth in the Current
47 Operations Appropriations Act payable monthly after five years of service, nine and
48 six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent
49 (14.4%) after 15 years of service, ~~and~~ nineteen and two-tenths percent (19.2%) after 20
50 years of ~~service.~~ service, and twenty-four percent (24%) after 25 years of service.
51 "Service" means service as a justice or judge of the General Court of Justice or as a
52 member of the Utilities Commission. Service shall also mean service as a district

1 attorney or as a clerk of superior ~~court~~. court, or service as a member of the General
2 Assembly."

3 **SECTION 29.23.(c)** G.S. 7A-44(b) reads as rewritten:

4 "(b) In lieu of merit and other increment raises paid to regular State employees, a
5 judge of the superior court, regular or special, shall receive as longevity pay an annual
6 amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the
7 Current Operations Appropriations Act payable monthly after five years of service, nine
8 and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent
9 (14.4%) after 15 years of service, ~~and~~ nineteen and two-tenths percent (19.2%) after 20
10 years of service. ~~service, and twenty-four percent (24%) after 25 years of service.~~

11 "Service" means service as a justice or judge of the General Court of Justice or as a
12 member of the Utilities Commission or as director or assistant director of the
13 Administrative Office of the Courts. Service shall also mean service as a district
14 attorney or as a clerk of superior ~~court~~. court, or service as a member of the General
15 Assembly."

16 **SECTION 29.23.(d)** G.S. 7A-144(b) reads as rewritten:

17 "(b) Notwithstanding merit, longevity and other increment raises paid to regular
18 State employees, a judge of the district court shall receive as longevity pay an annual
19 amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the
20 Current Operations Appropriations Act payable monthly after five years of service, nine
21 and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent
22 (14.4%) after 15 years of service, ~~and~~ nineteen and two-tenths percent (19.2%) after 20
23 years of service. ~~service, and twenty-four percent (24%) after 25 years of service.~~

24 "Service" means service as a justice or judge of the General Court of Justice or as a
25 member of the Utilities Commission or as director or assistant director of the
26 Administrative Office of the Courts. Service shall also mean service as a district
27 attorney or as a clerk of superior ~~court~~. court, or service as a member of the General
28 Assembly."

29
30 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
31 Michaux

32 **RESOURCE PROSECUTOR LONGEVITY**

33 **SECTION 29.23A.** G.S. 7A-65(d) reads as rewritten:

34 "(d) In lieu of merit and other increment raises paid to regular State employees, an
35 assistant district attorney shall receive as longevity pay an amount equal to four and
36 eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations
37 Appropriations Act payable monthly after five years of service, nine and six-tenths
38 percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after
39 15 years of service, and nineteen and two-tenths percent (19.2%) after 20 years of
40 service. "Service" means service as an assistant district attorney, district attorney,
41 resource prosecutor, public defender, appellate defender, assistant public or appellate
42 defender, justice or judge of the General Court of Justice, or clerk of superior court. For
43 purposes of this subsection, "resource prosecutor" means a former assistant district
44 attorney who has left the employment of the district attorney's office to serve in a
45 specific, time-limited position with the Conference of District Attorneys."

46
47 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
48 Michaux

49 **SALARY-RELATED CONTRIBUTIONS/EMPLOYER**

50 **SECTION 29.24.(a)** Required employer salary-related contributions for
51 employees whose salaries are paid from department, office, institution, or agency
52 receipts shall be paid from the same source as the source of the employees' salary. If an
53 employee's salary is paid in part from the General Fund or Highway Fund and in part

1 from department, office, institution, or agency receipts, required employer salary-related
2 contributions may be paid from the General Fund or Highway Fund only to the extent of
3 the proportionate part paid from the General Fund or Highway Fund in support of the
4 salary of the employee, and the remainder of the employer's requirements shall be paid
5 from the source that supplies the remainder of the employee's salary. The requirements
6 of this section as to source of payment are also applicable to payments on behalf of the
7 employee for hospital-medical benefits, longevity pay, unemployment compensation,
8 accumulated leave, workers' compensation, severance pay, separation allowances, and
9 applicable disability income benefits.

10 **SECTION 29.24.(b)** Effective July 1, 2005, the State's employer
11 contribution rates budgeted for retirement and related benefits as percentage of covered
12 salaries for the 2005-2006 fiscal year are: (i) six and eighty-two hundredths percent
13 (6.82%) – Teachers and State Employees; (ii) eleven and eighty-two hundredths percent
14 (11.82%) – State Law Enforcement Officers; (iii) eleven and sixteen hundredths percent
15 (11.16%) – University Employees' Optional Retirement System; (iv) eleven and
16 sixteen-hundredths percent (11.16%) – Community College Optional Retirement
17 Program; (v) sixteen and thirty-nine hundredths percent (16.39%) – Consolidated
18 Judicial Retirement System; and (vi) three and eight-tenths percent (3.8%) – Legislative
19 Retirement System. Each of the foregoing contribution rates includes three and
20 eight-tenths percent (3.8%) for hospital and medical benefits. The rate for Teachers and
21 State Employees, State Law Enforcement Officers, Community College Optional
22 Retirement Program, and for the University Employees' Optional Retirement Program
23 includes fifty-two hundredths percent (0.52%) for the Disability Income Plan. The rates
24 for Teachers and State Employees and State Law Enforcement Officers include
25 sixteen-hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law
26 Enforcement Officers includes five percent (5%) for Supplemental Retirement Income.

27 **SECTION 29.24.(c)** Effective July 1, 2006, the State's employer
28 contribution rates budgeted for retirement and related benefits as percentage of covered
29 salaries for the 2006-2007 fiscal year are: (i) six and eighty-two hundredths percent
30 (6.82%) – Teachers and State Employees; (ii) eleven and eighty-two hundredths percent
31 (11.82%) – State Law Enforcement Officers; (iii) eleven and sixteen hundredths percent
32 (11.16%) – University Employees' Optional Retirement System; (iv) eleven and sixteen
33 hundredths percent (11.16%) – Community College Optional Retirement Program; (v)
34 sixteen and thirty-nine hundredths percent (16.39%) – Consolidated Judicial Retirement
35 System; and (vi) three and eight-tenths percent (3.8%) – Legislative Retirement System.
36 Each of the foregoing contribution rates includes three and eight-tenths percent (3.8%)
37 for hospital and medical benefits. The rate for Teachers and State Employees, State Law
38 Enforcement Officers, Community College Optional Retirement Program, and for the
39 University Employees' Optional Retirement Program includes fifty-two hundredths
40 percent (0.52%) for the Disability Income Plan. The rates for Teachers and State
41 Employees and State Law Enforcement Officers include sixteen hundredths percent
42 (0.16%) for the Death Benefits Plan. The rate for State Law Enforcement Officers
43 includes five percent (5%) for Supplemental Retirement Income.

44 **SECTION 29.24.(d)** The maximum annual employer contributions, payable
45 monthly, by the State for each covered employee or retiree for the 2005-2006 fiscal year
46 to the Teachers' and State Employees' Comprehensive Major Medical Plan are: (i)
47 Medicare-eligible employees and retirees – two thousand nine hundred twenty-two
48 dollars (\$2,922) and (ii) non-Medicare-eligible employees and retirees – three thousand
49 eight hundred thirty-eight dollars (\$3,838).

50 **SECTION 29.24.(e)** The maximum annual employer contributions, payable
51 monthly, by the State for each covered employee or retiree for the 2006-2007 fiscal year
52 to the Teachers' and State Employees' Comprehensive Major Medical Plan are: (i)
53 Medicare-eligible employees and retirees – three thousand twenty-four dollars (\$3,024)

1 and (ii) non-Medicare-eligible employees and retirees – three thousand nine hundred
2 seventy-four dollars (\$3,974).

3
4 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
5 Michaux

6 **PROVIDE COST-OF-LIVING INCREASES FOR RETIREES OF THE**
7 **TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE**
8 **JUDICIAL RETIREMENT SYSTEM, THE LOCAL RETIREMENT**
9 **SYSTEM, AND THE LEGISLATIVE RETIREMENT SYSTEM**

10 **SECTION 29.25.(a)** G.S. 135-5 is amended by adding a new subsection to
11 read:

12 "(nnn) From and after July 1, 2005, the retirement allowance to or on account of
13 beneficiaries whose retirement commenced on or before July 1, 2004, shall be increased
14 by two percent (2%) of the allowance payable on June 1, 2005, in accordance with
15 G.S. 135-5(o). Furthermore, from and after July 1, 2005, the retirement allowance to or
16 on account of beneficiaries whose retirement commenced after July 1, 2004, but before
17 June 30, 2005, shall be increased by a prorated amount of two percent (2%) of the
18 allowance payable as determined by the Board of Trustees based upon the number of
19 months that a retirement allowance was paid between July 1, 2004, and June 30, 2005."

20 **SECTION 29.25.(b)** G.S. 135-65 is amended by adding a new subsection to
21 read:

22 "(z) From and after July 1, 2005, the retirement allowance to or on account of
23 beneficiaries whose retirement commenced on or before July 1, 2004, shall be increased
24 by two percent (2%) of the allowance payable on June 1, 2005. Furthermore, from and
25 after July 1, 2005, the retirement allowance to or on account of beneficiaries whose
26 retirement commenced after July 1, 2004, but before June 30, 2005, shall be increased
27 by a prorated amount of two percent (2%) of the allowance payable as determined by
28 the Board of Trustees based upon the number of months that a retirement allowance was
29 paid between July 1, 2004, and June 30, 2005."

30 **SECTION 29.25.(c)** G.S. 120-4.22A is amended by adding a new subsection
31 to read:

32 "(t) In accordance with subsection (a) of this section, from and after July 1, 2005,
33 the retirement allowance to or on account of beneficiaries whose retirement commenced
34 on or before January 1, 2005, shall be increased by two percent (2%) of the allowance
35 payable on June 1, 2005. Furthermore, from and after July 1, 2005, the retirement
36 allowance to or on account of beneficiaries whose retirement commenced after January
37 1, 2005, but before June 30, 2005, shall be increased by a prorated amount of two
38 percent (2%) of the allowance payable as determined by the Board of Trustees based
39 upon the number of months that a retirement allowance was paid between January 1,
40 2005, and June 30, 2005."

41 **SECTION 29.25.(d)** G.S. 128-27 is amended by adding a new subsection to
42 read:

43 "(ggg) From and after July 1, 2005, the retirement allowance to or on account of
44 beneficiaries whose retirement commenced on or before July 1, 2004, shall be increased
45 by two and one-half percent (2.5%) of the allowance payable on June 1, 2005, in
46 accordance with subsection (k) of this section. Furthermore, from and after July 1, 2005,
47 the retirement allowance to or on account of beneficiaries whose retirement commenced
48 after July 1, 2004, but before June 30, 2005, shall be increased by a prorated amount of
49 two and one-half percent (2.5%) of the allowance payable as determined by the Board
50 of Trustees based upon the number of months that a retirement allowance was paid
51 between July 1, 2004, and June 30, 2005."

1 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
2 Michaux, Williams

3 **INCREASE THE MONTHLY PENSION FOR MEMBERS OF THE FIREMEN'S**
4 **AND RESCUE SQUAD WORKERS' PENSION FUND**

5 **SECTION 29.26.** G.S. 58-86-55 reads as rewritten:

6 **"§ 58-86-55. Monthly pensions upon retirement.**

7 Any member who has served 20 years as an "eligible fireman" or "eligible rescue
8 squad worker" in the State of North Carolina, as provided in G.S. 58-86-25 and
9 G.S. 58-86-30, and who has attained the age of 55 years is entitled to be paid a monthly
10 pension from this fund. The monthly pension shall be in the amount of ~~one hundred~~
11 ~~sixty one dollars (\$161.00)~~ one hundred sixty-three dollars (\$163.00) per month. Any
12 retired fireman receiving a pension shall, effective ~~July 1, 2004,~~ July 1, 2005, receive a
13 pension of ~~one hundred sixty one dollars (\$161.00)~~ one hundred sixty-three dollars
14 (\$163.00) per month.

15 Members shall pay ten dollars (\$10.00) per month as required by G.S. 58-86-35 and
16 G.S. 58-86-40 for a period of no longer than 20 years. No "eligible rescue squad
17 member" shall receive a pension prior to July 1, 1983. No member shall be entitled to a
18 pension hereunder until the member's official duties as a fireman or rescue squad
19 worker for which the member is paid compensation shall have been terminated and the
20 member shall have retired as such according to standards or rules fixed by the board of
21 trustees.

22 A member who is totally and permanently disabled while in the discharge of the
23 member's official duties as a result of bodily injuries sustained or as a result of extreme
24 exercise or extreme activity experienced in the course and scope of those official duties
25 and who leaves the fire or rescue squad service because of this disability shall be
26 entitled to be paid from the fund a monthly benefit in an amount of ~~one hundred~~
27 ~~sixty one dollars (\$161.00)~~ one hundred sixty-three dollars (\$163.00) per month
28 beginning the first month after the member's fifty-fifth birthday. All applications for
29 disability are subject to the approval of the board who may appoint physicians to
30 examine and evaluate the disabled member prior to approval of the application, and
31 annually thereafter. Any disabled member shall not be required to make the monthly
32 payment of ten dollars (\$10.00) as required by G.S. 58-86-35 and G.S. 58-86-40.

33 A member who is totally and permanently disabled for any cause, other than line of
34 duty, who leaves the fire or rescue squad service because of this disability and who has
35 at least 10 years of service with the pension fund, may be permitted to continue making
36 a monthly contribution of ten dollars (\$10.00) to the fund until the member has made
37 contributions for a total of 240 months. The member shall upon attaining the age of 55
38 years be entitled to receive a pension as provided by this section. All applications for
39 disability are subject to the approval of the board who may appoint physicians to
40 examine and evaluate the disabled member prior to approval of the application and
41 annually thereafter.

42 A member who, because his residence is annexed by a city under Part 2 or Part 3 of
43 Article 4 of Chapter 160A of the General Statutes, or whose department is closed
44 because of an annexation by a city under Part 2 or Part 3 of Article 4 of Chapter 160A
45 of the General Statutes, or whose volunteer department is taken over by a city or county,
46 and because of such annexation or takeover is unable to perform as a fireman or rescue
47 squad worker of any status, and if the member has at least 10 years of service with the
48 pension fund, may be permitted to continue making a monthly contribution of ten
49 dollars (\$10.00) to the fund until the member has made contributions for a total of 240
50 months. The member upon attaining the age of 55 years and completion of such
51 contributions shall be entitled to receive a pension as provided by this section. Any
52 application to make monthly contributions under this section shall be subject to a
53 finding of eligibility by the Board of Trustees upon application of the member.

1 The pensions provided shall be in addition to all other pensions or benefits under any
2 other statutes of the State of North Carolina or the United States, notwithstanding any
3 exclusionary provisions of other pensions or retirement systems provided by law."

4
5 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
6 Michaux, McLawhorn

7 **INCREASE THE MAXIMUM MONTHLY PENSION BENEFITS FOR**
8 **RETIRED MEMBERS OF THE NORTH CAROLINA NATIONAL GUARD**

9 **SECTION 29.27.** G.S. 127A-40(a) reads as rewritten:

10 "(a) Every member and former member of the North Carolina national guard who
11 meets the requirements hereinafter set forth shall receive, commencing at age 60, a
12 pension of ~~fifty dollars (\$50.00)~~ seventy-five dollars (\$75.00) per month for 20 years'
13 creditable military service with an additional ~~five dollars (\$5.00)~~ seven dollars and fifty
14 cents (\$7.50) per month for each additional year of such service; provided, however,
15 that the total pension shall not exceed ~~one hundred dollars (\$100.00)~~ one hundred fifty
16 dollars (\$150.00) per month. The requirements for such pension are that each member
17 shall:

- 18 (1) Have served and qualified for at least 20 years' creditable military
19 service, including national guard, reserve and active duty, under the
20 same requirement specified for entitlement to retired pay for
21 nonregular service under Chapter 67, Title 10, United States Code.
- 22 (2) Have at least 15 years of the aforementioned service as a member of
23 the North Carolina national guard.
- 24 (3) Have received an honorable discharge from the North Carolina
25 national guard."

26
27 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
28 Michaux

29 **CONFORM RETIREE RETURN TO TEACHING BENEFIT TO IRS**
30 **GUIDELINES/CLARIFY DEFINITION OF RETIREMENT**

31 **SECTION 29.28.(a)** Subsection (d) of Section 28.24 of S.L. 1998-212, as
32 amended by Section 31.18A of S.L. 2004-124, reads as rewritten:

33 "(d) This section becomes effective January 1, 1999, and expires June 30, ~~2005-~~
34 2006."

35 **SECTION 29.28.(b)** The introductory language of Section 67 of S.L.
36 1998-217, as amended by Section 31.18A of S.L. 2004-124, reads as rewritten:

37 "**SECTION 67.** Effective January 1, 1999, through June 30, ~~2005,~~ 2006,
38 G.S. 135-3(8)c., as rewritten by Section 28.24(a) of S.L. 1998-212 reads as rewritten:"

39 **SECTION 29.28.(c)** Subsection (b) of Section 67.1 of S.L. 1998-217, as
40 amended by Section 31.18A of S.L. 2004-124, reads as rewritten:

41 "(b) This section becomes effective January 1, 1999, and expires June 30, ~~2005-~~
42 2006."

43 **SECTION 29.28.(d)** Subsection (c) of Section 32.25 of S.L. 2001-424, as
44 amended by Section 31.18A of S.L. 2004-124, reads as rewritten:

45 "**SECTION 32.25.(c)** This section becomes effective July 1, 2001, and expires June
46 30, ~~2005-~~ 2006."

47 **SECTION 29.28.(e)** G.S. 135-3(8)c. reads as rewritten:

- 48 "c. Should a beneficiary who retired on an early or service
49 retirement allowance under this Chapter be reemployed, or
50 otherwise engaged to perform services, by an employer
51 participating in the Retirement System on a part-time,
52 temporary, interim, or on a fee-for-service basis, whether
53 contractual or otherwise, and if such beneficiary earns an

1 amount during the 12-month period immediately following the
2 effective date of retirement or in any calendar year which
3 exceeds fifty percent (50%) of the reported compensation,
4 excluding terminal payments, during the 12 months of service
5 preceding the effective date of retirement, or twenty thousand
6 dollars (\$20,000), whichever is greater, as hereinafter indexed,
7 then the retirement allowance shall be suspended as of the first
8 day of the month following the month in which the
9 reemployment earnings exceed the amount above, for the
10 balance of the calendar year. The retirement allowance of the
11 beneficiary shall be reinstated as of January 1 of each year
12 following suspension. The amount that may be earned before
13 suspension shall be increased on January 1 of each year by the
14 ratio of the Consumer Price Index to the Index one year earlier,
15 calculated to the nearest tenth of a percent (1/10 of 1%).

