

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 2438
Committee Substitute Favorable 7/16/08
Senate Appropriations/Base Budget Committee Substitute Adopted 7/18/08

Short Title: 2008 Budget Technical Corrections.

(Public)

Sponsors:

Referred to:

May 26, 2008

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE TECHNICAL, CLARIFYING, AND OTHER MODIFICATIONS
3 TO THE STATE BUDGET.

4 The General Assembly of North Carolina enacts:

5
6 **PART I. TECHNICAL CHANGES**

7 **SECTION 1.1.** Section 2.1 of S.L. 2008-107 is amended by deleting the
8 phrase "Pending Gang Prevention Legislation (HB 274)" and substituting the phrase
9 "Pending Gang Prevention Legislation".

10 **SECTION 1.2.** S.L. 2008-107 is amended by adding a new section to read:

11 **"STUDY OF LAPSED SALARY USE**

12 **SECTION 6.5.** Section 6.18(b) of S.L. 2007-323 reads as rewritten:

13 **'SECTION 6.18.(b)** The Office of State Budget and Management shall report its
14 ~~findings~~ findings, including an estimate of the total amount of lapsed salaries by each
15 State agency, to the Joint Legislative Commission on Governmental Operations by
16 ~~April 30, 2008.~~ February 1, 2009."

17 **SECTION 1.3.(b)** Section 7.14(g) of S.L. 2008-107 is amended by deleting
18 "subsection (b)" and substituting "subsection (c)".

19 **SECTION 1.3.(c)** Section 7.14(b) of S.L. 2008-107 reads as rewritten:

20 **"SECTION 7.14.(b)** Committee. – The Committee on Dropout Prevention, as
21 created in Section 7.32 of S.L. 2007-323, is reestablished to determine which local
22 school administrative units, schools, agencies, and nonprofits shall receive dropout
23 prevention grants under this section, the amount of each grant, and eligible uses of the
24 grant funding. When utilizing outside grant reviewers and raters, the Committee is
25 encouraged to utilize individuals who represent public schools, universities, and
26 community-based organizations.

27 The Committee shall continue to be located administratively in the Department of
28 Public Instruction but shall exercise its powers and duties independently of the

1 Department of Public Instruction. The Department of Public Instruction shall provide
2 for the administrative costs of the Committee. The Department of Public Instruction
3 shall ~~contract with an independent consultant to serve as staff to the Committee, to~~
4 provide technical assistance to the grant recipients for the length of the ~~grant, and to~~
5 ~~assist the Committee in evaluating the impact of the grants awarded.~~ grant.

6 The members of the Committee shall assure they are in compliance with laws and
7 rules governing conflicts of interest. The Committee shall meet on the call of the
8 cochairs provided that the Committee shall meet at least once every three months.

9 In the event of a vacancy on the Committee, the appointing authorities are
10 encouraged to provide representation on the Committee from each of the eight
11 educational districts as defined in G.S. 115C-65."

12 **SECTION 1.3.(d)** Subdivision (1) of Section 8.8 of S.L. 2008-107 is
13 amended by deleting "; and" and substituting ".".

14 **SECTION 1.3.(e)** Section 8.9(b) of S.L. 2008-107 is amended by deleting
15 "(Budget Code 16800, Fund 1603)" and substituting "(Budget Code 26800, Fund
16 2000)".

17 **SECTION 1.3.(f)** Section 9.7(c) of S.L. 2007-323, as amended by Section
18 9.2(d) of S.L. 2008-107, reads as rewritten:

19 "**SECTION 9.7.(c)** There is appropriated from the Escheat Fund to the State
20 Education Assistance Authority the sum of ~~sixty million dollars (\$60,000,000)~~fifty
21 million dollars (\$50,000,000) for the 2008-2009 fiscal year."