16 The computation of postretirement earnings of a beneficiary
17 under this sub-subdivision, G.S. 135-3(8)c., who has been
18 retired at least six months and has not been employed in any
19 ~~capacity, except as a substitute teacher or a part time tutor,~~
20 capacity with a public school for at least six months
21 immediately preceding the effective date of reemployment,
22 shall not include earnings while the beneficiary is employed to
23 teach on a ~~substitute, interim, or permanent~~ permanent,
24 full-time basis in a public school. The Department of Public
25 Instruction shall certify to the Retirement System that a
26 beneficiary is employed to teach by a local school
27 administrative unit under the provisions of this sub-subdivision
28 and as a retired teacher as the term is defined under the
29 provisions of G.S. 115C-325(a)(5a).

30 Beneficiaries employed under this sub-subdivision are not
31 entitled to any benefits otherwise provided under this Chapter
32 as a result of this period of employment."

33 **SECTION 29.28.(f)** G.S. 115C-325(a)(5a) reads as rewritten:

34 "(5a) "Retired teacher" means a beneficiary of the Teachers' and State
35 Employees' Retirement System of North Carolina who has been retired
36 at least six months, has not been employed in any ~~capacity, other than~~
37 ~~as a substitute teacher or a part time tutor, with a local board of~~
38 ~~education or a charter school~~ capacity for at least six months,
39 immediately preceding the effective date of reemployment, is
40 determined by a local board of education or a charter school to have
41 had satisfactory performance during the last year of employment by a
42 local board of education or a charter school, and who is employed to
43 teach as provided in G.S. 135-3(8)c. A retired teacher at a school other
44 than a charter school shall be treated the same as a probationary
45 teacher except that (i) a retired teacher is not eligible for career status
46 and (ii) the performance of a retired teacher who had attained career
47 status prior to retirement shall be evaluated in accordance with a local
48 board of education's policies and procedures applicable to career
49 teachers."

50 **SECTION 29.28.(g)** Notwithstanding any other provision of law, each local
51 school administrative unit shall pay to the Teachers' and State Employees' Retirement
52 System a Reemployed Teacher Contribution Rate of eleven and seventy-hundredths
53 percent (11.70%) as a percentage of covered salaries that the retired teachers, who are

1 exempt from the earnings cap, are being paid. Each local school administrative unit
 2 shall report monthly to the Retirement Systems Division on payments made pursuant to
 3 this subsection.

4 Notwithstanding any other provision of law, any portion of the payment made
 5 by a local school administrative unit to a reemployed teacher who is exempt from the
 6 earnings cap, consisting of salary plus the Reemployed Teacher Contribution Rate, that
 7 exceeds the State-supported salary level for that position, shall be paid from local funds.

8 **SECTION 29.28.(h)** G.S. 135-1(20) reads as rewritten:

9 "(20) "Retirement" ~~shall mean~~ means the termination of employment and the
 10 withdrawal- complete separation from active service with no intent or
 11 agreement, express or implied, to return to service. ~~a~~ A retirement
 12 allowance granted under the provisions of this Chapter. Chapter may
 13 only be granted upon retirement of a member. In order for a member's
 14 retirement to become effective in any month, the member must render
 15 no ~~service~~ service, including part-time, temporary, substitute, or
 16 contractor service, at any time during ~~that month.~~ the six months
 17 immediately following the effective date of retirement."

18 **SECTION 29.28.(i)** Subsection (h) of this section becomes effective July 1,
 19 2005, but does not apply to members who retired prior to July 1, 2005, and does not
 20 apply to participants in The University of North Carolina Phased Retirement Program
 21 until June 30, 2007. The remainder of this section becomes effective June 30, 2005.

22
 23 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
 24 Michaux

25 **INCREASE BENEFIT/SHERIFFS' SUPPLEMENTAL PENSION FUND**

26 **SECTION 29.30.(a)** G.S. 143-166.85(a) reads as rewritten:

27 "(a) An eligible retired sheriff shall be entitled to and receive an annual pension
 28 benefit, payable in equal monthly installments, equal to one share for each full year of
 29 eligible service as sheriff multiplied by his total number of years of eligible service. The
 30 amount of each share shall be determined by dividing the total number of years of
 31 eligible service for all eligible retired sheriffs on December 31 of each calendar year
 32 into the amount to be disbursed as monthly pension payments in accordance with the
 33 provisions of G.S., 143 166.83(b). In no event however shall a monthly pension under
 34 this Article exceed an amount, which when added to a retired allowance at retirement
 35 from the Local Governmental Employees' Retirement System or to the amount he
 36 would have been eligible to receive if service had not been forfeited by the withdrawal
 37 of accumulated contributions, is greater than seventy -five percent (75%) of a sheriff's
 38 equivalent annual salary immediately preceding retirement computed on the latest
 39 monthly base rate, to a maximum amount of ~~one thousand two hundred dollars (\$1,200)-~~
 40 one thousand five hundred dollars (\$1,500)."

41 **SECTION 29.30.(b)** G.S. 7A-304(a)(3a) reads as rewritten:

42 "(3a) For the supplemental pension benefits of sheriffs, the sum of
 43 ~~seventy five cents (75¢)~~ one dollar twenty-five cents (\$1.25) to be
 44 remitted to the Department of Justice and administered under the
 45 provisions of Article 12G of Chapter 143 of the General Statutes."
 46

47 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
 48 Michaux

49 **LONGEVITY SERVICE DEFINITION FOR MEMBERS OF THE UTILITIES**
 50 **COMMISSION/UTILITIES COMMISSION MEMBERS IN**
 51 **CONSOLIDATED JUDICIAL RETIREMENT SYSTEM/TRANSFER OF**
 52 **CONTRIBUTIONS TO CONSOLIDATED JUDICIAL RETIREMENT**

1 **SYSTEM/RETIREMENT ALLOWANCE LIMITATION FOR MEMBERS**
2 **OF THE LEGISLATIVE RETIREMENT SYSTEM**

3 **SECTION 29.30A.(a)** G.S. 62-10 reads as rewritten:

4 "(h) The salary of each commissioner and that of the commissioner designated as
5 chairman shall be set by the General Assembly in the Current Operations
6 Appropriations Act. In lieu of merit and other increment raises paid to regular State
7 employees, each commissioner, including the commissioner designated as chairman,
8 shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%)
9 of the annual salary set forth in the Current Operations Appropriations Act payable
10 monthly after five years of service, and nine and six-tenths percent (9.6%) after 10 years
11 of service. "Service" means service as a member of the Utilities ~~Commission.~~
12 Commission or as a member of the General Assembly."

13 **SECTION 29.30A.(b)** G.S. 135-50(b) reads as rewritten:

14 "(b) The purpose of this Article is to improve the administration of justice by
15 attracting and retaining the most highly qualified talent available within the State to the
16 positions of justice and judge, district attorney and solicitor, ~~and~~ clerk of superior court,
17 within the General Court of Justice. Justice, and to membership on the Utilities
18 Commission."

19 **SECTION 29.30A.(c)** G.S. 135-51 reads as rewritten:

20 "**§ 135-51. Scope.**

21 (a) This Article provides consolidated retirement benefits for all justices and
22 judges, district attorneys, and solicitors who are serving on January 1, 1974, and who
23 become such thereafter; and for all clerks of superior court who are so serving on
24 January 1, 1975, and who become such ~~thereafter.~~ after that date; and for all members
25 of the Utilities Commission who are serving on September 1, 2005, and who become
26 members of the Utilities Commission after that date.

27 (b) For justices and judges of the appellate and superior court divisions of the
28 General Court of Justice who so served prior to January 1, 1974, the provisions of this
29 Article supplement and, under certain circumstances, replace the provisions of Articles
30 6 and 8, as the case may be, of Chapter 7A of the General Statutes.

31 For district attorneys and judges of the district court of the General Court of Justice
32 who so served prior to January 1, 1974, the provisions of this Article supplement and,
33 under certain circumstances, replace the provisions of Article 1 of this Chapter.

34 For clerks of superior court of the General Court of Justice who so served prior to
35 January 1, 1975, the provisions of this Article supplement and, under certain
36 circumstances, replace the provisions of Article 1 of this Chapter.

37 (c) The retirement benefits of any person who becomes a justice or judge, district
38 attorney, or solicitor on and after January 1, 1974, or clerk of superior court on and after
39 January 1, 1975, or a member of the Utilities Commission on or after September 1,
40 2005, shall be determined solely in accordance with the provisions of this Article."

41 **SECTION 29.30A.(d)** G.S. 135-53 reads as rewritten:

42 "**§ 135-53. Definitions.**

43 The following words and phrases as used in this Article, unless a different meaning
44 is plainly required by the context, shall have the following meanings:

- 45 (1) "Accumulated contributions" with respect to any member shall mean
46 the sum of all the amounts deducted from the compensation of the
47 member pursuant to G.S. 135-68 since he last became a member and
48 credited to his account in the annuity savings fund, plus any amount
49 standing to his credit pursuant to G.S. 135-67(c) as a result of a prior
50 period of membership, plus any amounts credited to his account
51 pursuant to G.S. 135-28.1(b) or 135-56(b), together with regular
52 interest on all such amounts computed as provided in G.S. 135-7(b).

- 1 (2) "Actuarial equivalent" shall mean a benefit of equal value when
2 computed upon the bases of such mortality tables as shall be adopted
3 by the Board of Trustees, and regular interest.
- 4 (2a) "Average final compensation" shall mean the average annual
5 compensation of a member during the 48 consecutive calendar months
6 of membership service producing the highest such average.
- 7 (3) "Beneficiary" shall mean any person in receipt of a retirement
8 allowance or other benefit as provided in this Article.
- 9 (4) "Board of Trustees" shall mean the Board of Trustees established by
10 G.S. 135-6.
- 11 (4a) "Clerk of superior court" shall mean the clerk of superior court
12 provided for in G.S. 7A-100(a).
- 13 (5) "Compensation" shall mean all salaries and wages derived from public
14 funds which are earned by a member of the Retirement System for his
15 service as a justice or judge, or district attorney, or clerk of superior
16 ~~court~~, court, or as a member of the Utilities Commission.
- 17 (6) "Creditable service" shall mean for any member the total of his prior
18 service plus his membership service.
- 19 (6a) "District attorney" shall mean the district attorney or solicitor provided
20 for in G.S. 7A-60.
- 21 (7) "Filing" when used in reference to an application for retirement shall
22 mean the receipt of an acceptable application on a form provided by
23 the Retirement System.
- 24 (8) "Final compensation" shall mean for any member the annual
25 equivalent of the rate of compensation most recently applicable to him.
- 26 (9) "Judge" shall mean any justice or judge of the General Court of Justice
27 and the administrative officer of the courts.
- 28 (10) "Medical board" shall mean the board of physicians provided for in
29 G.S. 135-6.
- 30 (11) "Member" shall mean any person included in the membership of the
31 Retirement System as provided in this Article.
- 32 (12) "Membership service" shall mean service as a judge, district attorney,
33 ~~or~~ clerk of superior ~~court~~ court, or Utilities Commissioner, rendered
34 while a member of the Retirement System.
- 35 (13) "Previous system" shall mean, with respect to any member, the
36 retirement benefit provisions of Article 6 and Article 8 of Chapter 7A
37 of the General Statutes, to the extent that such Article or Articles were
38 formerly applicable to the member, and in the case of ~~judges~~ a judge of
39 the district court division, ~~and~~ district attorney, and clerk of superior
40 court of the General Court of Justice, and in the case of a Utilities
41 Commissioner, the Teachers' and State Employees' Retirement
42 System.
- 43 (14) "Prior service" shall mean service rendered by a member, prior to his
44 membership in the Retirement System, for which credit is allowable
45 under G.S. 135-56.
- 46 (14a) "Utilities Commissioner" means a member of the North Carolina
47 Utilities Commission as provided for in G.S. 62-10.
- 48 (15) "Regular interest" shall mean interest compounded annually at such a
49 rate as shall be determined by the Board of Trustees in accordance
50 with G.S. 135-7(b).
- 51 (16) "Retirement" shall mean the withdrawal from active service with a
52 retirement allowance granted under the provisions of this Chapter. In

1 order for a member's retirement to become effective in any month, the
2 member must render no service at any time during that month.

3 (17) "Retirement allowance" shall mean the periodic payments to which a
4 beneficiary becomes entitled under the provisions of this Article.

5 (18) "Retirement System" shall mean the "Consolidated Judicial Retirement
6 System" of North Carolina, as established in this Article.

7 (19) "Year" as used in this Article shall mean the regular fiscal year
8 beginning July 1 and ending June 30 in the following calendar year,
9 unless otherwise defined by regulation of the Board of Trustees."

10 **SECTION 29.30A.(e)** G.S. 135-54 reads as rewritten:

11 **"§ 135-54. Name and date of establishment.**

12 A Retirement System is hereby established and placed under the management of the
13 Board of Trustees for the purpose of providing retirement allowances and other benefits
14 under the provisions of this Article for justices and judges, district attorneys, and clerks
15 of superior court of the General Court of Justice of North Carolina, and Utilities
16 Commissioners and their survivors. The Retirement System so created shall be
17 established as of January 1, 1974.

18 The Retirement System shall have the power and privileges of a corporation and
19 shall be known as the "Consolidated Judicial Retirement System of North Carolina,"
20 and by such name all of its business shall be transacted."

21 **SECTION 29.30A.(f)** G.S. 135-55 reads as rewritten:

22 **"§ 135-55. Membership.**

23 (a) The membership of the Retirement System shall consist of:

24 (1) All judges and district attorneys in office on January 1, 1974;

25 (2) All persons who become judges and district attorneys or reenter
26 service as judges and district attorneys after January 1, 1974;

27 (3) All clerks of superior court in office on January 1, 1975; and

28 (4) All persons who become clerks of superior court or reenter service as
29 clerks of superior court after January 1, ~~1975~~1975;

30 (5) All Utilities Commissioners in office on September 1, 2005; and

31 (6) All persons who become Utilities Commissioners or reenter service as
32 Utilities Commissioners after September 1, 2005.

33 (b) The membership of any person in the Retirement System shall cease upon:

34 (1) The withdrawal of his accumulated contributions after he is no longer
35 a judge, district ~~attorney~~ attorney, Utilities Commissioner, or clerk of
36 superior court, or

37 (2) His retirement under the provisions of the Retirement System, or

38 (3) His death."

39 **SECTION 29.30A.(g)** G.S. 135-58(a4) reads as rewritten:

40 "(a4) Any member who retires under the provisions of G.S. 135-57(a) or
41 G.S. 135-57(c) on or after January 1, 2004, but before September 1, 2005, after the
42 member has either attained the member's 65th birthday or has completed 24 years or
43 more of creditable service, shall receive an annual retirement allowance, payable
44 monthly, which shall commence on the effective date of the member's retirement and
45 shall be continued on the first day of each month thereafter during the member's
46 lifetime, the amount of which shall be computed as the sum of the amounts in
47 subdivisions (1), (2), (3), (4), and (5) of this subsection, provided that in no event shall
48 the annual allowance payable to any member be greater than an amount which, when
49 added to the allowance, if any, to which the member is entitled under the Teachers' and
50 State Employees' Retirement System, the Legislative Retirement System, or the Local
51 Governmental Employees' Retirement System (prior in any case to any reduction for
52 early retirement or for an optional mode of payment), would total three-fourths of the
53 member's final compensation:

- 1 (1) Four and two hundredths percent (4.02%) of the member's final
2 compensation, multiplied by the number of years of creditable service
3 rendered as a justice of the Supreme Court or judge of the Court of
4 Appeals;
- 5 (2) Three and fifty-two hundredths percent (3.52%) of the member's final
6 compensation, multiplied by the number of years of creditable service
7 rendered as a judge of the superior court or as Administrative Officer
8 of the Courts;
- 9 (3) Three and two hundredths percent (3.02%) of the member's final
10 compensation, multiplied by the number of years of creditable service
11 rendered as a judge of the district court, district attorney, or clerk of
12 superior court;
- 13 (4) A service retirement allowance computed in accordance with the
14 service retirement provisions of Article 3 of Chapter 128 of the
15 General Statutes using an average final compensation as defined in
16 G.S. 135-53(2a) and creditable service equal to the number of years of
17 the member's creditable service that was transferred from the Local
18 Governmental Employees' Retirement System to this System as
19 provided in G.S. 135-56; and
- 20 (5) A service retirement allowance computed in accordance with the
21 service retirement provisions of Article 1 of this Chapter of the
22 General Statutes using an average final compensation as defined in
23 G.S. 135-53(2a) and creditable service, including any sick leave
24 standing to the credit of the member, equal to the number of years of
25 the member's creditable service that was transferred from the Teachers'
26 and State Employees' Retirement System or the Legislative Retirement
27 System to this System as provided in G.S. 135-56."

28 **SECTION 29.30A.(h)** G.S. 135-58 is amended by adding a new subsection

29 to read:

30 "(a5) Any member who retires under the provisions of G.S. 135-57(a) or
31 G.S. 135-57(c) on or after September 1, 2005, after the member has either attained the
32 member's 65th birthday or has completed 24 years or more of creditable service, shall
33 receive an annual retirement allowance, payable monthly, which shall commence on the
34 effective date of the member's retirement and shall be continued on the first day of each
35 month thereafter during the member's lifetime, the amount of which shall be computed
36 as the sum of the amounts in subdivisions (1), (2), (3), (4), and (5) of this subsection,
37 provided that in no event shall the annual allowance payable to any member be greater
38 than an amount which, when added to the allowance, if any, to which the member is
39 entitled under the Teachers' and State Employees' Retirement System, the Legislative
40 Retirement System, or the Local Governmental Employees' Retirement System (prior in
41 any case to any reduction for early retirement or for an optional mode of payment),
42 would total three-fourths of the member's final compensation:

- 43 (1) Four and two hundredths percent (4.02%) of the member's final
44 compensation, multiplied by the number of years of creditable service
45 rendered as a justice of the Supreme Court or judge of the Court of
46 Appeals;
- 47 (2) Three and fifty-two hundredths percent (3.52%) of the member's final
48 compensation, multiplied by the number of years of creditable service
49 rendered as a judge of the superior court, as Administrative Officer of
50 the Courts, or as a Utilities Commissioner;
- 51 (3) Three and two hundredths percent (3.02%) of the member's final
52 compensation, multiplied by the number of years of creditable service

1 rendered as a judge of the district court, district attorney, or clerk of
2 superior court;

3 (4) A service retirement allowance computed in accordance with the
4 service retirement provisions of Article 3 of Chapter 128 of the
5 General Statutes using an average final compensation as defined in
6 G.S. 135-53(2a) and creditable service equal to the number of years of
7 the member's creditable service that was transferred from the Local
8 Governmental Employees' Retirement System to this System as
9 provided in G.S. 135-56; and

10 (5) A service retirement allowance computed in accordance with the
11 service retirement provisions of Article 1 of this Chapter of the
12 General Statutes using an average final compensation as defined in
13 G.S. 135-53(2a) and creditable service, including any sick leave
14 standing to the credit of the member, equal to the number of years of
15 the member's creditable service that was transferred from the Teachers'
16 and State Employees' Retirement System or the Legislative Retirement
17 System to this System as provided in G.S. 135-56."

18 **SECTION 29.30A.(i)** G.S. 135-70.1 is amended by creating a new
19 subsection to read:

20 "(a1) The accumulated contributions, creditable service, and reserves, if any, of a
21 Utilities Commissioner, as defined in G.S. 135-53(14a), who is serving as a Utilities
22 Commissioner on September 1, 2005, shall be transferred from the Teachers' and State
23 Employees' Retirement System to the Consolidated Judicial Retirement System for the
24 service rendered as a Utilities Commissioner. The accumulated contributions credited in
25 the annuity savings fund in the Teachers' and State Employees' Retirement System for
26 service as a Utilities Commissioner shall be credited to the annuity savings fund in the
27 Consolidated Judicial Retirement System, and the member shall be credited with all
28 membership service as a Utility Commissioner in the Consolidated Judicial Retirement
29 System."

30 **SECTION 29.30A.(j)** G.S. 135-71 is amended by adding a new subsection
31 to read:

32 "(d) Notwithstanding the provisions of G.S. 135-70.1 to the contrary, a retired
33 former member and/or beneficiary of the Teachers' and State Employees' Retirement
34 System as defined in G.S. 135-1(6), whose retirement allowance from this System
35 and/or from the Teachers' and State Employees' Retirement System ceases upon a return
36 to membership service under this System, shall be permitted to transfer the accumulated
37 contributions, creditable service, and reserves, if any, from the Teachers' and State
38 Employees' Retirement System to this System on the same basis as provided for
39 members of other retirement systems under G.S. 135-70.1, if the member attains five or
40 more years of total membership service in this System, and completes at least three
41 years of membership service subsequent to the member's return to membership service."

42 **SECTION 29.30A.(k)** G.S. 120-4.21(c) reads as rewritten:

43 "(c) Limitations. – In no event shall any member receive a service retirement
44 allowance greater than seventy-five percent (75%) of his the member's "highest annual
45 salary". salary" nor shall a member receive any service retirement allowance whatsoever
46 while employed in a position that makes the member a contributing member of either
47 the Teachers' and State Employees' Retirement System or the Consolidated Judicial
48 Retirement System. If the member should become a member of either of these systems,
49 payment of the member's service retirement allowance shall be suspended until the
50 member withdraws from membership in that system."

51 **SECTION 29.30A.(l)** Subsection (k) of this section becomes effective
52 September 1, 2005, but applies only to members retiring on and after that date. The
53 remainder of this section becomes effective September 1, 2005.

1
2 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
3 Michaux, Wright

4 **STATE HEALTH PLAN CHANGES TO SCREENING MAMMOGRAM**
5 **COVERAGE**

6 **SECTION 29.31.(a)** G.S. 135-40.5(e) reads as rewritten:

7 "(e) Routine Diagnostic Examinations. – The Plan will pay one hundred percent
8 (100%) of allowable charges for routine diagnostic examinations and tests, including
9 breast, colon, rectal, and prostate exams, X rays, ~~mammograms~~, blood and blood
10 pressure checks, urine tests, tuberculosis tests, and general health checkups that are
11 medically necessary for the maintenance and improvement of individual health but no
12 more often than once every three years for covered individuals to age 40 years, once
13 every two years for covered individuals to age 50 years, and once a year for covered
14 individuals age 50 years and older, unless a more frequent occurrence is warranted by a
15 medical condition when such charges are incurred in a medically supervised facility.
16 The Plan will pay one hundred percent (100%) of allowable charges for mammograms
17 once per year for covered individuals age 40 years and over, and not more often than
18 once every three years for covered individuals to age 40 years, when such charges are
19 incurred in a medically supervised facility. Routine diagnostic examinations and tests
20 covered under this subsection also include examinations and tests for the screening for
21 the early detection of cervical cancer. The coverage shall be in accordance with the
22 most recently published American Cancer Society guidelines or guidelines adopted by
23 the North Carolina Advisory Committee on Cancer Coordination and Control for any
24 covered female. For the purposes of this subsection, "examinations and laboratory tests
25 for the screening for the early detection of cervical cancer" means conventional PAP
26 smear screening, liquid-based cytology, and human papilloma virus (HPV) detection
27 methods for women with equivocal findings on cervical cytologic analysis that are
28 subject to the approval of and have been approved by the United States Food and Drug
29 Administration. Provided, however, that charges for such examinations and tests are not
30 covered by the Plan when they are incurred to obtain or continue employment, to secure
31 insurance coverage, to comply with legal proceedings, to attend schools or camps, to
32 meet travel requirements, to participate in athletic and related activities, or to comply
33 with governmental licensing requirements. The maximum amount payable under this
34 subsection for a covered individual is one hundred fifty dollars (\$150.00) per fiscal
35 year."

36 **SECTION 29.31.(b)** G.S. 135-40.6(8)s. reads as rewritten:

37 "**§ 135-40.6. Benefits subject to deductible and coinsurance (comprehensive**
38 **benefits).**

39 ...
40 (8) Other Covered Charges. –

41 s. Routine Diagnostic Examinations: Allowable charges for
42 routine diagnostic examinations and tests, including
43 examinations and tests for the screening for the early detection
44 of cervical cancer, breast, colon, rectal, and prostate exams, X
45 rays, ~~mammograms~~, blood and blood pressure checks, urine
46 tests, tuberculosis tests, and general health checkups that are
47 medically necessary for the maintenance and improvement of
48 individual health but no more often than once every three years
49 for covered individuals to age 40 years, once every two years
50 for covered individuals to age 50 years, and once a year for
51 covered individuals age 50 years and older and, for
52 examinations and tests for the screening for the early detection
53 of cervical cancer, in accordance with the most recently

published American Cancer Society guidelines or guidelines adopted by the North Carolina Advisory Committee on Cancer Coordination and Control, unless a more frequent occurrence is warranted by a medical condition when such charges are incurred in a medically supervised facility. The Plan will pay one hundred percent (100%) of allowable charges for mammograms once per year for covered individuals age 40 years and over, and not more often than once every three years for covered individuals to age 40 years, when such charges are incurred in a medically supervised facility. Provided, however, that charges for such examinations and tests are not covered by the Plan when they are incurred to obtain or continue employment, to secure insurance coverage, to comply with legal proceedings, to attend schools or camps, to meet travel requirements, to participate in athletic and related activities or to comply with governmental licensing requirements. For the purposes of this sub-subdivision, "examinations and laboratory tests for the screening for the early detection of cervical cancer" means conventional PAP smear screening, liquid-based cytology, and human papilloma virus (HPV) detection methods for women with equivocal findings on cervical cytologic analysis that are subject to the approval of and have been approved by the United States Food and Drug Administration.

...."

PART XXX. CAPITAL APPROPRIATIONS.

Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill, Michaux, Wright

GENERAL FUND CAPITAL APPROPRIATIONS/INTRODUCTION

SECTION 30.1. The appropriations made by the 2005 General Assembly for capital improvements are for constructing, repairing, or renovating State buildings, utilities, and other capital facilities, for acquiring sites for them where necessary, and acquiring buildings and land for State government purposes.

Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill, Michaux, Wright

CAPITAL APPROPRIATIONS/GENERAL FUND

SECTION 30.2. There is appropriated from the General Fund for the 2005-2006 fiscal year the following amount for capital improvements:

Capital Improvements – General Fund	2005-2006
Department of Cultural Resources	
Capitol Area Visitor's Center	\$ 250,000
Department of Commerce – State Ports Authority	
Ports of Wilmington and Morehead City	
for equipment, capital, and infrastructure	\$ 9,000,000
Department of Environment and Natural Resources	
Water Resources Development Projects	\$ 12,424,000
Department of Agriculture	

1	Agricultural Laboratory	\$ 10,000,000
2		
3	University of North Carolina System – Board of Governors	
4	UNC-Wilmington – School of Nursing	\$ 2,650,000
5		
6	TOTAL CAPITAL IMPROVEMENTS – GENERAL FUND	\$ 34,324,000

7
8 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
9 Michaux, Wright

10 **WATER RESOURCES DEVELOPMENT PROJECT FUNDS**

11 **SECTION 30.3.(a)** The Department of Environment and Natural Resources
12 shall allocate the funds appropriated in this act for water resources development projects
13 to the following projects whose costs are as indicated:
14

	Name of Project	2005-2006
15		
16		
17	(1) Wilmington Harbor Deepening	\$1,300,000
18	(2) Manteo (Shallowbag) Bay Channel Maintenance	50,000
19	(3) Wilmington Harbor Maintenance Dredging	500,000
20	(4) B. Everett Jordan Water Supply Storage	100,000
21	(5) John H. Kerr Reservoir Operations Evaluation	600,000
22	(6) Bogue Banks Shore Protection Study (Carteret County)	75,000
23	(7) Surf City/North Topsail Beach Protection Study	250,000
24	(8) West Onslow Beach (Topsail)	100,000
25	(9) Wrightsville Beach Nourishment	580,000
26	(10) Hurricane Stream Restoration – Western North Carolina	2,000,000
27	(11) Ocracoke NCCAT Estuarine Shoreline Protection	1,500,000
28	(12) Far Creek Maintenance Dredging	120,000
29	(13) Walters Slough Maintenance Dredging	122,000
30	(14) Hurricane Isabel Emergency Stream	
31	Cleanup – Northeastern North Carolina	1,370,000
32	(15) State-Local Projects	2,000,000
33	(16) Princeville Flood Control	250,000
34	(17) Currituck Sound Water Management Study	300,000
35	(18) Aquatic Weed Control, Lake Gaston and Statewide	375,000
36	(19) Yadkin/Pee Dee Lakes Project	500,000
37	(20) North Carolina Oyster Habitat Restoration	50,000
38	(21) Emergency Flood Control Projects	187,000
39	(22) Planning Assistance to Communities	95,000
40		
41	TOTALS	\$12,424,000

42
43 **SECTION 30.3.(b)** Where the actual costs are different from the estimated
44 costs under subsection (a) of this section, the Department may adjust the allocations
45 among projects as needed. If any projects funded under subsection (a) of this section are
46 delayed and the budgeted State funds cannot be used during the 2005-2006 fiscal year,
47 or if the projects funded under subsection (a) of this section are accomplished at a lower
48 cost, the Department may use the resulting fund availability to fund any of the
49 following:

- 50 (1) U.S. Army Corps of Engineers project feasibility studies.
- 51 (2) U.S. Army Corps of Engineers projects whose schedules have
52 advanced and require State-matching funds in fiscal year 2005-2006.
- 53 (3) State-local water resources development projects.

1 Funds not expended or encumbered for these purposes shall revert to the
2 General Fund at the end of the 2006-2007 fiscal year.

3 **SECTION 30.3.(c)** The Department shall make semiannual reports on the
4 use of these funds to the Joint Legislative Commission on Governmental Operations,
5 the Fiscal Research Division, and the Office of State Budget and Management. Each
6 report shall include all of the following:

- 7 (1) All projects listed in this section.
- 8 (2) The estimated cost of each project.
- 9 (3) The date that work on each project began or is expected to begin.
- 10 (4) The date that work on each project was completed or is expected to be
11 completed.
- 12 (5) The actual cost of each project.

13 The semiannual reports shall also show those projects advanced in schedule,
14 those projects delayed in schedule, and an estimate of the amount of funds expected to
15 revert to the General Fund.

16
17 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
18 Michaux, Wright

19 **PROCEDURES FOR DISBURSEMENT OF CAPITAL FUNDS**

20 **SECTION 30.4.** The appropriations made by the 2005 General Assembly
21 for capital improvements shall be disbursed for the purposes provided by this act.
22 Expenditure of funds shall not be made by any State department, institution, or agency
23 until an allotment has been approved by the Governor as Director of the Budget. The
24 allotment shall be approved only after full compliance with the Executive Budget Act,
25 Article 1 of Chapter 143 of the General Statutes. Prior to the award of construction
26 contracts for projects to be financed in whole or in part with self-liquidating
27 appropriations, the Director of the Budget shall approve the elements of the method of
28 financing of those projects including the source of funds, interest rate, and liquidation
29 period. Provided, however, that if the Director of the Budget approves the method of
30 financing a project, the Director shall report that action to the Joint Legislative
31 Commission on Governmental Operations at its next meeting.

32 Where direct capital improvement appropriations include the purpose of
33 furnishing fixed and movable equipment for any project, those funds for equipment
34 shall not be subject to transfer into construction accounts except as authorized by the
35 Director of the Budget. The expenditure of funds for fixed and movable equipment and
36 furnishings shall be reviewed and approved by the Director of the Budget prior to
37 commitment of funds.

38 Capital improvement projects authorized by the 2005 General Assembly shall
39 be completed, including fixed and movable equipment and furnishings, within the limits
40 of the amounts of the direct or self-liquidating appropriations provided, except as
41 otherwise provided in this act. Capital improvement projects authorized by the 2005
42 General Assembly for the design phase only shall be designed within the scope of the
43 project as defined by the approved cost estimate filed with the Director of the Budget,
44 including costs associated with site preparation, demolition, and movable and fixed
45 equipment.

46
47 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
48 Michaux, Wright

49 **ENCUMBERED APPROPRIATIONS AND PROJECT RESERVE FUNDS**

50 **SECTION 30.5.** When each capital improvement project appropriated by the
51 2005 General Assembly, other than those projects under the Board of Governors of The
52 University of North Carolina, is placed under a construction contract, direct
53 appropriations shall be encumbered to include all costs for construction, design,

1 investigation, administration, movable equipment, and a reasonable contingency.
2 Unencumbered direct appropriations remaining in the project budget shall be placed in a
3 project reserve fund credited to the Office of State Budget and Management. Funds in
4 the project reserve may be used for emergency repair and renovation projects at State
5 facilities with the approval of the Director of the Budget. The project reserve fund may
6 be used, at the discretion of the Director of the Budget, to allow for award of contracts
7 where bids exceed appropriated funds, if those projects supplemented were designed
8 within the scope intended by the applicable appropriation or any authorized change in it,
9 and if, in the opinion of the Director of the Budget, all means to award contracts within
10 the appropriation were reasonably attempted. At the discretion of the Director of the
11 Budget, any balances in the project reserve fund shall revert to the original source.
12

13 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
14 Michaux, Wright

15 **REPAIR AND RENOVATION RESERVE ALLOCATION**

16 **SECTION 30.6.** Of the funds in the Reserve for Repairs and Renovations
17 for the 2005-2006 fiscal year, forty-six percent (46%) shall be allocated to the Board of
18 Governors of The University of North Carolina for repairs and renovations pursuant to
19 G.S. 143-15.3A, in accordance with guidelines developed in The University of North
20 Carolina Funding Allocation Model for Reserve for Repairs and Renovations, as
21 approved by the Board of Governors of The University of North Carolina, and fifty-four
22 percent (54%) shall be allocated to the Office of State Budget and Management for
23 repairs and renovations pursuant to G.S. 143-15.3A.

24 Notwithstanding G.S. 143-15.3A, the Board of Governors may allocate funds
25 for the repair and renovation of facilities not supported from the General Fund if the
26 Board determines that sufficient funds are not available from other sources and that
27 conditions warrant General Fund assistance. Any such finding shall be included in the
28 Board's submission to the Joint Legislative Commission on Governmental Operations
29 on the proposed allocation of funds.

30 The Board of Governors and the Office of State Budget and Management
31 shall consult with the Joint Legislative Commission on Governmental Operations prior
32 to the allocation or reallocation of these funds.
33

34 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
35 Michaux, Wright

36 **PROJECT COST INCREASE**

37 **SECTION 30.7.** Upon the request of the administration of a State agency,
38 department, or institution, the Director of the Budget may, when in the Director's
39 opinion it is in the best interest of the State to do so, increase the cost of a capital
40 improvement project. Provided, however, that if the Director of the Budget increases
41 the cost of a project, the Director shall report that action to the Joint Legislative
42 Commission on Governmental Operations at its next meeting. The increase may be
43 funded from gifts, federal or private grants, special fund receipts, excess patient receipts
44 above those budgeted at the University of North Carolina Hospitals at Chapel Hill, or
45 direct capital improvement appropriations to that department or institution.
46

47 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
48 Michaux, Wright

49 **NEW PROJECT AUTHORIZATION**

50 **SECTION 30.8.** Upon the request of the administration of any State agency,
51 department, or institution, the Director of the Budget may authorize the construction of
52 a capital improvement project not specifically authorized by the General Assembly if
53 such project is to be funded by gifts, federal or private grants, special fund receipts,

1 excess patient receipts above those budgeted at the University of North Carolina
 2 Hospitals at Chapel Hill, or self-liquidating indebtedness. Prior to authorizing the
 3 construction of a capital improvement project pursuant to this section, the Director shall
 4 consult with the Joint Legislative Commission on Governmental Operations.

5
 6 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
 7 Michaux, Wright

8 **ADVANCE PLANNING OF CAPITAL IMPROVEMENT PROJECTS**

9 **SECTION 30.9.** Funds that become available by gifts, excess patient
 10 receipts above those budgeted at the University of North Carolina Hospitals at Chapel
 11 Hill, federal or private grants, receipts becoming a part of special funds by act of the
 12 General Assembly, or any other funds available to a State department or institution may
 13 be utilized for advance planning through the working drawing phase of capital
 14 improvement projects, upon approval of the Director of the Budget.

15
 16 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
 17 Michaux, Wright

18 **APPROPRIATIONS LIMITS/REVERSION OR LAPSE**

19 **SECTION 30.10.** Except as permitted in previous sections of this act, the
 20 appropriations for capital improvements made by the 2005 General Assembly may be
 21 expended only for specific projects set out by the 2005 General Assembly and for no
 22 other purpose. Construction of all capital improvement projects enumerated by the
 23 2005 General Assembly shall be commenced, or self-liquidating indebtedness with
 24 respect to them shall be incurred, within 12 months following the first day of the fiscal
 25 year in which the funds are available. If construction contracts on those projects have
 26 not been awarded or self-liquidating indebtedness has not been incurred within that
 27 period, the direct appropriation for those projects shall revert to the original source, and
 28 the self-liquidating appropriation shall lapse; except that direct appropriations may be
 29 placed in a reserve fund as authorized in this act. This deadline with respect to both
 30 direct and self-liquidating appropriations may be extended with the approval of the
 31 Director of the Budget up to an additional 12 months if circumstances and conditions
 32 warrant such extension.

33 34 **PART XXXIV. TOBACCO TAX RATE CHANGES**

35
 36 Requested by: Representatives Alexander, Gibson, Luebke, Wainwright

37 **TOBACCO TAX RATE CHANGES**

38 **SECTION 34.1.(a)** G.S. 105-113.5 reads as rewritten:

39 **"§ 105-113.5. Tax on cigarettes.**

40 A tax is levied on the sale or possession for sale in this State, by a distributor, of all
 41 cigarettes at the rate of ~~two and one-half mills~~ one and one-half cents (1.50¢) per
 42 individual cigarette."

43 **SECTION 34.1.(b)** G.S. 105-113.35(a) reads as rewritten:

44 "(a) Tax. – An excise tax is levied on tobacco products other than cigarettes ~~at the~~
 45 ~~rate of two percent (2%) of the cost price of the products as specified in this section.~~
 46 This tax does not apply to ~~the following:~~

47 (1) ~~Aa~~ tobacco product sold outside the State.

48 (2) ~~A~~State, a tobacco product sold to the federal government.

49 (3) ~~A~~government, or a sample tobacco product distributed without charge. The
 50 rate of tax is as follows:

51 (1) Two percent (2%) of the cost price of cigars.