22 **SECTION 1.4.** Section 9.4 of S.L. 2008-107 reads as rewritten:

23 "**SECTION 9.4.(a)** The North Carolina Principal Fellows Commission in
24 collaboration with the State Education Assistance Authority shall make available an
25 optional six-month scholarship in the amount of twenty thousand dollars (\$20,000) to
26 any person who was a recipient of a scholarship loan through the Principal Fellows
27 Program and who: (i) was in Class 10 of the Principal Fellows Program for the
28 2003-2004 academic year, (ii) completed the Principal Fellows Program, and (iii) has
29 either served as a school administrator for four years at a North Carolina public school
30 or at a school operated by the United States as required by G.S. 116-74.43, or who has
31 had the loan forgiven by the State Education Assistance Authority pursuant to
32 G.S. 116-74.43. A person may be eligible for the optional six-month scholarship only
33 after fulfilling all contractual obligations agreed to by the person upon receipt of the
34 original scholarship loan awarded to the person under G.S. 116-74.42. Exclusive of any
35 deferment for extenuating circumstances, a person remains eligible for the optional
36 six-month scholarship for two years after the six-year period of time allowed the person
37 to satisfy the original scholarship loan requirements under G.S. 116-74.43. Should a
38 person present extenuating circumstances, the State Education Assistance Authority
39 may extend the period of time for which a person remains eligible for the optional
40 six-month scholarship for a reasonable time period.

41 "**SECTION 9.4.(b)** The Principal Fellows Commission shall develop the criteria for
42 awarding the scholarship. In developing the criteria, the Commission shall require that
43 the person agree to work at least another six months as a school administrator in a North
44 Carolina public school or at a school operated by the United States after satisfying the

1 four-year work requirement set out in G.S.116-74.43. The Commission, in
2 collaboration with the State Education Assistance Authority, shall develop a process for
3 evaluating a scholarship recipient's work performance and for issuing a final approval
4 and certification of the work performance. The Commission shall transfer to the State
5 Education Assistance Authority the name of each recipient that it certifies as
6 successfully completing the optional scholarship program. The State Education
7 Assistance Authority shall pay the twenty thousand dollar (\$20,000) ~~stipend~~scholarship
8 to the scholarship recipient within a reasonable time of receiving notification from the
9 Commission that the recipient has successfully completed the optional scholarship
10 program. The State Education Assistance Authority shall perform all of the
11 administrative functions necessary to implement this act, including rule making.

12 **"SECTION 9.4.(c)** Effective June 30, 2008, the sum of one million dollars
13 (\$1,000,000) shall revert from the Principal Fellows Trust Fund to the General Fund.
14 The sum of one million seven hundred forty thousand dollars (\$1,740,000) in the
15 Principal Fellows Trust Fund shall be held in reserve to pay each participant in the
16 optional scholarship program the ~~stipend~~scholarship of twenty thousand dollars
17 (\$20,000) upon successful completion of the optional scholarship program."

18 **SECTION 1.5.(a)** Section 10.15(x) of S.L. 2008-107 is amended by
19 inserting between the words "accredited" and "for" the words "or demonstrate
20 submission of an accepted application" and by adding after "September 30, 2009." the
21 following sentence: "The Department shall provide information and recommendations
22 to the 2009 General Assembly so that it may consider whether to authorize the
23 Department to contract with an outside vendor for these functions beyond September
24 30, 2009."

25 **SECTION 1.5.(b)** Section 10.17(cc) of S.L. 2008-107 is amended by adding
26 to the list of membership organizations the following:

27 "(9) Association of Local Health Directors."

28 **SECTION 1.6.(a)** Section 10.10(e) of S.L. 2008-107 is amended by deleting
29 "\$1,500)." and substituting "\$1,500) per month."

30 **SECTION 1.6.(b)** The lead sentence of Section 10.13(k) of S.L. 2008-107 is
31 amended by deleting "subsection (g)" and substituting "subsection (f)".

32 **SECTION 1.6.(c)** Section 10.13(n) of S.L. 2008-107 is amended by deleting
33 "(k) of this section" and substituting "(j) of this section".

34 **SECTION 1.6.(d)** Section 10.14(c)(1) of S.L. 2008-107 reads as rewritten:

35 "(1) The number of children ~~that were~~ enrolled in NC Health Choice ~~in the~~
36 ~~first week of January 2009, based on the January Pull Night data;~~
37 ~~and for the month of January 2009, as determined by using December~~
38 2008 Pull-Night data."