52 (2) Six percent (6%) of the cost price of tobacco products other than
 53 cigarettes and cigars."

1 **SECTION 34.1.(c)** This section becomes effective July 1, 2005.

2
3 **PART XXXVIII. CORPORATE, EXCISE, AND INSURANCE TAX CHANGES**

4
5 Requested by: Representatives Alexander, Gibson, Luebke, Wainwright

6 **EQUALIZE TAX ON ENTERTAINMENT**

7 **SECTION 38.3.(a)** G.S. 105-37.1 reads as rewritten:

8 "**§ 105-37.1. ~~Dances, athletic events, shows, exhibitions, and other~~**
9 **~~entertainments.~~ Privilege tax on entertainment.**

10 (a) Scope. – A privilege tax is imposed on the gross receipts of a person who is
11 engaged in any of the following:

- 12 (1) Giving, offering, or managing a dance or an athletic contest for which
13 an admission fee in excess of fifty cents (50¢) is charged.
14 (2) Giving, offering, or managing a form of amusement or entertainment
15 that is not taxed by another provision of this Article and for which an
16 admission fee is charged.
17 (3) Exhibiting a performance, show, or exhibition, such as a circus or dog
18 show, that is not taxed by another provision of this Article.
19 (4) Operating a motion picture show for which an admission is charged.

20 (b) Rate and Payment. – ~~The rate of the privilege tax is three percent (3%) of~~
21 combined general rate applies to the gross receipts from the activities described in
22 subsection (a) of this section. The tax is due when a return is due. A return is due by the
23 10th day after the end of each month and covers the gross receipts received during the
24 previous month. The term 'combined general rate' has the same meaning as defined in
25 G.S. 105-164.3.

26 (c) Advance Report. – A person who owns or controls a performance, show, or
27 exhibition subject to the tax imposed by this section and who plans to bring the
28 performance to this State from outside the State must file a statement with the Secretary
29 that lists the dates, times, and places of the performance, show, or exhibition. The
30 statement must be filed no less than five days before the first performance, show, or
31 exhibition in this State.

32 (d) Local Taxes. – Cities may levy a license tax on a person taxed under
33 subdivision (a)(1) or (a)(2) of this section; however, the tax may not exceed twenty-five
34 dollars (\$25.00). Cities may levy a license tax on a person taxed under subdivision
35 (a)(3) of this section; however, the tax may not exceed twenty-five dollars (\$25.00) for
36 each day or part of a day the performance, show, or exhibition is given at each location.

37 Counties may not levy a license tax on a person taxed under subdivision ~~(a)(1) or~~
38 ~~(a)(2)~~(a)(1), (a)(2), or (a)(4) of this section. Counties may levy a license tax on a person
39 taxed under subdivision (a)(3) to the same extent as a city."

40 **SECTION 38.3.(b)** G.S. 105-38.1 is repealed.

41 **SECTION 38.3.(c)** Subdivisions (4a) and (4b) of G.S. 105-164.3 are
42 recodified as subdivisions (4b) and (4c) respectively.

43 **SECTION 38.3.(d)** G.S. 105-164.3 is amended by adding a new subdivision
44 to read:

45 "**§ 105-164.3. Definitions.**

46 The following definitions apply in this Article:

47 ...
48 (4a) Combined general rate. – The State's general rate of tax set in
49 G.S. 105-164.4(a) plus the sum of the rates of the local sales and use
50 taxes authorized by Subchapter VIII of this Chapter for every county
51 in this State."

52 **SECTION 38.3.(e)** This section does not affect the rights or liabilities of the
53 State, a taxpayer, or another person arising under a statute amended or repealed by this

1 act before the effective date of its amendment or repeal; nor does it affect the right to
2 any refund or credit of a tax that accrued under the amended or repealed statute before
3 the effective date of its amendment or repeal.

4 **SECTION 38.3.(f)** This section becomes effective September 1, 2005, and
5 applies to tickets sold on or after that date.

6
7 Requested by: Representatives Alexander, Gibson, Luebke, Wainwright

8 **EQUALIZE GROSS PREMIUMS TAX**

9 **SECTION 38.4.(a)** G.S. 105-228.5(d)(6) is repealed.

10 **SECTION 38.4.(b)** G.S. 58-6-25(a) reads as rewritten:

11 "(a) Charge Levied. – There is levied on each insurance company an annual
12 charge for the purposes stated in subsection (d) of this section. The charge levied in this
13 section is in addition to all other fees and taxes. The percentage rate of the charge is
14 established pursuant to subsection (b) of this section. ~~For each insurance company that~~
15 ~~is not a health maintenance organization, the rate section and is applied to the~~
16 ~~company's premium tax liability for the taxable year. For health maintenance~~
17 ~~organizations, the rate is applied to a premium tax liability for the taxable year~~
18 ~~calculated as if the corporation or organization were paying tax at the rate in~~
19 ~~G.S. 105-228.5(d)(2).~~ In determining an insurance company's premium tax liability for a
20 taxable year, the following shall be disregarded:

21 (1) Additional taxes imposed by G.S. 105-228.8.

22 (2) The additional local fire and lightning tax imposed by
23 G.S. 105-228.5(d)(4).

24 (3) Any tax credits for guaranty or solvency fund assessments under
25 G.S. 105-228.5A or G.S. 97-133(a).

26 (4) Any tax credits allowed under Chapter 105 of the General Statutes
27 other than tax payments made by or on behalf of the taxpayer."

28 **SECTION 38.4.(c)** Notwithstanding the provisions of G.S. 105-228.5(f), the
29 following provisions apply to health maintenance organizations for the 2006 and 2007
30 taxable years in lieu of the provisions of G.S. 105-228.5(f):

31 Health maintenance organizations that are subject to the tax imposed by
32 G.S. 105-228.5 and have an estimated premium tax liability for the taxable year, not
33 including the additional local fire and lightning tax, of ten thousand dollars (\$10,000) or
34 more for business done in North Carolina shall remit three estimated tax payments: the
35 first estimated payment is due on or before April 15 and must be equal to at least
36 forty-five percent (45%) of the taxpayer's estimated premium tax liability for the taxable
37 year; the second estimated payment is due on or before June 15 and must be equal to at
38 least forty-five percent (45%) of the taxpayer's estimated premium tax liability for the
39 taxable year; and the third payment is due on or before October 15 and must be equal to
40 at least ten percent (10%) of the taxpayer's estimated premium tax liability for the
41 taxable year. The taxpayer must remit the balance by the following March 15 in the
42 same manner provided in G.S. 105-228.5(e) for annual returns.

43 An underpayment of an estimated payment required by this subsection bears
44 interest at the rate established under G.S. 105-241.1(i). Any overpayment bears interest
45 as provided in G.S. 105-266(b) and, together with the interest, must be credited to the
46 taxpayer and applied against the taxes imposed upon the company under
47 G.S. 105-228.5.

48 The penalties provided in Article 9 of Chapter 105 of the General Statutes
49 apply to the estimated tax payments required by this subsection.

50 **SECTION 38.4.(d)** This section is effective for taxable years beginning on
51 or after January 1, 2006.

52
53 **PART XXXIX. TAX INCENTIVES**

1
2 Requested by: Representatives Alexander, Gibson, Luebke, Wainwright

3 **FILM INDUSTRY JOBS INCENTIVES**

4 **SECTION 39.1.(a)** Part 1 of Article 4 of Chapter 105 of the General Statutes
5 is amended by adding a new section to read:

6 **"§ 105-130.47. Credit for qualifying expenses of a production company.**

7 (a) Definitions. – The following definitions apply in this section:

8 (1) Highly compensated individual. – An individual who receives
9 compensation in excess of one million dollars (\$1,000,000) with
10 respect to a single production.

11 (2) Qualifying expenses. – The sum of the total amount spent in this State
12 for the following by a production company in connection with a
13 production:

14 a. Goods and services purchased by the production company.

15 b. Compensation and wages paid by the production company,
16 other than amounts paid to a highly compensated individual, on
17 which the production company remitted withholding payments
18 to the Department of Revenue under Article 4A of this Chapter.

19 (3) Production company. – Defined in G.S. 105-164.3.

20 (b) Credit. – A taxpayer that is a production company and has qualifying
21 expenses of at least two hundred fifty thousand dollars (\$250,000) with respect to a
22 production is allowed a credit against the taxes imposed by this Part equal to fifteen
23 percent (15%) of the production company's qualifying expenses that have been certified
24 as required in subsection (c) of this section. For the purposes of this section, in the case
25 of an episodic television series, an entire season of episodes is one production. The
26 credit is computed based on all of the taxpayer's qualifying expenses incurred with
27 respect to the production, not just the qualifying expenses incurred during the taxable
28 year.

29 (c) Certification. – In order to be eligible for a credit under this section, a
30 taxpayer must submit a detailed accounting of its qualifying expenses to the North
31 Carolina Film Office of the Department of Commerce. The North Carolina Film Office,
32 with the assistance of the regional film commission for the location of the production,
33 must make a written certification of the amount of the qualifying expenses.

34 (d) Pass-Through Entity. – Notwithstanding the provisions of G.S. 105-131.8 and
35 G.S. 105-269.15, a pass-through entity that qualifies for the credit provided in this
36 section does not distribute the credit among any of its owners. The pass-through entity
37 is considered the taxpayer for purposes of claiming the credit allowed by this section. If
38 a return filed by a pass-through entity indicates that the entity is paying tax on behalf of
39 the owners of the entity, the credit allowed under this section does not affect the entity's
40 payment of tax on behalf of its owners.

41 (e) Return. – A taxpayer may claim the credit allowed by this section on a return
42 filed for the taxable year in which the production activities are completed. The return
43 must state the name of the production, a description of the production, and the
44 certification from the North Carolina Film Office of the qualifying expenses for which
45 the credit is claimed.

46 (f) Credit Refundable. – If the credit allowed by this section exceeds the amount
47 of tax imposed by this Part for the taxable year reduced by the sum of all credits
48 allowable, the Secretary must refund the excess to the taxpayer. The refundable excess
49 is governed by the provisions governing a refund of an overpayment by the taxpayer of
50 the tax imposed in this Part. In computing the amount of tax against which multiple
51 credits are allowed, nonrefundable credits are subtracted before refundable credits.

52 (g) Limitation. – No credit is allowed under this section for any production that
53 satisfies one of the following conditions:

1 (1) It is political advertising.
2 (2) It is a television production of a news program or sporting event.
3 (3) It contains material that is obscene, as defined in G.S. 14-190.1.
4 (h) Substantiation. – A taxpayer allowed a credit under this section must maintain
5 and make available for inspection any information or records required by the Secretary
6 of Revenue or the regional film commissions. The taxpayer has the burden of proving
7 eligibility for a credit and the amount of the credit.

8 (i) Report. – The Department of Revenue must publish by May 1 of each year
9 the following information, itemized by taxpayer for the 12-month period ending the
10 preceding April 1:

11 (1) The location of sites used in a production for which a credit was
12 claimed.
13 (2) The qualifying expenses for which a credit was claimed, classified by
14 whether the expenses were for goods, services, or compensation paid
15 by the production company.
16 (3) The number of people employed in the State with respect to credits
17 claimed.
18 (4) The total cost to the General Fund of the credits claimed.

19 (j) Sunset. – This section is repealed for qualifying expenses occurring on or
20 after January 1, 2010."

21 **SECTION 39.1.(b)** Part 2 of Article 4 of Chapter 105 of the General
22 Statutes is amended by adding a new section to read:

23 **"§ 105-151.29. Credit for qualifying expenses of a production company.**

24 (a) Definitions. – The following definitions apply in this section:
25 (1) Highly compensated individual. – An individual who receives
26 compensation in excess of one million dollars (\$1,000,000) with
27 respect to a single production.
28 (2) Qualifying expenses. – The sum of the total amount spent in this State
29 for the following by a production company in connection with a
30 production:
31 a. Goods and services purchased by the production company.
32 b. Compensation and wages paid by the production company,
33 other than amounts paid to a highly compensated individual, on
34 which the production company remitted withholding payments
35 to the Department of Revenue under Article 4A of this Chapter.

36 (3) Production company. – Defined in G.S. 105-164.3.
37 (b) Credit. – A taxpayer that is a production company and has qualifying
38 expenses of at least two hundred fifty thousand dollars (\$250,000) with respect to a
39 production is allowed a credit against the taxes imposed by this Part equal to fifteen
40 percent (15%) of the production company's qualifying expenses that have been certified
41 as required in subsection (c) of this section. For the purposes of this section, in the case
42 of an episodic television series, an entire season of episodes is one production. The
43 credit is computed based on all of the taxpayer's qualifying expenses incurred with
44 respect to the production, not just the qualifying expenses incurred during the taxable
45 year.

46 (c) Certification. – In order to be eligible for a credit under this section, a
47 taxpayer must submit a detailed accounting of its qualifying expenses to the North
48 Carolina Film Office of the Department of Commerce. The North Carolina Film Office,
49 with the assistance of the regional film commission for the location of the production,
50 must make a written certification of the amount of the qualifying expenses.

51 (d) Pass-Through Entity. – Notwithstanding the provisions of G.S. 105-131.8 and
52 G.S. 105-269.15, a pass-through entity that qualifies for the credit provided in this
53 section does not distribute the credit among any of its owners. The pass-through entity

1 is considered the taxpayer for purposes of claiming the credit allowed by this section. If
2 a return filed by a pass-through entity indicates that the entity is paying tax on behalf of
3 the owners of the entity, the credit allowed under this section does not affect the entity's
4 payment of tax on behalf of its owners.

5 (e) Return. – A taxpayer may claim the credit allowed by this section on a return
6 filed for the taxable year in which the production activities are completed. The return
7 must state the name of the production, a description of the production, and the
8 certification from the North Carolina Film Office of the qualifying expenses for which
9 the credit is claimed.

10 (f) Credit Refundable. – If the credit allowed by this section exceeds the amount
11 of tax imposed by this Part for the taxable year reduced by the sum of all credits
12 allowable, the Secretary must refund the excess to the taxpayer. The refundable excess
13 is governed by the provisions governing a refund of an overpayment by the taxpayer of
14 the tax imposed in this Part. In computing the amount of tax against which multiple
15 credits are allowed, nonrefundable credits are subtracted before refundable credits.

16 (g) Limitation. – No credit is allowed under this section for any production that
17 satisfies one of the following conditions:

18 (1) It is political advertising.

19 (2) It is a television production of a news program or sporting event.

20 (3) It contains material that is obscene, as defined in G.S. 14-190.1.

21 (h) Substantiation. – A taxpayer allowed a credit under this section must maintain
22 and make available for inspection any information or records required by the Secretary
23 of Revenue or the regional film commissions. The taxpayer has the burden of proving
24 eligibility for a credit and the amount of the credit.

25 (i) Report. – The Department of Revenue must publish by May 1 of each year
26 the following information, itemized by taxpayer for the 12-month period ending the
27 preceding April 1:

28 (1) The location of sites used in a production for which a credit was
29 claimed.

30 (2) The qualifying expenses for which a credit was claimed, classified by
31 whether the expenses were for goods, services, or compensation paid
32 by the production company.

33 (3) The number of people employed in the State with respect to credits
34 claimed.

35 (4) The total cost to the General Fund of the credits claimed.

36 (j) Sunset. – This section is repealed for qualifying expenses occurring on or
37 after January 1, 2010."

38 **SECTION 39.1.(c)** G.S. 105-259(b), as amended by Section 30.1 of this act,
39 is amended by adding a new subdivision to read:

40 "(b) **Disclosure Prohibited.** – An officer, an employee, or an agent of the State
41 who has access to tax information in the course of service to or employment by the State
42 may not disclose the information to any other person unless the disclosure is made for
43 one of the following purposes:

44 ...
45 (33) To exchange information concerning a tax credit claimed under
46 G.S. 105-130.47 or G.S. 105-151.29 with the North Carolina Film
47 Office of the Department of Commerce and with the regional film
48 commissions."

49 **SECTION 39.1.(d)** G.S. 143B-434.4 is repealed.

50 **SECTION 39.1.(e)** This section is effective for taxable years beginning on
51 or after January 1, 2005.

52 Requested by: Representatives Alexander, Gibson, Luebke, Wainwright

SMALL BUSINESS HEALTH INSURANCE TAX CREDIT

SECTION 39.2.(a) Article 3B of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-129.16E. Credit for small business employee health benefits.

(a) Credit. – A small business that provides health benefits for all of its eligible employees during the taxable year is allowed a credit to offset its costs in providing health benefits for its eligible employees. For the purposes of this subsection, a taxpayer provides health benefits if it pays at least fifty percent (50%) of the premiums for health care coverage that equals or exceeds the minimum provisions of the basic health care plan of coverage recommended by the Small Employer Carrier Committee pursuant to G.S. 58-50-125.

The credit is equal to a dollar amount per eligible employee, not to exceed the taxpayer's costs of providing health benefits for its eligible employees during the taxable year. For each eligible employee for whom the taxpayer provides health benefits, the amount is four hundred dollars (\$400.00).

(b) Allocation. – If the taxpayer is an individual who is a nonresident or a part-year resident, the taxpayer must reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate. If the taxpayer is not an individual and is required to apportion its multistate business income to this State, the taxpayer must reduce the amount of the credit by multiplying it by the apportionment fraction used to apportion its business income to this State.

(c) Definitions. – The following definitions apply in this section:

(1) Eligible employee. – Defined in G.S. 58-50-110.

(2) Small business. – A taxpayer that employs no more than 25 eligible employees throughout the taxable year.

(d) No Double Benefit. – A taxpayer may not claim a credit under this section for costs for which it claimed a deduction under the Code. A taxpayer that claims a credit provided under this section must adjust taxable income as provided in G.S. 105-130.5(a)(16) or G.S. 105-134.6(c)(9), as applicable.

(e) Sunset. – This section expires for taxable years beginning on or after January 1, 2010."

SECTION 39.2.(b) G.S. 105-129.15A is repealed.

SECTION 39.2.(c) G.S. 105-129.16 is repealed.

SECTION 39.2.(d) G.S. 105-129.16A is amended by adding a new subsection to read:

"(e) Sunset. – This section is repealed for renewable energy property placed in service on or after January 1, 2006."

SECTION 39.2.(e) G.S. 105-129.16C is amended by adding a new subsection to read:

"(d) Sunset. – This section is repealed for taxable years beginning on or after January 1, 2006."

SECTION 39.2.(f) G.S. 105-130.5(a) is amended by adding a new subdivision to read:

"(a) The following additions to federal taxable income shall be made in determining State net income:

...

(16) To the extent not included in federal taxable income, the costs of providing employee health benefits for which the taxpayer claims a credit under G.S. 105-129.16E."

SECTION 39.2.(g) G.S. 105-134.6(c) is amended by adding a new subdivision to read:

1 (c) Additions. – The following additions to taxable income shall be made in
2 calculating North Carolina taxable income, to the extent each item is not included in
3 taxable income:

4 ...
5 (9) The costs of providing employee health benefits for which the
6 taxpayer claims a credit under G.S. 105-129.16E."

7 **SECTION 39.2.(h)** Subsections (a), (f), and (g) of this section are effective
8 for taxable years beginning on or after January 1, 2006. The remainder of this section is
9 effective when it becomes law.

10
11 **PART XL. SET RATES FOR INSURANCE REGULATORY CHARGE AND**
12 **PUBLIC UTILITIES FEES**

13
14 Requested by: Representatives Alexander, Gibson, Luebke, Wainwright
15 **INSURANCE REGULATORY CHARGE**

16 **SECTION 40.1.(a)** The percentage rate to be used in calculating the
17 insurance regulatory charge under G.S. 58-6-25 is five and one-half percent (5.5%) for
18 the 2005 calendar year.

19 **SECTION 40.1.(b)** This section is effective when it becomes law.

20
21 Requested by: Representatives Alexander, Gibson, Luebke, Wainwright
22 **REGULATORY FEE FOR UTILITIES COMMISSION**

23 **SECTION 40.2.(a)** The percentage rate to be used in calculating the public
24 utility regulatory fee under G.S. 62-302(b)(2) is twelve-hundredths of one percent
25 (0.12%) for each public utility's North Carolina jurisdictional revenues earned during
26 each quarter that begins on or after July 1, 2005.

27 **SECTION 40.2.(b)** The electric membership corporation regulatory fee
28 imposed under G.S. 62-302(b1) for the 2005-2006 fiscal year is two hundred thousand
29 dollars (\$200,000).

30 **SECTION 40.2.(c)** This section becomes effective July 1, 2005.

31
32 **PART XLI. HEALTH AND HUMAN SERVICES FEES**

33
34 Requested by: Representatives Barnhart, Insko
35 **NEWBORN SCREENING FEE**

36 **SECTION 41.1.** G.S. 130A-125(c) reads as rewritten:

37 "~~(c) The Department may impose a fee for a laboratory test performed pursuant to~~
38 ~~this section by the State Public Health Laboratory. A fee for a test must be based on the~~
39 ~~actual cost of performing the test. A fee of fourteen dollars (\$14.00) applies to a~~
40 ~~laboratory test performed by the State Public Health Laboratory performed pursuant to~~
41 ~~this section.~~ Fees collected shall remain in the Department to be used to offset the cost
42 of the Newborn Screening Program."

43
44 Requested by: Representatives Insko, Barnhart
45 **DIVISION OF FACILITY SERVICES FEES**

46 **SECTION 41.2.(a)** G.S. 131D-2(b)(1) reads as rewritten:

47 "(b) Licensure; inspections. –

48 (1) The Department of Health and Human Services shall inspect and
49 license, under rules adopted by the Medical Care Commission, all
50 adult care homes for persons who are aged or mentally or physically
51 disabled except those exempt in subsection (c) of this section. Licenses
52 issued under the authority of this section shall be valid for one year
53 from the date of issuance unless revoked earlier by the Secretary for

1 failure to comply with any part of this section or any rules adopted
2 hereunder. Licenses shall be renewed annually upon filing and the
3 Department's approval of the renewal application. The Department
4 shall charge each adult care home with six or fewer beds a
5 nonrefundable annual license fee in the amount of ~~one hundred~~
6 ~~twenty five dollars (\$125.00).~~ two hundred fifty dollars (\$250.00). The
7 Department shall charge each adult care home with more than six beds
8 a nonrefundable annual license fee in the amount of ~~one hundred~~
9 ~~seventy five dollars (\$175.00)~~ three hundred fifty dollars (\$350.00)
10 plus a nonrefundable annual per-bed fee of ~~six dollars and twenty five~~
11 ~~cents (\$6.25).~~ twelve dollars and fifty cents (\$12.50). A license shall
12 not be renewed if outstanding fees, fines, and penalties imposed by the
13 State against the home have not been paid. Fines and penalties for
14 which an appeal is pending are exempt from consideration. The
15 renewal application shall contain all necessary and reasonable
16 information that the Department may by rule require. Except as
17 otherwise provided in this subdivision, the Department may amend a
18 license by reducing it from a full license to a provisional license for a
19 period of not more than 90 days whenever the Department finds that:

- 20 a. The licensee has substantially failed to comply with the
21 provisions of Articles 1 and 3 of Chapter 131D of the General
22 Statutes and the rules adopted pursuant to these Articles;
23 b. There is a reasonable probability that the licensee can remedy
24 the licensure deficiencies within a reasonable length of time;
25 and
26 c. There is a reasonable probability that the licensee will be able
27 thereafter to remain in compliance with the licensure rules for
28 the foreseeable future.

29 The Department may extend a provisional license for not more than
30 one additional 90-day period upon finding that the licensee has made
31 substantial progress toward remedying the licensure deficiencies that
32 caused the license to be reduced to provisional status.

33 The Department may revoke a license whenever:

- 34 a. The Department finds that:
35 1. The licensee has substantially failed to comply with the
36 provisions of Articles 1 and 3 of Chapter 131D of the
37 General Statutes and the rules adopted pursuant to these
38 Articles; and
39 2. It is not reasonably probable that the licensee can remedy
40 the licensure deficiencies within a reasonable length of
41 time; or
42 b. The Department finds that:
43 1. The licensee has substantially failed to comply with the
44 provisions of Articles 1 and 3 of Chapter 131D of the
45 General Statutes and the rules adopted pursuant to these
46 Articles; and
47 2. Although the licensee may be able to remedy the
48 deficiencies within a reasonable time, it is not reasonably
49 probable that the licensee will be able to remain in
50 compliance with licensure rules for the foreseeable
51 future; or
52 c. The Department finds that the licensee has failed to comply
53 with the provisions of Articles 1 and 3 of Chapter 131D of the

1 General Statutes and the rules adopted pursuant to these
 2 Articles, and the failure to comply endangered the health,
 3 safety, or welfare of the patients in the facility.

4 The Department may also issue a provisional license to a facility, pursuant to rules
 5 adopted by the Medical Care Commission, for substantial failure to comply with the
 6 provisions of this section or rules adopted pursuant to this section. Any facility wishing
 7 to contest the issuance of a provisional license shall be entitled to an administrative
 8 hearing as provided in the Administrative Procedure Act, Chapter 150B of the General
 9 Statutes. A petition for a contested case shall be filed within 30 days after the
 10 Department mails written notice of the issuance of the provisional license."

11 **SECTION 41.2.(b)** G.S. 131E-77(d) reads as rewritten:

12 "(d) Upon receipt of an application for a license, the Department shall issue a
 13 license if it finds that the applicant complies with the provisions of this Article and the
 14 rules of the Commission. The Department shall renew each license in accordance with
 15 the rules of the Commission. The Department shall charge the applicant a
 16 nonrefundable annual base license fee plus a nonrefundable annual per-bed fee as
 17 follows:

18 Facility Type	Number of Beds	Base Fee	Per-Bed Fee
19 General Acute Hospitals:	1-49 beds	\$125.00 <u>250.00</u>	\$6.25 <u>12.50</u>
	50-99 beds	\$175.00 <u>350.00</u>	\$6.25 <u>12.50</u>
	100-199 beds	\$225.00 <u>450.00</u>	\$6.25 <u>12.50</u>
	200-399 beds	\$275.00 <u>550.00</u>	\$6.25 <u>12.50</u>
	400-699 beds	\$375.00 <u>750.00</u>	\$6.25 <u>12.50</u>
	700+ beds	\$475.00 <u>950.00</u>	\$6.25 <u>12.50</u>
31 Other Hospitals:		\$250.00 <u>500.00</u>	\$6.25 <u>12.50</u> "

32 **SECTION 41.2(c)** G.S. 131E-102(b) reads as rewritten:

33 "(b) Applications shall be available from the Department, and each application
 34 filed with the Department shall contain all necessary and reasonable information that the
 35 Department may by rule require. A license shall be granted to the applicant upon a
 36 determination by the Department that the applicant has complied with the provisions of
 37 this Part and the rules promulgated under this Part. The Department shall charge the
 38 applicant a nonrefundable annual license fee in the amount of ~~two hundred twenty five~~
 39 ~~dollars (\$225.00)~~ four hundred fifty dollars (\$450.00) plus a nonrefundable annual
 40 per-bed fee of ~~six dollars and twenty five cents (\$6.25)~~ twelve dollars and fifty cents
 41 (\$12.50)."

42 **SECTION 41.2(d)** G.S. 131E-138(c) reads as rewritten:

43 "(c) An application for a license shall be available from the Department, and each
 44 application filed with the Department shall contain all information requested by the
 45 Department. A license shall be granted to the applicant upon a determination by the
 46 Department that the applicant has complied with the provisions of this Part and the rules
 47 promulgated by the Commission under this Part. The Department shall charge the
 48 applicant a nonrefundable annual license fee in the amount of ~~one hundred seventy five~~
 49 ~~dollars (\$175.00)~~ three hundred fifty dollars (\$350.00)."

50 **SECTION 41.2(e)** G.S. 131E-147(b) reads as rewritten:

51 "(b) Applications shall be available from the Department, and each application
 52 filed with the Department shall contain all necessary and reasonable information that the
 53 Department may by rule require. A license shall be granted to the applicant upon a

determination by the Department that the applicant has complied with the provisions of this Part and the rules promulgated by the Commission under this Part. The Department shall charge the applicant a nonrefundable annual base license fee in the amount of ~~three hundred fifty dollars (\$350.00)~~ seven hundred dollars (\$700.00) plus a nonrefundable annual per-operating room fee in the amount of ~~twenty five dollars (\$25.00)~~ fifty dollars (\$50.00)."

SECTION 41.2(f) G.S. 131E-167(a) reads as rewritten:

"(a) Applications for certification shall be available from the Department, and each application filed with the Department shall contain all necessary and reasonable information that the Department may by rule require. A certificate shall be granted to the applicant for a period not to exceed one year upon a determination by the Department that the applicant has substantially complied with the provisions of this Article and the rules promulgated by the Department under this Article. The Department shall charge the applicant a nonrefundable annual certification fee in the amount of ~~one hundred twenty five dollars (\$125.00)~~ two hundred fifty dollars (\$250.00)."

SECTION 41.2(g) G.S. 131E-269 reads as rewritten:

"§ 131E-269. Authorization to charge fee for certification of facilities suitable to perform abortions.

The Department of Health and Human Services shall charge each hospital or clinic certified by the Department as a facility suitable for the performance of abortions, as authorized under G.S. 14-45.1, a nonrefundable annual certification fee in the amount of ~~three hundred fifty dollars (\$350.00)~~ seven hundred dollars (\$700.00)."

SECTION 41.2(h) G.S. 122C-23(h) reads as rewritten:

"(h) The Department shall charge facilities licensed under this Chapter that have licensed beds a nonrefundable annual base license fee plus a nonrefundable annual per-bed fee as follows:

Type of Facility	Number of Beds	Base Fee	Per-Bed Fee
Facilities (non-ICF/MR):	6 or fewer beds	\$125.00 <u>250.00</u>	\$0
	More than 6 beds	\$175.00 <u>350.00</u>	\$6.25 <u>12.50</u>
ICF/MR Only:	6 or fewer beds	\$325.00 <u>650.00</u>	\$0
	More than 6 beds	\$325.00 <u>650.00</u>	\$6.25 <u>12.50</u> "

SECTION 41.2(i) G.S. 131E-138.1 reads as rewritten:

"§ 131E-138.1. Licensure fees for nursing beds and adult care home beds in continuing care retirement communities.

The Department shall charge continuing care retirement communities licensed under Article 64 of Chapter 58 of the General Statutes that have nursing home beds or adult care home beds licensed by the Department a nonrefundable annual base license fee in the amount of ~~two hundred twenty five dollars (\$225.00)~~ four hundred fifty dollars (\$450.00) plus a nonrefundable annual per-bed fee in the amount of ~~six dollars and twenty five cents (\$6.25)~~ twelve dollars and fifty cents (\$12.50)."

SECTION 41.2(j) G.S. 131E-267 reads as rewritten:

"§ 131E-267. Fees for departmental review of health care facility construction projects.

The Department of Health and Human Services shall charge a fee for the review of each health care facility construction project to ensure that project plans and construction are in compliance with State law. The fee shall be charged on a one-time, per-project basis, as follows, and shall not exceed twelve thousand five hundred dollars (\$12,500) for any single project:

Institutional Project	Project Fee
Hospitals	\$150.00 plus \$0.10/square foot of project space <u>\$300.00 plus \$0.20/square foot of project space</u>
Nursing Homes	\$125.00 plus \$0.08/square foot of project space

1		\$250.00 plus \$0.16/square foot of project space
2	Ambulatory Surgical Facility	\$100.00 plus \$0.08/square foot of project space
3		\$200.00 plus \$0.16/square foot of project space
4	Psychiatric Hospital	\$100.00 plus \$0.08/square foot of project space
5		\$200.00 plus \$0.16/square foot of project space
6	Adult Care Home more than 7 beds	\$87.00 plus \$0.05/square foot of project space
7	7 or more beds	\$175.00 plus \$0.10/square foot of project space
8		
9	Residential Project	Project Fee
10	Family Care Homes	\$87.00 <u>175.00</u> flat fee
11	ICF/MR Group Homes	\$137.00 <u>275.00</u> flat fee
12	Group Homes: 1-3 beds	\$50.00 <u>100.00</u> flat fee
13	Group Homes: 4-6 beds	\$87.00 <u>175.00</u> flat fee
14	Group Homes: 7-9 beds	\$112.00 <u>225.00</u> flat fee
15	Other residential: More than 9 beds	\$112.00 <u>225.00</u> plus \$0.038/ 0.075 /square foot of project space."

16
17 **SECTION 41.2.(k)** This section becomes effective October 1, 2005.

18
19 **PART XLII. NATURAL AND ECONOMIC RESOURCES FEES**

20
21 Requested by: Representatives Hunter, Warren

22 **INCREASE VARIOUS AGRICULTURAL FEES**

23 **SECTION 42.1.(a)** G.S. 106-284.34(c) reads as rewritten:

24 "(c) No person shall distribute in this State a commercial feed, except a
25 customer-formula feed, which has not been registered pursuant to the provisions of this
26 section. The application for registration shall be submitted in the manner prescribed by
27 the Commissioner. Upon approval by the Commissioner or his duly designated agent
28 the registration shall be issued to the applicant. All registrations expire on the thirty-first
29 day of December of each year. An annual registration fee of ~~three dollars (\$3.00)~~ up to
30 five dollars (\$5.00) for each commercial feed other than canned pet food shall
31 accompany each request for registration. An annual registration fee of ~~ten dollars~~
32 ~~(\$10.00)~~ up to twelve dollars (\$12.00) for each canned pet food shall accompany each
33 request for registration."

34 **SECTION 42.1.(b)** G.S. 106-284.40(b)(4) reads as rewritten:

35 "(4) In the case of a commercial feed other than canned pet food which is
36 distributed in the State only in packages of five pounds or less, an
37 annual registration fee of ~~thirty dollars (\$30.00)~~ up to forty dollars
38 (\$40.00) shall be paid in lieu of the inspection fee specified above."

39 **SECTION 42.1.(c)** G.S. 106-277.28(3) reads as rewritten:

40 "(3) Each seed dealer or grower who has seed, whether originated or
41 labeled by the dealer or grower, that is offered for sale in this State
42 shall report the quantity of seed offered for sale and pay an inspection
43 fee of ~~two cents (2¢)~~ up to four cents (4¢) for each container of seeds
44 weighing 10 pounds or more. Seed shall be subject to the inspection
45 fee and reporting requirements only once in any 12-month period. This
46 fee does not apply to seed grown by a farmer and offered for sale by
47 the farmer at the farm where the seed was grown."

48 **SECTION 42.1.(d)** The Board of Agriculture shall charge no more than the
49 following fees for agronomic services:

50	Test/Service	Fee
51	(1) Routine nematode samples	\$ 3.00
52	(2) Routine waste samples	\$ 5.00
53	(3) Research soil and nematode samples	\$12.00

1	(4)	Research plant, waste, and solution samples	\$12.00
2	(5)	Nonresident nematode samples	\$14.00
3	(6)	Nonresident plant, waste, and solution samples	\$26.00
4	(7)	Special services for plant, waste, and solution samples:	
5	a.	Heavy metals-soils	\$25.00
6	b.	Nitrates-soils	\$ 5.00
7	c.	Waste-heavy metals	\$10.00
8	d.	Waste-N breakout	\$10.00
9	e.	Waste-liming equivalent	\$10.00
10	f.	Plant-chloride	\$ 5.00
11	g.	Plant-molybdenum	\$ 5.00
12	h.	Plant-petiole nitrates	\$ 5.00.

13 **SECTION 42.1.(e)** The Board of Agriculture shall charge no more than the
 14 following fees for animal disease diagnostic tests and services:

15	Test/Service	Fee
16	(1) Histopath	\$30.00
17	(2) Professional services-EIA	\$ 6.00
18	(3) Professional services-blood pour-off fees	\$ 1.00
19	(4) Vacuum tube handling fee	\$ 0.04.

20 **SECTION 42.1.(f)** G.S. 81A-52 reads as rewritten:

21 **"§ 81A-52. License.**

22 All public weighmasters shall be licensed. Any person not less than 18 years of age
 23 who wishes to be a public weighmaster shall apply to the Department on a form
 24 provided by the Department. The Board may adopt rules for determining the
 25 qualifications of the applicant for a license. Public weighmasters shall be licensed for a
 26 period of one year beginning the first day of July and ending on the thirtieth day of
 27 June, and a fee of ~~twelve dollars (\$12.00)~~ up to nineteen dollars (\$19.00) shall be paid
 28 for each person licensed at the time of the filing of the application."

29 **SECTION 42.1.(g)** G.S. 81A-72 reads as rewritten:

30 **"§ 81A-72. Registration; certificate of registration; annual renewal.**

31 The Commissioner or his authorized agent shall register any person who has
 32 complied with the requirements of this Article by making a record of receipt of
 33 application, and the issuing of a certificate or card of registration to applicant,
 34 whereupon the applicant becomes a registered scale technician and shall be known
 35 thereafter as such. Such registration shall be in effect from date of registration until July
 36 1 next and shall be renewed on the first day of July of each year thereafter. A fee of up
 37 to twenty dollars (\$20.00) shall accompany each application for registration and each
 38 annual registration renewal."

39 **SECTION 42.1.(h)** G.S. 81A-11 is repealed.

40 **SECTION 42.1.(i)** Chapter 81A of the General Statutes is amended by
 41 adding the following new section to read:

42 **"§ 81A-12. Fee schedule.**

43 (a) The following maximum fees apply to all weights that are tested and certified
 44 to meet tolerances less stringent than the American Society for Testing and Materials
 45 (ASTM) Standard E617 Class 4. This includes the National Institutes of Standards and
 46 Technology (NIST) Class F tolerance. If the weight error exceeds three-fourths of the
 47 applicable tolerance, adjustment may be required at an additional fee equal to the
 48 normal fee. No extra fee shall be charged for the normal adjustment of a weight cart.
 49 Even if weights are rejected or condemned, fees shall be assessed for the test performed.