39 **SECTION 1.6.(e)** Section 10.15(b) of S.L. 2008-107 is amended by deleting
40 "2007-2008 and 2008-2009 fiscal years," and substituting "2008-2009 fiscal year,".

41 **SECTION 1.6.(f)** Section 10.15(n) of S.L. 2008-107 reads as rewritten:

42 **"SECTION 10.15.(n)** Of the funds appropriated in this act to the Department of
43 Health and Human Services, Division of Mental Health, Developmental Disabilities,
44 and Substance Abuse Services, the sum of six million one hundred thirteen thousand

1 nine hundred forty-seven dollars (\$6,113,947) shall be allocated for walk-in crisis and
2 immediate psychiatric aftercare and shall be distributed to the LMEs according to need
3 as determined by the Department to support 30 psychiatrists and related support staff.
4 Of these funds, the sum of one million six hundred fifty thousand dollars (\$1,650,000)
5 shall be used for telepsychiatry equipment to be owned by the LMEs ~~and shall be~~
6 ~~distributed across the State according to need as determined by the Department.~~ LMEs."

7 **SECTION 1.7.** Notwithstanding any provision in S.L. 2008-107 to the
8 contrary, the elimination of the budget for the closed dispute resolution center in the 1st
9 District is a reduction of fifty-one thousand nine hundred seventy-seven dollars
10 (\$51,977).

11 **PART II. CLARIFYING CHANGES**

12 **SECTION 2.1.(a)** Section 5.2(a1) of S.L. 2008-107 reads as rewritten:

13 "SECTION 5.2.(a1) Notwithstanding G.S. 18C-164(f), if (i) the actual net lottery
14 revenues for the 2007-2008 fiscal year exceed the amounts appropriated in the
15 2007-2008 fiscal year, (ii) the actual net lottery revenues for the 2008-2009 fiscal year
16 exceed the amounts appropriated in the 2008-2009 fiscal year, or (iii) both, the excess
17 net revenue is also transferred from the State Lottery Fund to support appropriations
18 made in this act for the 2008-2009 fiscal year."

19 **SECTION 2.1.(b)** Section 5.2(d) of S.L. 2008-107 reads as rewritten:

20 "SECTION 5.2.(d) The excess lottery revenues for the 2007-2008 fiscal ~~year~~
21 ~~year,~~ the 2008-2009 fiscal year, or both, that are transferred from the State Lottery Fund
22 pursuant to subsection (a1) of this section are appropriated from the Education Lottery
23 Fund for the 2008-2009 fiscal year for the Public School Building Capital Fund."

24 **SECTION 2.1.(c)** Section 7.11 of S.L. 2008-107 reads as rewritten:

25 "SECTION 7.11.(a) ~~Monies allocated~~ If monies appropriated to the Public School
26 Building Capital Fund pursuant to ~~Section 5.2(b)~~ Section 5.2 of this act total one
27 hundred fifty-four million two hundred thousand dollars (\$154,200,000) or more, the
28 monies shall be allocated as follows:

- 29
- 30 (1) The sum of one hundred forty million dollars (\$140,000,000) shall be
31 allocated pursuant to G.S. 115C-546.2(d);
 - 32 (2) The remainder shall be allocated on the basis of average daily
33 membership to local school administrative units that did not qualify for
34 funding for the 2008-2009 fiscal year pursuant to
35 G.S. 115C-546.2(d)(2). The maximum allocation shall be the amount
36 received by other units pursuant to G.S. 115C-546.2(d)(2) on the basis
37 of per average daily membership.

38 "**SECTION 7.11.(b)** If monies appropriated to the Public School Building Capital
39 Fund pursuant to Section 5.2 of this act total less than one hundred fifty-four million
40 two hundred thousand dollars (\$154,200,000), the monies shall be allocated as follows:

- 41 (1) The sum of two million five hundred thousand dollars (\$2,500,000)
42 shall be allocated each quarter for the first and second quarters on the
43 basis of average daily membership to local school administrative units
44 that did not qualify for funding for the 2008-2009 fiscal year pursuant

1 to G.S. 115C-546.2(d)(2). The remainder shall be allocated each
2 quarter pursuant to G.S. 115C-546.2(d).