50	Customary	Fee/Unit	Metric	Maximum Fee/Unit
51	0-10 lb	\$ 5.00	0-5 kg	\$ 5.00
52	11-100 lb	\$ 10.00	6-50 kg	\$ 10.00
53	101-1000 lb	\$ 20.00	51-500 kg	\$ 20.00

1	<u>1001-2500 lb</u>	<u>\$ 30.00</u>	<u>501-1000 kg</u>	<u>\$ 30.00</u>
2	<u>2501-6000 lb</u>	<u>\$ 50.00</u>	<u>1001-2500 kg</u>	<u>\$ 50.00</u>
3	<u>Weight Carts</u>	<u>\$125.00</u>		
4	<u>up to 6000 lb</u>	<u>(includes adjustment)</u>		

5 (b) The following maximum fees apply to all weights that are tested and certified
 6 to meet ASTM Standard E617 Class 4 or the International Organization of Legal
 7 Metrology (IOLM) R111 Class F2 tolerances. If the weight error exceeds three-fourths
 8 of the applicable tolerance, adjustment may be required at an additional fee equal to the
 9 normal fee. Even if weights are rejected or condemned, fees shall be assessed for the
 10 test performed.

<u>Customary</u>	<u>Fee/Unit</u>	<u>Metric</u>	<u>Maximum Fee/Unit</u>
11 <u>0-10 lb</u>	<u>\$ 10.00</u>	<u>0-5 kg</u>	<u>\$ 10.00</u>
12 <u>11-100 lb</u>	<u>\$ 20.00</u>	<u>6-50 kg</u>	<u>\$ 20.00</u>
13 <u>101-1000 lb</u>	<u>\$ 40.00</u>	<u>51-500 kg</u>	<u>\$ 40.00</u>
14 <u>1001-2500 lb</u>	<u>\$ 60.00</u>	<u>501-1000 kg</u>	<u>\$ 60.00</u>
15 <u>2501-6000 lb</u>	<u>\$100.00</u>	<u>1001-2500 kg</u>	<u>\$100.00</u>

17 (c) The following maximum fees apply to all weights that are calibrated.
 18 Calibration means determining actual mass and conventional mass values with an
 19 assigned uncertainty specific to the test. If necessary and considered feasible by the
 20 metrologist, adjustments to ASTM Class 1, 2, or 3 tolerances or IOLM Class E2, F1, or
 21 F2 tolerances may be made for an additional fee of two times the normal fee.
 22 Adjustments to weights of this group shall require a minimum of 10 days for weights to
 23 return to environmental equilibrium before a final calibration value can be assigned.
 24 Even if weights are rejected or condemned, fees shall be assessed for the test performed.

<u>Customary</u>	<u>Fee/Unit</u>	<u>Metric</u>	<u>Maximum Fee/Unit</u>
25 <u>0-20 lb</u>	<u>\$ 20.00</u>	<u>0-10 kg</u>	<u>\$ 20.00</u>
26 <u>21-50 lb</u>	<u>\$ 40.00</u>	<u>11-30 kg</u>	<u>\$ 40.00</u>
27 <u>51-1000 lb</u>	<u>\$ 70.00</u>	<u>31-500 kg</u>	<u>\$ 70.00</u>
28 <u>1001-2500 lb</u>	<u>\$130.00</u>	<u>501-1000 kg</u>	<u>\$130.00</u>
29 <u>2501-6000 lb</u>	<u>\$200.00</u>	<u>1001-2500 kg</u>	<u>\$200.00</u>

31 (d) The following maximum fees apply to all weights that are calibrated using
 32 NIST weighing designs. These weights are tested in groups (typically either a 1, 2, 3, 5
 33 series or a 1, 2, 2, 5 series) and are subject to the minimum per series fee shown. The
 34 best uncertainty possible from the North Carolina Standards Laboratory shall be
 35 assigned to the mass values of the weights. If necessary and considered feasible by the
 36 metrologist, adjustments to ASTM Class 0, 1, 2, or 3 tolerances or IOLM Class E1, E2,
 37 F1, or F2 tolerances may be made for an additional fee of two times the normal fee.
 38 Adjustments to weights of this group shall require a minimum of 10 days for weights to
 39 return to environmental equilibrium before a final calibration value can be assigned.

<u>Weight Range</u>	<u>Maximum Fee/Unit or Series</u>
40 <u>0-1 kg</u>	<u>\$30.00 each, with a minimum charge of \$90 (3 weights) per series</u>
41 <u>2-30 kg</u>	<u>\$50.00 each, with a minimum charge of \$150 (3 weights) per series</u>
42 <u>0-2 lb</u>	<u>\$30.00 each, with a minimum charge of \$90 (3 weights) per series</u>
43 <u>3-50 lb</u>	<u>\$50.00 each, with a minimum charge of \$150 (3 weights) per series</u>

45 (e) The following maximum fees apply to volumetric standard calibration.

46 Provers or Test Measures Tested By The Volume Transfer Method

<u>Customary</u>	<u>Fee/Test Point</u>	<u>Metric</u>	<u>Fee/Test Point</u>
47 <u>0-5 gal</u>	<u>Up to \$30.00</u>	<u>0-20 liters</u>	<u>Up to \$30.00</u>
48 <u>Over 5 gal</u>	<u>Add up to \$0.40 per each</u>	<u>Over 20 liters</u>	<u>Add up to \$0.10 per each</u>
49	<u>additional gallon</u>		<u>additional liter</u>

50 Volumetric Flasks, Graduates, Provers, Slicker Plate Standards, or Test Measures
 51 Tested By the Gravimetric Calibration Method

<u>Customary</u>	<u>Fee/Test Point</u>	<u>Metric</u>	<u>Fee/Test Point</u>
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1	<u>0-100 gal set-up fee</u>	<u>Up to \$50.00</u>	<u>0-500 liters set-up fee</u>	<u>Up to \$50.00</u>
2	<u>Calibration Fee</u>	<u>Add up to \$2.00</u>	<u>Calibration Fee</u>	<u>Add up to \$0.50</u>
3		<u>per gallon</u>		<u>per liter</u>
4	<u>Small Volume Provers (SVPs) Tested By The Gravimetric Calibration Method</u>			
5	<u>Customary</u>	<u>Fee/Test Point</u>	<u>Metric</u>	<u>Fee/Test Point</u>
6	<u>0-100 gal set-up fee</u>	<u>Up to \$ 100.00</u>	<u>0-500 liters set-up fee</u>	<u>Up to \$100.00</u>
7	<u>Calibration Fee</u>	<u>Add up to \$2.00</u>	<u>Calibration Fee</u>	<u>Add up to \$0.50</u>
8		<u>per gallon</u>		<u>per liter</u>

(f) The following maximum fees apply to tape measures and rigid rules.

<u>Set-Up Fee</u>	<u>Up to \$ 40.00 per instrument</u>
<u>Calibration Fee</u>	<u>Up to \$10.00 calibration interval</u>

(g) The following maximum fees apply to liquid-in-glass and electronic thermometers.

<u>Set-Up Fee</u>	<u>Up to \$40.00/instrument</u>
<u>Calibration Fee</u>	<u>Up to \$20.00/calibration point</u>

Resistance Thermometry Coefficient
Calculation and Report Up to \$100.00/ instrument

(h) Any special tests or weight cleaning shall be billed at the rate of up to seventy dollars (\$70.00) per hour prorated to the nearest tenth of an hour, with a minimum charge of thirty-five dollars (\$35.00).

(i) A minimum charge of twenty-five dollars (\$25.00) per invoice shall apply.

(j) If travel is required in connection with the performance of any of these services, the Department shall be reimbursed at the rates provided in G.S. 138-6.

(k) The Department may refuse to accept for testing any weight or measure the Department deems unsuited for its intended use.

(l) The fee for tests performed on weights or measures that will be used primarily outside of the State of North Carolina shall be twice the amounts set forth in this section."

Requested by: Representatives Hunter, Warren

INCREASE CAP FOR CAMA PERMIT FEES

SECTION 42.3.(a) G.S. 113A-119.1(a) reads as rewritten:

"(a) The Commission shall have the power to establish a graduated fee schedule for the processing of applications for permits, renewals of permits, modifications of permits, or transfers of permits issued pursuant to this Article. In determining the fee schedule, the Commission shall consider the administrative and personnel costs incurred by the Department for processing the applications, related compliance activities, and the complexity of the development sought to be undertaken for which a permit is required under this Article. The fee to be charged for processing an application may not exceed ~~four hundred dollars (\$400.00).~~ eight hundred dollars (\$800.00). The total funds collected from fees authorized by the Commission pursuant to this section in any fiscal year shall not exceed thirty-three and one-third percent (33 1/3%) of the total personnel and administrative costs incurred by the Department for permit processing and compliance programs within the Division of Coastal ~~Area~~ Management."

SECTION 42.3.(b) The Coastal Resources Commission may adopt temporary rules to implement this section.

PART XLIII. JUSTICE AND PUBLIC SAFETY FEES

Requested by: Representatives Haire, Kiser

GENERAL COURT OF JUSTICE FEE INCREASES

SECTION 43.1.(a) G.S. 7A-304(a)(4) reads as rewritten:

1 (a) In every criminal case in the superior or district court, wherein the defendant
2 is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed
3 against the prosecuting witness, the following costs shall be assessed and collected,
4 except that when the judgment imposes an active prison sentence, costs shall be
5 assessed and collected only when the judgment specifically so provides, and that no
6 costs may be assessed when a case is dismissed.

7 ...
8 (4) For support of the General Court of Justice, the sum of ~~seventy-six~~
9 ~~dollars (\$76.00)~~ eighty-five dollars and fifty cents (\$85.50) in the
10 district court, including cases before a magistrate, and the sum of
11 ~~eighty-three dollars (\$83.00)~~ ninety-two dollars and fifty cents
12 (\$92.50) in the superior court, to be remitted to the State Treasurer. For
13 a person convicted of a felony in superior court who has made a first
14 appearance in district court, both the district court and superior court
15 fees shall be assessed. The State Treasurer shall remit the sum of one
16 dollar and five cents (\$1.05) of each fee collected under this
17 subdivision to the North Carolina State Bar for the provision of
18 services described in G.S. 7A-474.4, and ninety-five cents (\$.95) of
19 each fee collected under this subdivision to the North Carolina State
20 Bar for the provision of services described in G.S. 7A-474.19."

21 **SECTION 43.1.(b)** G.S. 7A-305(a)(2) reads as rewritten:

22 (a) In every civil action in the superior or district court, except for actions
23 brought under Chapter 50B of the General Statutes, the following costs shall be
24 assessed:

25 ...
26 (2) For support of the General Court of Justice, the sum of ~~sixty-nine~~
27 ~~dollars (\$69.00)~~ seventy-nine dollars (\$79.00) in the superior court,
28 and the sum of ~~fifty-four dollars (\$54.00)~~ sixty-four dollars (\$64.00) in
29 the district court except that if the case is assigned to a magistrate the
30 sum shall be ~~forty-three dollars (\$43.00)~~ fifty-three dollars (\$53.00).
31 Sums collected under this subdivision shall be remitted to the State
32 Treasurer. The State Treasurer shall remit the sum of one dollar and
33 five cents (\$1.05) of each fee collected under this subdivision to the
34 North Carolina State Bar for the provision of services described in
35 G.S. 7A-474.4, and ninety-five cents (\$.95) of each fee collected under
36 this subdivision to the North Carolina State Bar for the provision of
37 services described in G.S. 7A-474.19."

38 **SECTION 43.1.(c)** G.S. 7A-306(a)(2) reads as rewritten:

39 (a) In every special proceeding in the superior court, the following costs shall be
40 assessed:

41 ...
42 (2) For support of the General Court of Justice the sum of ~~thirty dollars~~
43 ~~(\$30.00)~~ forty dollars (\$40.00). In addition, in proceedings involving
44 land, except boundary disputes, if the fair market value of the land
45 involved is over one hundred dollars (\$100.00), there shall be an
46 additional sum of thirty cents (30¢) per one hundred dollars (\$100.00)
47 of value, or major fraction thereof, not to exceed a maximum
48 additional sum of two hundred dollars (\$200.00). Fair market value is
49 determined by the sale price if there is a sale, the appraiser's valuation
50 if there is no sale, or the appraised value from the property tax records
51 if there is neither a sale nor an appraiser's valuation. Sums collected
52 under this subdivision shall be remitted to the State Treasurer. The
53 State Treasurer shall remit the sum of one dollar and five cents (\$1.05)

1 of each ~~thirty dollar (\$30.00)~~ forty-dollar (\$40.00) General Court of
2 Justice fee collected under this subdivision to the North Carolina State
3 Bar for the provision of services described in G.S. 7A-474.4."

4 **SECTION 43.1.(d)** G.S. 7A-307(a)(2) and (2a) read as rewritten:

5 "(a) In the administration of the estates of decedents, minors, incompetents, of
6 missing persons, and of trusts under wills and under powers of attorney, in trust
7 proceedings under G.S. 36A-23.1, and in collections of personal property by affidavit,
8 the following costs shall be assessed:

9 ...
10 (2) For support of the General Court of Justice, the sum of ~~thirty dollars~~
11 ~~(\$30.00)~~, forty dollars (\$40.00), plus an additional forty cents (40¢)
12 per one hundred dollars (\$100.00), or major fraction thereof, of the
13 gross estate, not to exceed ~~three thousand dollars (\$3,000)~~, six
14 thousand dollars (\$6,000). Gross estate shall include the fair market
15 value of all personalty when received, and all proceeds from the sale of
16 realty coming into the hands of the fiduciary, but shall not include the
17 value of realty. In collections of personal property by affidavit, the fee
18 based on the gross estate shall be computed from the information in
19 the final affidavit of collection made pursuant to G.S. 28A-25-3 and
20 shall be paid when that affidavit is filed. In all other cases, this fee
21 shall be computed from the information reported in the inventory and
22 shall be paid when the inventory is filed with the clerk. If additional
23 gross estate, including income, comes into the hands of the fiduciary
24 after the filing of the inventory, the fee for such additional value shall
25 be assessed and paid upon the filing of any account or report
26 disclosing such additional value. For each filing the minimum fee shall
27 be fifteen dollars (\$15.00). Sums collected under this subdivision shall
28 be remitted to the State Treasurer. The State Treasurer shall remit the
29 sum of one dollar and five cents (\$1.05) of each ~~thirty dollar (\$30.00)~~
30 forty-dollar (\$40.00) General Court of Justice fee collected under this
31 subdivision to the North Carolina State Bar for the provision of
32 services described in G.S. 7A-474.4.

33 (2a) Notwithstanding subdivision (2) of this subsection, the fee of forty
34 cents (40¢) per one hundred dollars (\$100.00), or major fraction, of the
35 gross estate, not to exceed ~~three thousand dollars (\$3,000)~~, six
36 thousand dollars (\$6,000), shall not be assessed on personalty received
37 by a trust under a will when the estate of the decedent was
38 administered under Chapters 28 or 28A of the General Statutes.
39 Instead, a fee of twenty dollars (\$20.00) shall be assessed on the filing
40 of each annual and final account."

41 **SECTION 43.1.(e)** G.S. 15A-145(e) reads as rewritten:

42 "(e) A person who files a petition for expunction of a criminal record under this
43 section must pay the clerk of superior court a fee of ~~sixty five dollars (\$65.00)~~ one
44 hundred twenty-five dollars (\$125.00) at the time the petition is filed. Fees collected
45 under this subsection shall be deposited in the General Fund. This subsection does not
46 apply to petitions filed by an indigent."

47 **SECTION 43.1.(f)** G.S. 15A-1343(b1)(3c) reads as rewritten:

48 "(b1) Special Conditions. – In addition to the regular conditions of probation
49 specified in subsection (b), the court may, as a condition of probation, require that
50 during the probation the defendant comply with one or more of the following special
51 conditions:

52 ...

1 (3c) Remain at his or her residence unless the court or the probation officer
2 authorizes the offender to leave for the purpose of employment,
3 counseling, a course of study, or vocational training. The offender
4 shall be required to wear a device which permits the supervising
5 agency to monitor the offender's compliance with the condition
6 ~~electronically~~ electronically and to pay a fee for the device as specified
7 in subsection (c2) of this section."

8 **SECTION 43.1.(g)** G.S. 20-135.2A(e) reads as rewritten:

9 "(e) Any driver or passenger who fails to wear a seat belt as required by this
10 section shall have committed an infraction and shall pay a penalty of twenty-five dollars
11 (\$25.00) plus court costs in the sum of ~~fifty dollars (\$50.00)~~ seventy-five dollars
12 (\$75.00). Court costs assessed under this section are for the support of the General
13 Court of Justice and shall be remitted to the State Treasurer. Conviction of an infraction
14 under this section has no other consequence."
15

16 Requested by: Representative Kiser

17 **COURT FEE INCREASES TO BENEFIT JUDICIAL BRANCH**

18 **SECTION 43.1A.** Chapter 7A of the General Statutes is amended by adding
19 a new section to read:

20 **"§ 7A-321. Selected court fee increases to benefit Judicial Branch.**

21 Any increased revenue on account of fee increases enacted after January 1, 2007, to
22 G.S. 7A-304(a)(4) and (6), 7A-305(a)(2), 7A-307(a)(2) and (3), and 7A-308(a)(1) to
23 (20) shall be used to support the General Court of Justice and the Judicial Branch."
24

25 Requested by: Representatives Haire, Kiser

26 **DEVICE FEE FOR HOUSE ARREST WITH ELECTRONIC MONITORING**

27 **SECTION 43.2.** G.S. 15A-1343 is amended by adding a new section to
28 read:

29 "(c2) Electronic Monitoring Device Fee. – Any person placed on house arrest with
30 electronic monitoring under subsection (b1) of this section shall pay a fee of ninety
31 dollars (\$90.00) for the electronic monitoring device. The court may exempt a person
32 from paying the fee only for good cause and upon motion of the person placed on house
33 arrest with electronic monitoring. The court may require that the fee be paid in advance
34 or in a lump sum or sums, and a probation officer may require payment by those
35 methods if the officer is authorized by subsection (g) of this section to determine the
36 payment schedule. The fee must be paid to the clerk of court for the county in which the
37 judgment was entered or the deferred prosecution agreement was filed. Fees collected
38 under this subsection shall be transmitted to the State for deposit into the State's General
39 Fund."
40

41 Requested by: Representatives Haire, Kiser

42 **INCREASE BUTNER TAXES**

43 **SECTION 43.3.(a)** Section 1 of Chapter 830 of the 1983 Session Laws
44 reads as rewritten:

45 "Section 1. (a) The territorial jurisdiction of the Butner Police and Fire Protection
46 District shall include: (i) any property formerly a part of the original Camp Butner
47 reservation, including both those areas currently owned and occupied by the State and
48 its agencies and those which may have been leased or otherwise disposed of by the
49 State; (ii) the Lyons Station Sanitary District; and (iii) that part of Granville County
50 adjoining the Butner reservation and the Lyons Station Sanitary District situated north
51 and west of the intersection of Rural Paved Roads 1103 and 1106 and bounded by those
52 roads and the boundaries of said reservation and said sanitary district.

1 (b) The territorial jurisdiction set forth in subsection (a) of this section shall
2 constitute the Butner Fire and Police Protection District. The tax collectors of Durham
3 and Granville Counties shall annually collect ~~beginning with fiscal year 1983-84~~ a tax
4 of ~~twenty cents (20¢)~~ twenty-five cents (25¢) per one hundred dollars (\$100.00)
5 valuation of all real and personal property in the portions of said district in their
6 respective counties from year to year which tax shall be collected as county taxes are
7 collected and shall remit the same to the State Treasurer for deposit in the General
8 Fund."

9 **SECTION 43.3.(b)** This section is effective for taxes imposed for taxable
10 years beginning on or after July 1, 2005.

11 Requested by: Representatives Haire, Kiser

12 **FEE FOR POLICE INFORMATION NETWORK**

13 **SECTION 43.4.(a)** G.S. 114-10.1 reads as rewritten:

14 **"§ 114-10.1. Police Information Network.**

15 (a) The Division of Criminal Statistics is authorized to establish, devise, maintain
16 and operate, under the control and supervision of the Attorney General, a system for
17 receiving and disseminating to participating agencies information collected, maintained
18 and correlated under authority of G.S. 114-10 of this Article. The system shall be
19 known as the Police Information Network.

20 (b) The Attorney General is authorized to cooperate with the Division of Motor
21 Vehicles, Department of Administration, Department of Correction and other State,
22 local and federal agencies and organizations in carrying out the purpose and intent of
23 this section, and to utilize, in cooperation with other State agencies and to the extent as
24 may be practical, computers and related equipment as may be operated by other State
25 agencies.

26 (c) The Attorney General, after consultation with participating agencies, shall
27 adopt rules and regulations governing the organization and administration of the Police
28 Information Network, including rules and regulations governing the types of
29 information relating to the administration of criminal justice to be entered into the
30 system, and who shall have access to such information. The rules and regulations
31 governing access to the Police Information Network shall not prohibit an attorney who
32 has entered a criminal proceeding in accordance with G.S. 15A-141 from obtaining
33 information relevant to that criminal proceeding. The rules and regulations governing
34 access to the Police Information Network shall not prohibit an attorney who represents a
35 person in adjudicatory or dispositional proceedings for an infraction from obtaining the
36 person's driving record or criminal history.

37 (d) The Attorney General may impose an initial set up fee of two thousand six
38 hundred fifty dollars (\$2,650) for agencies to participate in the Police Information
39 Network. This one-time fee shall be used to offset the cost of the router and data circuit
40 needed to access the Network.

41 The Attorney General may also impose monthly fees on participating agencies. The
42 monthly fees collected under this subsection shall be used to offset the cost of operating
43 and maintaining the Police Information Network

44 (1) The Attorney General may impose a monthly circuit fee on agencies
45 that access the Police Information Network through a circuit
46 maintained and operated by the Department of Justice. The amount of
47 the monthly fee is three hundred dollars (\$300.00) plus an additional
48 fee amount for each device linked to the Network. The additional fee
49 amount varies depending upon the type of device. For every desktop
50 device after the first seven desktop devices, the additional monthly fee
51 is twenty-five dollars (\$25.00) per device. For a mobile device, the
52 additional monthly fee is six dollars (\$6.00) per device.
53

(2) The Attorney General may impose a monthly device fee on agencies that access the Police Information Network through some other approved means. The amount of the monthly device fee varies depending upon the type of device. For a desktop device, the monthly fee is twenty-five dollars (\$25.00) per device. For a mobile device, the fee is six dollars (\$6.00) per device."

SECTION 43.4.(b) G.S. 114-10.1(d), as enacted by this section, reads as rewritten:

"(d) The Attorney General may impose an initial set up fee of two thousand six hundred fifty dollars (\$2,650) for agencies to participate in the Police Information Network. This one-time fee shall be used to offset the cost of the router and data circuit needed to access the Network.

The Attorney General may also impose monthly fees on participating agencies. The monthly fees collected under this subsection shall be used to offset the cost of operating and maintaining the Police Information Network

(1) The Attorney General may impose a monthly circuit fee on agencies that access the Police Information Network through a circuit maintained and operated by the Department of Justice. The amount of the monthly fee is three hundred dollars (\$300.00) plus an additional fee amount for each device linked to the Network. The additional fee amount varies depending upon the type of device. For a desktop device after the first seven desktop devices, the additional monthly fee is twenty-five dollars (\$25.00) per device. For a mobile device, the additional monthly fee is ~~six dollars (\$6.00)~~ twelve dollars (\$12.00) per device.

(2) The Attorney General may impose a monthly device fee on agencies that access the Police Information Network through some other approved means. The amount of the monthly device fee varies depending upon the type of device. For a desktop device, the monthly fee is twenty-five dollars (\$25.00) per device. For a mobile device, the fee is ~~six dollars (\$6.00)~~ twelve dollars (\$12.00) per device."

SECTION 43.4.(c) Subsection (b) of this section becomes effective January 1, 2006. The remainder of this section is effective when it becomes law.

PART XLIV. DEPARTMENT OF TRANSPORTATION FEE CHANGES

Requested by: Representatives Coates, Cole

DOT FEE INCREASES

SECTION 44.1.(a) G.S. 20-7 reads as rewritten:

"§ 20-7. Issuance and renewal of drivers licenses.

...

(i) Fees. – The fee for a regular drivers license is the amount set in the following table multiplied by the number of years in the period for which the license is issued:

Class of Regular License	Fee For Each Year
Class A	\$4.30 <u>\$4.00</u>
Class B	4.30 <u>4.00</u>
Class C	3.05 <u>4.00</u>

The fee for a motorcycle endorsement is one dollar and seventy-five cents (\$1.75) for each year of the period for which the endorsement is issued. The appropriate fee shall be paid before a person receives a regular drivers license or an endorsement.

1 (i1) Restoration Fee. – Any person whose drivers license has been revoked
2 pursuant to the provisions of this Chapter, other than G.S. 20-17(2), shall pay a
3 restoration fee of ~~twenty five dollars (\$25.00).~~ fifty dollars (\$50.00). A person whose
4 drivers license has been revoked under G.S. 20-17(2) shall pay a restoration fee of ~~fifty~~
5 ~~dollars (\$50.00)~~ seventy-five dollars (\$75.00) until the end of the fiscal year in which
6 the cumulative total amount of fees deposited under this subsection in the General Fund
7 exceeds ten million dollars (\$10,000,000), and shall pay a restoration fee of ~~twenty five~~
8 ~~dollars (\$25.00)~~ fifty dollars (\$50.00) thereafter. The fee shall be paid to the Division
9 prior to the issuance to such person of a new drivers license or the restoration of the
10 drivers license. The restoration fee shall be paid to the Division in addition to any and
11 all fees which may be provided by law. This restoration fee shall not be required from
12 any licensee whose license was revoked or voluntarily surrendered for medical or health
13 reasons whether or not a medical evaluation was conducted pursuant to this Chapter.
14 The ~~twenty five dollar (\$25.00) fee, and the first twenty five dollars (\$25.00) of the~~
15 ~~fifty dollar (\$50.00) fee, fifty-dollar (\$50.00) fee, and the first fifty dollars (\$50.00) of~~
16 ~~the seventy-five-dollar (\$75.00) fee, shall be deposited in the Highway Fund. The~~
17 ~~remaining twenty-five dollars (\$25.00) of the fifty dollar (\$50.00) fee the~~
18 ~~seventy-five-dollar (\$75.00) fee shall be deposited in the General Fund of the State. The~~
19 ~~Office of State Budget and Management shall certify to the Department of~~
20 ~~Transportation and the General Assembly when the cumulative total amount of fees~~
21 ~~deposited in the General Fund under this subsection exceeds ten million dollars~~
22 ~~(\$10,000,000), and shall annually report to the General Assembly the amount of fees~~
23 ~~deposited in the General Fund under this subsection.~~

24 It is the intent of the General Assembly to annually appropriate the funds deposited
25 in the General Fund under this subsection to the Board of Governors of The University
26 of North Carolina to be used for the Center for Alcohol Studies Endowment at The
27 University of North Carolina at Chapel Hill, but not to exceed this cumulative total of
28 ten million dollars (\$10,000,000).

29 ...
30 (i) Learner's Permit. – A person who is at least 18 years old may obtain a
31 learner's permit. A learner's permit authorizes the permit holder to drive a specified type
32 or class of motor vehicle while in possession of the permit. A learner's permit is valid
33 for a period of 18 months after it is issued. The fee for a learner's permit is ~~ten dollars~~
34 ~~(\$10.00).~~ fifteen dollars (\$15.00). A learner's permit may be renewed, or a second
35 learner's permit may be issued, for an additional period of 18 months. The permit holder
36 must, while operating a motor vehicle over the highways, be accompanied by a person
37 who is licensed to operate the motor vehicle being driven and is seated beside the permit
38 holder."

39 **SECTION 44.1.(b)** G.S. 20-11(j) reads as rewritten:

40 "(j) Duration and Fee. – A limited learner's permit expires on the eighteenth
41 birthday of the permit holder. A limited provisional license expires on the eighteenth
42 birthday of the license holder. A limited learner's permit or limited provisional license
43 issued under this section that expires on a weekend or State holiday shall remain valid
44 through the fifth regular State business day following the date of expiration. A full
45 provisional license expires on the date set under G.S. 20-7(f). The fee for a limited
46 learner's permit or a limited provisional license is ~~ten dollars (\$10.00).~~ fifteen dollars
47 (\$15.00). The fee for a full provisional license is the amount set under G.S. 20-7(i)."

48 **SECTION 44.1.(c)** G.S. 20-14 reads as rewritten:

49 "**§ 20-14. Duplicate licenses.**

50 A person may obtain a duplicate of a license issued by the Division by paying a fee
51 of ten dollars ~~and five cents (\$10.05)~~ (\$10.00) and giving the Division satisfactory proof
52 that any of the following has occurred:

53 (1) The person's license has been lost or destroyed.

- (2) It is necessary to change the name or address on the license.
- (3) Because of age, the person is entitled to a license with a different color photographic background or a different color border.
- (4) The Division revoked the person's license, the revocation period has expired, and the period for which the license was issued has not expired."

SECTION 44.1.(d) G.S. 20-16(e) reads as rewritten:

"(e) The Division may conduct driver improvement clinics for the benefit of those who have been convicted of one or more violations of this Chapter. Each driver attending a driver improvement clinic shall pay a fee of ~~twenty five dollars (\$25.00)~~ fifty dollars (\$50.00)."

SECTION 44.1.(e) G.S. 20-26(c) reads as rewritten:

"(c) The Division shall furnish copies of license records required to be kept by subsection (a) of this section in accordance with G.S. 20-43.1 to other persons for uses other than official upon prepayment of the following fees:

- (1) Limited extract copy of license record, for period up to three years ~~\$5.00~~ \$8.00
- (2) Complete extract copy of license record ~~5.00~~ 8.00
- (3) Certified true copy of complete license record ~~7.00~~ 11.00.

All fees received by the Division under this subsection shall be credited to the Highway Fund."

SECTION 44.1.(f) G.S. 20-37.15(a1) reads as rewritten:

"(a1) The application must be accompanied by a nonrefundable application fee of ~~twenty dollars (\$20.00)~~ thirty dollars (\$30.00). This fee does not apply in any of the following circumstances:

- (1) When an individual surrenders a commercial driver learner's permit issued by the Division when submitting the application.
- (2) When the application is to renew a commercial drivers license issued by the Division.

This fee shall entitle the applicant to three attempts to pass the written knowledge test without payment of a new fee. No application fee shall be charged to an applicant eligible for a waiver under G.S. 20-37.13(c)."

SECTION 44.1.(g) G.S. 20-37.16(d) reads as rewritten:

"(d) The fee for a Class A, B, or C commercial drivers license is ~~ten dollars (\$10.00)~~ fifteen dollars (\$15.00) for each year of the period for which the license is issued. The fee for each endorsement is ~~one dollar and twenty five cents (\$1.25)~~ three dollars (\$3.00) for each year of the period for which the endorsement is issued. The fees required under this section do not apply to employees of the Driver License Section of the Division who are designated by the Commissioner."

SECTION 44.1.(h) G.S. 20-42(b) reads as rewritten:

"(b) The Commissioner and officers of the Division designated by the Commissioner may prepare under the seal of the Division and deliver upon request a certified copy of any document of the Division for a fee. The fee for a document, other than an accident report under G.S. 20-166.1, is ~~five dollars (\$5.00)~~ ten dollars (\$10.00). The fee for an accident report is ~~four dollars (\$4.00)~~ five dollars (\$5.00). A certified copy shall be admissible in any proceeding in any court in like manner as the original thereof, without further certification. The certification fee does not apply to a document furnished for official use to a judicial official or to an official of the federal government, a state government, or a local government."

SECTION 44.1.(i) G.S. 20-50(b) reads as rewritten:

"(b) The Division may issue a temporary license plate for a vehicle. A temporary license plate is valid for the period set by the Division. The period may not be less than 10 days nor more than 60 days.

1 A person may obtain a temporary license plate for a vehicle by filing an application
 2 with the Division and paying the required fee. An application must be filed on a form
 3 provided by the Division.

4 The fee for a temporary license plate that is valid for 10 days is ~~three dollars (\$3.00)-~~
 5 five dollars (\$5.00). The fee for a temporary license plate that is valid for more than 10
 6 days is the amount that would be required with an application for a license plate for the
 7 vehicle. If a person obtains for a vehicle a temporary license plate that is valid for more
 8 than 10 days and files an application for a license plate for that vehicle before the
 9 temporary license plate expires, the person is not required to pay the fee that would
 10 otherwise be required for the license plate.

11 A temporary license plate is subject to the following limitations and conditions:

- 12 (1) It may be issued only upon proper proof that the applicant has met the
- 13 applicable financial responsibility requirements.
- 14 (2) It expires on midnight of the day set for expiration.
- 15 (3) It may be used only on the vehicle for which issued and may not be
- 16 transferred, loaned, or assigned to another.
- 17 (4) If it is lost or stolen, the person who applied for it must notify the
- 18 Division.
- 19 (5) It may not be issued by a dealer.
- 20 (6) The provisions of G.S. 20-63, 20-71, 20-110 and 20-111 that apply to
- 21 license plates apply to temporary license plates insofar as possible."

22 **SECTION 44.1.(j)** G.S. 20-73(c) reads as rewritten:

23 "(c) Penalties. – A person to whom a vehicle is transferred who fails to apply for a
 24 certificate of title within the required time is subject to a civil penalty of ~~ten dollars~~
 25 (~~\$10.00~~) fifteen dollars (\$15.00) and is guilty of a Class 2 misdemeanor. A person who
 26 undertakes to apply for a certificate of title on behalf of another person and who fails to
 27 apply for a title within the required time is subject to a civil penalty of ~~ten dollars~~
 28 (~~\$10.00~~) fifteen dollars (\$15.00). When a person to whom a vehicle is transferred fails
 29 to obtain a title within the required time because a person who undertook to apply for
 30 the certificate of title did not do so within the required time, the Division may impose a
 31 civil penalty only on the person who undertook to apply for the title. Civil penalties
 32 collected under this subsection shall be credited to the Highway Fund."

33 **SECTION 44.1.(k)** G.S. 20-85(a) reads as rewritten:

34 "(a) The following fees are imposed concerning a certificate of title, a registration
 35 card, or a registration plate for a motor vehicle. These fees are payable to the Division
 36 and are in addition to the tax imposed by Article 5A of Chapter 105 of the General
 37 Statutes.

- 38 (1) Each application for certificate of title ~~\$35.00~~\$39.00
- 39 (2) Each application for duplicate or corrected certificate of title
- 40 ~~10.00~~14.00
- 41 (3) Each application of reposessor for certificate of title ~~10.00~~14.00
- 42 (4) Each transfer of registration ~~10.00~~15.00
- 43 (5) Each set of replacement registration plates ~~10.00~~15.00
- 44 (6) Each application for duplicate registration card..... ~~10.00~~15.00
- 45 (7) Each application for recording supplementary lien..... ~~10.00~~14.00
- 46 (8) Each application for removing a lien from a certificate of title
- 47 ~~10.00~~14.00
- 48 (9) Each application for certificate of title for a motor vehicle transferred
- 49 to a manufacturer, as defined in G.S. 20-286, or a motor vehicle
- 50 retailer for the purpose of resale..... ~~10.00~~14.00
- 51 (10) Each application for a salvage certificate of title made by an insurer
- 52 ~~10.00~~15.00

(11) Each set of replacement Stock Car Racing Theme plates issued under G.S. 20-79.425.00."

SECTION 44.1.(l) G.S. 20-85.1 reads as rewritten:

"§ 20-85.1. Registration by mail; one-day title service; fees.

(a) The owner of a vehicle registered in North Carolina may renew that vehicle registration by mail. A postage and handling fee of one dollar (\$1.00) per vehicle to be registered shall be charged for this service.

(b) The Commissioner and the employees of the Division designated by the Commissioner may prepare and deliver upon request a certificate of title, charging a fee of ~~fifty dollars (\$50.00)~~ seventy-five dollars (\$75.00) for one-day title service, in lieu of the title fee required by G.S. 20-85(a). The fee for one-day title service must be paid by cash or by certified check.

(c) The fee collected under subsection (a) shall be credited to the Highway Fund. The fee collected under subsection (b) shall be credited to the Highway Trust Fund."

SECTION 44.1.(m) G.S. 20-87 reads as rewritten:

"§ 20-87. Passenger vehicle registration fees.

These shall be paid to the Division annually, as of the first day of January, for the registration and licensing of passenger vehicles, fees according to the following classifications and schedules:

(1) For-Hire Passenger Vehicles. – The fee for a passenger vehicle that is operated for compensation and has a capacity of 15 passengers or less is seventy-eight dollars (\$78.00). The fee for a passenger vehicle that is operated for compensation and has a capacity of more than 15 passengers is one dollar and forty cents (\$1.40) per hundred pounds of empty weight of the vehicle.

(2) U-Drive-It Vehicles. – U-drive-it vehicles shall pay the following tax:

Motorcycles:	1-passenger capacity	\$18.00
	2-passenger capacity	22.00
	3-passenger capacity	26.00
Automobiles:	15 or fewer passengers	\$41.00 \$51.00
Buses:	16 or more passengers	\$1.40 \$2.00 per
		hundred
		pounds of
		empty weight

Trucks under
7,000 pounds
that do not
haul products
for hire:

4,000 pounds.....	\$41.50
5,000 pounds.....	\$51.00
6,000 pounds.....	\$61.00.

(3) Repealed by Session Laws 1981, c. 976, s. 3.

(4) Limousine Vehicles. – For-hire passenger vehicles on call or demand which do not solicit passengers indiscriminately for hire between points along streets or highways, shall be taxed at the same rate as for-hire passenger vehicles under G.S. 20-87(1) but shall be issued appropriate registration plates to distinguish such vehicles from taxicabs.