3 (2) The sum of four million six hundred thousand dollars (\$4,600,000)
4 shall be allocated each quarter for the third and fourth quarters on the
5 basis of average daily membership to local school administrative units
6 that did not qualify for funding for the 2008-2009 fiscal year pursuant
7 to G.S. 115C-546.2(d)(2). The remainder shall be allocated each
8 quarter pursuant to G.S. 115C-546.2(d)."

9 **SECTION 2.2.** Section 6.12(a) of S.L. 2008-107 reads as rewritten:

10 **"SECTION 6.12.(a)** Funds. – Of the funds appropriated to the Office of
11 Information Technology Services (ITS) for the 2008-2009 fiscal year, in consultation
12 with the Department of Cultural Resources and the Secretary of State, the sum of two
13 hundred thousand dollars (\$200,000) shall be used to pilot a statewide electronic
14 document management system that will include a digital signature capability. ITS shall
15 identify a State agency for the pilot, which shall develop the following program
16 requirements:

- 17 (1) Creation of a uniform and consistent set of policies and procedures for
18 managing and preserving electronic records through their life cycle in
19 an efficient, effective, and economical manner.
- 20 (2) Development, establishment, and promotion of statewide electronic
21 records management training and certification programs.
- 22 (3) Promotion of the use of public records in digital format.
- 23 (4) Development of statewide procurement standards for the electronic
24 records infrastructure.
- 25 (5) Provision of guidance and assistance to all customers on issues relating
26 to public records in digital formats including, but not limited to,
27 e-mail, e-commerce, electronic signature encryption, filings, public
28 Web pages, metadata, and system documentation."

29 **SECTION 2.3.** Section 6.16(b) of S.L. 2008-107 reads as rewritten:

30 **"SECTION 6.16.(b)** The State Controller shall serve as the Chairman of the
31 BEACON Project Steering Committee. The other members of the committee shall be
32 the State Chief Information Officer, the State Treasurer, the Attorney General, the
33 Secretary of Correction, the Administrative Officer of the Courts, the State Budget
34 Officer, the Secretary of Administration, and the Chief Financial Officer of the
35 Department of Transportation."

36 **SECTION 2.4.** Notwithstanding any provision in S.L. 2008-107 to the
37 contrary, funds appropriated in that act for the Medicaid appeals process shall be used to
38 implement a new appeals process when Medicaid-funded services are terminated,
39 reduced, or denied.

40 **SECTION 2.5.** G.S. 143B-480.2, as amended by Section 18.2(a) of S.L.
41 2008-107 reads as rewritten:

42 **"§ 143B-480.2. Victim assistance.**

43 (a) Eligibility for Assistance. – Sexual assault victims or victims of attempted
44 sexual assault are eligible for assistance under this Program if the sexual assault or the

1 attempted sexual assault is reported to a law enforcement officer within 72 hours of the
 2 occurrence of the assault or the attempted sexual assault and if a forensic medical
 3 examination is performed within 72 hours of the sexual assault or the attempted sexual
 4 assault. The Secretary may waive either 72-hour requirement for good cause. The term
 5 "sexual assault" as used in this section refers to the following crimes: first-degree rape
 6 as defined in G.S. 14-27.2, second-degree rape as defined in G.S. 14-27.3, first-degree
 7 sexual offense as defined in G.S. 14-27.4, second-degree sexual offense as defined in
 8 G.S. 14-27.5, or statutory rape as defined in G.S. 14-27.7A.

9 (b) Eligible Expenses. – Assistance is limited to the following expenses incurred
 10 by the victim:

- 11 (1) Immediate and short-term medical expenses.
- 12 (2) Ambulance services from the place of the attack to a place where
 13 medical treatment is provided.
- 14 (3) Mental health services provided by a professional licensed or certified
 15 by the State to provide such services.
- 16 (4) A forensic medical examination. As used in this section, the term
 17 "forensic medical examination" means an examination provided to a
 18 sexual assault victim eligible for assistance under subsection (a) of this
 19 section by medical personnel who gather evidence of a sexual assault
 20 in a manner suitable for use in a court of law. The examination should
 21 include an examination of physical trauma, a patient interview, and a
 22 collection and evaluation of evidence.
- 23 (5) Counseling treatment following the attack.

24 (c) Amount of Assistance. – The Program shall pay for the full out-of-pocket
 25 cost of the victim's forensic medical examination up to eight hundred dollars (\$800.00).
 26 Specifically, the Program shall pay amounts for services in accordance with the
 27 following schedule:

Service:	Maximum Amount Paid by Program:
30 Physician or SANE Nurse	\$350.00
31 Hospital/Facility Fee	\$250.00
32 Ambulance Fee	\$200.00
33	
34 Total:	\$800.00

36 As used in this subsection, the term 'SANE Nurse' means a licensed registered nurse
 37 trained under G.S. 90-171.38(b) who obtains preliminary histories, conducts in-depth
 38 interviews, and conducts medical examinations of rape victims or victims of related
 39 sexual offenses. The Program shall pay for all other eligible expenses set out in
 40 subsection (b) of this section in an amount not to exceed the difference between the full
 41 out-of-pocket cost of the forensic medical examination and one thousand dollars
 42 (\$1,000). Assistance not to exceed fifty dollars (\$50.00) shall be provided to victims to
 43 replace clothing that was held for evidence tests.

1 (d) Payment Directly to Provider. – If the entity seeking payment for expenses
2 authorized under this section is a hospital, ambulance service, or mental health
3 professional providing counseling, the Program shall make payment directly to that
4 entity upon the filing of proper forms. If the entity seeking payment for expenses
5 authorized under this section is an attending physician or licensed registered nurse, the
6 Program shall make payment to a hospital, which shall then pay the entity seeking
7 payment. Attending physicians and licensed registered nurses shall not bill or otherwise
8 seek payment directly from the Program, but shall instead seek payment from the
9 hospital that accepted payment on the entity's behalf. No payment for the cost of the
10 forensic medical examination shall be made under this subsection unless the recipient
11 agrees in writing that receipt of that payment shall constitute payment in full for the
12 amount owed for the cost of the examination and expenses related to the examination.

13 (e) Judicial Review. – Upon an adverse determination by the Secretary on a
14 claim for ~~medical expenses assistance under this Part~~, a victim is entitled to judicial
15 review of that decision. The person seeking review shall file a petition in the Superior
16 Court of Wake County.

17 (f) The Secretary shall adopt rules to encourage, whenever practical, the use of
18 licensed registered nurses trained under G.S. 90-171.38(b) to conduct medical
19 examinations and procedures."

20 **SECTION 2.6.** Section 19A.3(b) of S.L. 2008-107 reads as rewritten:

21 **"SECTION 19A.3.(b)** The Department of Cultural Resources shall report on the
22 cARTwheels Program to the Joint Legislative Commission on Governmental
23 Operations by ~~September 1, 2008~~December 1, 2008. The report shall include the
24 following:

- 25 (1) A detailed summary of the competitive application process used to
26 select the professional performing arts groups for the 2008-2009 fiscal
27 year.
- 28 (2) A list of professional performing arts groups that submitted
29 applications for the 2008-2009 fiscal year.
- 30 (3) The allocation of the funding appropriated in the 2008-2009 fiscal year
31 to the professional performing arts groups selected.
- 32 (4) The schedule of performances for the 2008-2009 fiscal year."

33 **SECTION 2.7.(a)** Notwithstanding any provision of S.L. 2008-107 to the
34 contrary, the constitutional authority to issue general obligation bonds to complete
35 construction of the Green Square Project is Article V, Section 3(1) of the North
36 Carolina Constitution.

37 **SECTION 2.7.(b)** Section 27.3(e) of S.L. 2008-107 is amended by deleting
38 the phrase "to the Energy Efficiency Reserve created in subsection (c) of this section."
39 and substituting the phrase "for energy efficiency projects consistent with subsection (c)
40 of this section."

41 **SECTION 2.7.(c)** Section 27.9(d) of S.L. 2008-107 is amended by inserting
42 between the words "time" and "general" the phrase "in the fiscal year ending June 30,
43 2009".