(5) Private Passenger Vehicles. – There shall be paid to the Division annually, as of the first day of January, for the registration and licensing of private passenger vehicles, fees according to the following classifications and schedules:

Private passenger vehicles of not more than fifteen

- 1 passengers \$20.00 ~~\$28.00~~
 2 Private passenger vehicles over fifteen passengers ~~23.00~~ 31.00
 3 Provided, that a fee of only one dollar (\$1.00) shall be charged for any
 4 vehicle given by the federal government to any veteran on account of
 5 any disability suffered during war so long as such vehicle is owned by
 6 the original donee or other veteran entitled to receive such gift under
 7 Title 38, section 252, United States Code Annotated.
 8 (6) Private Motorcycles. – The base fee on private passenger motorcycles
 9 shall be ~~nine dollars (\$9.00); fifteen dollars (\$15.00);~~ except that when
 10 a motorcycle is equipped with an additional form of device designed to
 11 transport persons or property, the base fee shall be ~~sixteen dollars~~
 12 ~~(\$16.00). twenty-two dollars (\$22.00).~~ An additional fee of three
 13 dollars (\$3.00) is imposed on each private motorcycle registered under
 14 this subdivision in addition to the base fee. The revenue from the
 15 additional fee, in addition to any other funds appropriated for this
 16 purpose, shall be used to fund the Motorcycle Safety Instruction
 17 Program created in G.S. 115D-72.
 18 (7) Dealer License Plates. – The fee for a dealer license plate is the regular
 19 fee for each of the first five plates issued to the same dealer and is
 20 one-half the regular fee for each additional dealer license plate issued
 21 to the same dealer. The "regular fee" is the fee set in subdivision (5) of
 22 this section for a private passenger motor vehicle of not more than 15
 23 passengers.
 24 (8) Driveaway Companies. – Any person engaged in the business of
 25 driving new motor vehicles from the place of manufacture to the place
 26 of sale in this State for compensation shall pay a fee of one-half of the
 27 amount that would otherwise be payable under this section for each set
 28 of plates.
 29 (9) House Trailers. – In lieu of other registration and license fees levied on
 30 house trailers under this section or G.S. 20-88, the registration and
 31 license fee on house trailers shall be ~~seven dollars (\$7.00) eleven~~
 32 ~~dollars (\$11.00)~~ for the license year or any portion thereof.
 33 (10) Special Mobile Equipment. – The fee for special mobile equipment for
 34 the license year or any part of the license year is two times the fee in
 35 subdivision (5) for a private passenger motor vehicle of not more than
 36 15 passengers.
 37 (11) Any vehicle fee determined under this section according to the weight
 38 of the vehicle shall be increased by the sum of three dollars (\$3.00) to
 39 arrive at the total fee.
 40 (12) Low-Speed Vehicles. – The fee for a low-speed vehicle is the same as
 41 the fee for private passengers vehicles of not more than 15
 42 passengers."

43 **SECTION 44.1(n)** G.S. 20-88 reads as rewritten:

44 **"§ 20-88. Property-hauling vehicles.**

45 (a) Determination of Weight. – For the purpose of licensing, the weight of
 46 self-propelled property-carrying vehicles shall be the empty weight and heaviest load to
 47 be transported, as declared by the owner or operator; provided, that any determination
 48 of weight shall be made only in units of 1,000 pounds or major fraction thereof, weights
 49 of over 500 pounds counted as 1,000 and weights of 500 pounds or less disregarded.
 50 The declared gross weight of self-propelled property-carrying vehicles operated in
 51 conjunction with trailers or semitrailers shall include the empty weight of the vehicles to
 52 be operated in the combination and the heaviest load to be transported by such
 53 combination at any time during the registration period, except that the gross weight of a

1 trailer or semitrailer is not required to be included when the operation is to be in
 2 conjunction with a self-propelled property-carrying vehicle which is licensed for 6,000
 3 pounds or less gross weight and the gross weight of such combination does not exceed
 4 9,000 pounds, except wreckers as defined under G.S. 20-4.01(50). Those
 5 property-hauling vehicles registered for 4,000 pounds shall be permitted a tolerance of
 6 500 pounds above the weight permitted under the table of weights and rates appearing
 7 in subsection (b) of this section.

8 (b) The following fees are imposed on the annual registration of self-propelled
 9 property-hauling vehicles; the fees are based on the type of vehicle and its weight:

10 **SCHEDULE OF WEIGHTS AND RATES**

11

12 Rates Per Hundred Pound Gross Weight

	Farmer Rate
13 Not over 4,000 pounds	\$0.23 \$0.29
14 4,001 to 9,000 pounds inclusive	.29 .40
15 9,001 to 13,000 pounds inclusive	.37 .50
16 13,001 to 17,000 pounds inclusive	.51 .68
17 Over 17,000 pounds	.58 .77

18 Rates Per Hundred Pound Gross Weight

	General Rate
19 Not over 4,000 pounds	\$0.46 \$0.59
20 4,001 to 9,000 pounds inclusive	.63 .81
21 9,001 to 13,000 pounds inclusive	.78 1.00
22 13,001 to 17,000 pounds inclusive	1.06 1.36
23 Over 17,000 pounds	1.20 1.54

- 24 (1) The minimum fee for a vehicle licensed under this subsection is ~~seventeen dollars and fifty cents (\$17.50)~~ twenty-four dollars (\$24.00)
 25 at the farmer rate and ~~twenty one dollars and fifty cents (\$21.50)~~ twenty-eight dollars (\$28.00) at the general rate.
- 26 (2) The term "farmer" as used in this subsection means any person
 27 engaged in the raising and growing of farm products on a farm in
 28 North Carolina not less than 10 acres in area, and who does not engage
 29 in the business of buying products for resale.
- 30 (3) License plates issued at the farmer rate shall be placed upon trucks and
 31 truck-tractors that are operated exclusively in the carrying or
 32 transportation of applicant's farm products, raised or produced on his
 33 farm, and farm supplies and not operated in hauling for hire.
- 34 (4) "Farm products" means any food crop, livestock, poultry, dairy
 35 products, flower bulbs, or other nursery products and other agricultural
 36 products designed to be used for food purposes, including in the term
 37 "farm products" also cotton, tobacco, logs, bark, pulpwood, tannic acid
 38 wood and other forest products grown, produced, or processed by the
 39 farmer.
- 40 (5) The Division shall issue necessary rules and regulations providing for
 41 the recall, transfer, exchange or cancellation of "farmer" plates, when
 42 vehicle bearing such plates shall be sold or transferred.
- 43 (5a) Notwithstanding any other provision of this Chapter, license plates
 44 issued pursuant to this subsection at the farmer rate may be purchased
 45 for any three-month period at one fourth of the annual fee.
- 46
47
48
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1 (6) There shall be paid to the Division annually as of the first of January,
2 the following fees for "wreckers" as defined under G.S. 20-4.01(50): a
3 wrecker fully equipped weighing 7,000 pounds or less, seventy-five
4 dollars (\$75.00); wreckers weighing in excess of 7,000 pounds shall
5 pay one hundred forty-eight dollars (\$148.00). Fees to be prorated
6 quarterly. Provided, further, that nothing herein shall prohibit a
7 licensed dealer from using a dealer's license plate to tow a vehicle for a
8 customer.

9 (c) The fee for a semitrailer or trailer is ~~ten dollars (\$10.00)~~ nineteen dollars
10 (\$19.00) for each year or part of a year. The fee is payable on or before January 1 of
11 each year. Upon the application of the owner of a semitrailer or trailer, the Division may
12 issue a multiyear plate and registration card for the semitrailer or trailer for a fee of
13 seventy-five dollars (\$75.00). A multiyear plate and registration card for a semitrailer or
14 trailer are valid until the owner transfers the semitrailer or trailer to another person or
15 surrenders the plate and registration card to the Division. A multiyear plate may not be
16 transferred to another vehicle.

17 The Division shall issue a multiyear semitrailer or trailer plate in a different color
18 than an annual semitrailer or trailer plate and shall include the word "multiyear" on the
19 plate. The Division may not issue a multiyear plate for a house trailer.

20 (d) Rates on trucks, trailers and semitrailers wholly or partially equipped with
21 solid tires shall be double the above schedule.

22 (e) Repealed by Session Laws 1981, c. 976, s. 6.

23 (f) Repealed by Session Laws 1995, c. 163, s. 6.

24 (g) Repealed by Session Laws 1969, c. 600, s. 17.

25 (h) Repealed by Session Laws 1979, c. 419.

26 (i) Any vehicle fee determined under this section according to the weight of the
27 vehicle shall be increased by the sum of three dollars (\$3.00) to arrive at the total fee.

28 (j) No heavy vehicle subject to the use tax imposed by Section 4481 of the
29 Internal Revenue Code of 1954 (26 U.S.C. 4481) may be registered or licensed pursuant
30 to G.S. 20-88 without proof of payment of the use tax imposed by that law. The proof of
31 payment shall be on a form prescribed by the United States Secretary of Treasury
32 pursuant to the provisions of 23 U.S.C. 141(d).

33 (k) A person may not drive a vehicle on a highway if the vehicle's gross weight
34 exceeds its declared gross weight. A vehicle driven in violation of this subsection is
35 subject to the axle-group weight penalties set in G.S. 20-118(e). The penalties apply to
36 the amount by which the vehicle's gross weight exceeds its declared weight.

37 (l) The Division shall issue permanent truck and truck-tractor plates to Class A
38 and Class B Motor Vehicles and shall include the word "permanent" on the plate. The
39 permanent registration plates issued pursuant to this section shall be subject to annual
40 registration fees set in this section. The Division shall issue the necessary rules
41 providing for the recall, transfer, exchange, or cancellation of permanent plates issued
42 pursuant to this section."

43 **SECTION 44.1.(o)** G.S. 20-289 reads as rewritten:

44 "**§ 20-289. License fees.**

45 (a) The license fee for each fiscal year, or part thereof, shall be as follows:

46 (1) For motor vehicle dealers, distributors, distributor branches, and
47 wholesalers, ~~fifty dollars (\$50.00)~~ seventy dollars (\$70.00) for each
48 place of business.

49 (2) For manufacturers, ~~one hundred dollars (\$100.00)~~, one hundred fifty
50 dollars (\$150.00) and for each factory branch in this State, ~~seventy~~
51 ~~dollars (\$70.00)~~ one hundred dollars (\$100.00).

52 (3) For motor vehicle sales representatives, ~~ten dollars (\$10.00)~~ fifteen
53 dollars (\$15.00).

1 (4) For factory representatives, or distributor representatives, ~~ten dollars~~
 2 ~~(\$10.00)~~ fifteen dollars (\$15.00).

3 (5) Repealed by Session Laws 1991, c. 662, s. 4.

4 (b) The fees collected under this section shall be credited to the Highway Fund.
 5 These fees are in addition to all other taxes and fees."

6 **SECTION 44.1.(p)** G.S. 20-385 reads as rewritten:

7 **"§ 20-385. Fee schedule.**

8 (a) Amounts. –

- | | |
|---|-------------------------------|
| 9 (1) Verification by a for-hire motor | |
| 10 carrier of insurance for each for-hire | |
| 11 motor vehicle operated in this State | \$ 1.00 |
| 12 (2) Application by an intrastate motor carrier | |
| 13 for a certificate of exemption | 25.00 <u>45.00</u> |
| 14 (3) Certification by an interstate motor carrier | |
| 15 that it is not regulated by the United | |
| 16 States Department of Transportation | 25.00 <u>45.00</u> |
| 17 (4) Application by an interstate motor carrier | |
| 18 for an emergency permit | 10.00 <u>18.00</u> |

19 (b) Reciprocal Agreements. – The fee set in subdivision (a)(1) of this section
 20 does not apply to the verification of insurance by an interstate motor carrier regulated by
 21 the United States Department of Transportation if the Division had a reciprocal
 22 agreement on November 15, 1991, with another state by which no fee is imposed. The
 23 Division had reciprocal agreements as of that date with the following states: California,
 24 Delaware, Indiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri,
 25 Nebraska, New Jersey, Pennsylvania, Texas, and Vermont."

26 **SECTION 44.1.(q)** Section 5(c) of S.L. 2004-189 reads as rewritten:

27 **"SECTION 5.(c)** The Division of Motor Vehicles shall retain a portion of ~~the~~
 28 ~~proceeds~~ five cents (\$0.05) collected for the issuance of each of the increase in drivers
 29 license and duplicate license fees ~~enacted in this Section~~ to offset the actual cost of
 30 developing and maintaining the online Organ Donor Internet site established pursuant to
 31 Section 1 of this act. ~~Proceeds remaining after deduction of amounts for development~~
 32 ~~and maintenance costs~~ The remainder of the five cents (\$0.05) shall be credited to the
 33 License to Give Trust Fund established under G.S. 20-7.4 and shall be used for the
 34 purposes authorized under G.S. 20-7.4 and G.S. 20-7.5."

35 **SECTION 44.1.(r)** G.S. 20-291 reads as rewritten:

36 **"§ 20-291. Representatives to carry license and display it on request; license to**
 37 **name employer.**

38 Every person to whom a sales representative, factory representative, or distributor
 39 representative license is issued shall carry the license when engaged in business, and
 40 shall display it upon request. The license shall state the name of the representative's
 41 employer. If the representative changes employers, the representative shall immediately
 42 apply to the Division for a license that states the name of the representative's new
 43 employer. The fee for issuing a license stating the name of a new employer is ~~one-half~~
 44 ~~the fee set in G.S. 20-289 for an annual license.~~ ten dollars (\$10.00)."

45 **SECTION 44.1.(s)** This section becomes effective October 1, 2005, and
 46 applies to fees collected on or after that date.

47
 48 **PART XLV. INDUSTRIAL COMMISSION FEES**

49
 50 Requested by: Representatives Hunter, Warren
 51 **INDUSTRIAL COMMISSION FEES**

52 **SECTION 45.1.(a)** G.S. 97-73 reads as rewritten:

53 **"§ 97-73. Expenses of making examinations. Fees.**

1 (a) The Industrial Commission ~~shall~~may establish by rule a schedule of fees for
2 examinations ~~conducted and conducted~~, reports ~~made pursuant to G.S. 97-61.1 through~~
3 ~~97-61.6 and 97-67 through 97-71.~~ made, documents filed, and agreements reviewed
4 under this Article. The fees shall be collected in accordance with rules adopted by the
5 Industrial Commission.

6 (b), (c) Repealed by Session Laws 2003-284, s. 10.33(d), effective July 1, 2003."

7 **SECTION 45.1.(b)** This section is effective when it becomes law.
8

9 **PART XLVI. MISCELLANEOUS PROVISIONS**

10 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
11 Michaux

12 **EXECUTIVE BUDGET ACT APPLIES**

13 **SECTION 46.1.** The provisions of the Executive Budget Act, Chapter 143,
14 Article 1 of the General Statutes, are reenacted and shall remain in full force and effect
15 and are incorporated in this act by reference.
16

17 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
18 Michaux

19 **COMMITTEE REPORT**

20 **SECTION 46.2.(a)** The House of Representatives Appropriations Budget
21 Committee Report on the Continuation, Expansion and Capital Budgets, dated June 15,
22 2005, which was distributed in the House of Representatives and the Senate and used to
23 explain this act, shall indicate action by the General Assembly on this act and shall
24 therefore be used to construe this act, as provided in G.S. 143-15 of the Executive
25 Budget Act, and for these purposes shall be considered a part of this act and as such
26 shall be printed as a part of the Session Laws.
27

28 **SECTION 46.2.(b)** The budget enacted by the General Assembly for the
29 maintenance of the various departments, institutions, and other spending agencies of the
30 State for the 2005-2007 fiscal biennium is a line-item budget, in accordance with the
31 Budget Code Structure and the State Accounting System Uniform Chart of Accounts set
32 out in the Administrative Policies and Procedures Manual of the Office of the State
33 Controller. This budget includes the appropriations made from all sources including the
34 General Fund, Highway Fund, special funds, cash balances, federal receipts, and
35 departmental receipts.

36 The Director of the Budget submitted the itemized budget requests to the
37 General Assembly on February 23, 2005, in the documents "North Carolina State
38 Budget 2005-2007, Summary of Recommendations" and "State of North Carolina
39 2005-2007 Recommended Continuation Budget" volumes one through six. The
40 beginning appropriation for the 2005-2006 fiscal year and the 2006-2007 fiscal year for
41 the various departments, institutions, and other spending agencies of the State is
42 referenced in Tables 12 and 13 of the Summary of Recommendations document as the
43 recommended continuation budget.

44 The General Assembly adjusted the recommended continuation budget to
45 incorporate all nonrecurring adjustments enacted by the 2003 General Assembly as
46 required in S.L. 2004-124 and S.L. 2003-284. These adjustments affect the Division of
47 Medical Assistance, the Division of Mental Health, Developmental Disabilities, and
48 Substance Abuse Services, the Clean Water Management Trust Fund, the Department of
49 Crime Control and Public Safety, the Judicial Department, the General Assembly, the
50 Department of Revenue, the Office of State Budget and Management, the Community
51 Colleges System Office, The University of North Carolina – Board of Governors, the
52 Department of Transportation, the Reserve for Death Benefit Trust, and the Reserve for
53 Disability Income Plan. These adjustments to the recommended continuation budget are

1 set out in the House of Representatives Appropriations Committee Report on the
2 Continuation, Expansion, and Capital Budgets dated June 15, 2005. The recommended
3 continuation budget submitted by the Director of the Budget, as adjusted by the General
4 Assembly, is referred to as the adjusted continuation budget and represents the starting
5 point for further legislative revisions.

6 The General Assembly revised the adjusted continuation budget for the
7 2005-2006 fiscal year and the 2006-2007 fiscal year in accordance with the steps that
8 follow, and the line-item detail in the budget enacted by the General Assembly may be
9 derived accordingly:

10 (1) The adjusted continuation budget was revised in accordance with
11 reductions and additions that were set out in the House of
12 Representatives Appropriations Committee Report on the
13 Continuation, Expansion, and Capital Budgets dated June 15, 2005,
14 together with any accompanying correction sheets.

15 (2) Transfers of funds supporting programs were made in accordance with
16 the House of Representatives Appropriations Committee Report on the
17 Continuation, Expansion, and Capital Budgets dated June 15, 2005,
18 together with any accompanying correction sheets.

19 **SECTION 46.2.(c)** The budget enacted by the General Assembly shall also
20 be interpreted in accordance with the special provisions in this act and in accordance
21 with other appropriate legislation.

22 In the event that there is a conflict between the line-item budget certified by
23 the Director of the Budget and the budget enacted by the General Assembly, the budget
24 enacted by the General Assembly shall prevail.

25
26 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
27 Michaux

28 **MOST TEXT APPLIES ONLY TO THE 2005-2007 FISCAL BIENNIUM**

29 **SECTION 46.3.** Except for statutory changes or other provisions that clearly
30 indicate an intention to have effects beyond the 2005-2007 fiscal biennium, the textual
31 provisions of this act apply only to funds appropriated for, and activities occurring
32 during, the 2005-2007 fiscal biennium.

33
34 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
35 Michaux

36 **EFFECT OF HEADINGS**

37 **SECTION 46.4.** The headings to the parts and sections of this act are a
38 convenience to the reader and are for reference only. The headings do not expand,
39 limit, or define the text of this act, except for effective dates referring to a Part.

40
41 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
42 Michaux

43 **SEVERABILITY CLAUSE**

44 **SECTION 46.5.** If any section or provision of this act is declared
45 unconstitutional or invalid by the courts, it does not affect the validity of this act as a
46 whole or any part other than the part so declared to be unconstitutional or invalid.

47
48 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
49 Michaux

50 **EFFECTIVE DATE**

51 **SECTION 46.6.** Except as otherwise provided, this act becomes effective
52 July 1, 2005.