1 **SECTION 2.7.(d)** Section 27.9(f) of S.L. 2008-107 is amended by deleting
2 the phrase "any changes in projects" and substituting the phrase "the status of the
3 project".

4 **SECTION 2.8.** Nonrecurring funds appropriated to the Department of
5 Commerce for the 2008-2009 fiscal year for the North Carolina Minority Support
6 Center, Inc., for the 2008-2009 fiscal year shall be used by the Center to expand
7 economic development lending and financial literacy.

8 **SECTION 2.9.(a)** Section 29.8(g) of S.L. 2008-107 reads as rewritten:

9 **"SECTION 29.8.(g)** Subsections—~~(a)~~—~~(b)~~ through (e) of this section become
10 effective July 20, 2008, and apply to all costs assessed and collected on or after that
11 date. Subsection (a) of this section becomes effective July 20, 2008, and applies to all
12 costs assessed and collected on or after that date, except that in misdemeanor or
13 infraction cases disposed of on or after that date by written appearance, waiver of trial
14 or hearing, and plea of guilt or admission of responsibility pursuant to G.S. 7A-180(4)
15 or G.S. 7A-273(2), in which the citation or other criminal process was issued before that
16 date, the cost shall be the lesser of those specified in G.S. 7A-304(a), as amended by
17 subsection (a) of this section, or those specified in the notice portion of the defendant's
18 or respondent's copy of the citation or other criminal process, if any costs are specified
19 in that notice. The remainder of this section becomes effective July 1, 2008."

20 **SECTION 2.9.(b)** G.S. 20-20.1(d) reads as rewritten:

21 "(d) Petition. – A person may apply for a limited driving privilege under this
22 section by filing a petition. A petition filed under this section is separate from the action
23 that resulted in the initial revocation and is a civil action. A petition must be filed in
24 district court in the county of the person's residence as reflected by the Division's
25 records or, if the Division's records are inaccurate, in the county of the person's actual
26 residence. A person must attach to a petition a copy of the person's motor vehicle
27 record. A petition must include a sworn statement that the person filing the petition is
28 eligible for a limited driving privilege under this section.

29 A court, for good cause shown, may issue a limited driving privilege to an eligible
30 person in accordance with this section. The costs required under G.S. 7A-305(a) ~~and~~
31 ~~(a3)~~ and G.S. 20-20.2 apply to a petition filed under this section. The clerk of court for
32 the court that issues a limited driving privilege under this section must send a copy of
33 the limited driving privilege to the Division."

34 **SECTION 2.9.(c)** G.S. 7A-305(a3) and (a4) are repealed.

35 36 **PART III. OTHER MODIFICATIONS**

37 **SECTION 3.1.** Notwithstanding any provision in S.L. 2008-107 to the
38 contrary, the nursing and allied health program that will be housed at the UNC Upper
39 Coastal Plain Higher Education and Health Center for which planning funds are
40 provided in S.L. 2008-107 shall be run by East Carolina University, Edgecombe
41 Community College, and Nash Community College.

42 **SECTION 3.2.(a)** G.S. 58-50-175(19) reads as rewritten:

43 **"§ 58-50-175. Definitions.**

44 The following definitions apply to this Part:

1 ...

2 (19) ~~'Special Fund.'~~ – The North Carolina Health Insurance Risk Pool
3 ~~Special fund.~~ Fund.

4"

5 **SECTION 3.2.(b)** G.S. 58-50-225 reads as rewritten:

6 **"§ 58-50-225. North Carolina Health Insurance Risk Pool ~~Special Fund.~~**

7 (a) The North Carolina Health Insurance Risk Pool ~~Special Fund~~ is established as
8 ~~an interest bearing, non-reverting account in the General Fund. The Special Fund~~ and
9 consists of the following revenue:

10 (1) Premiums, fees, charges, rebates, refunds, and any other receipts
11 occurring or arising in connection with the Pool.

12 (2) The revenue transferred to the Fund under G.S. 105-228.5B.

13 (3) Gifts, grants, and other appropriations.

14 (4) Any interest earned by the Fund.

15 (b) Disbursements from the ~~Special Fund~~ shall include the amounts required to
16 pay the claims, benefits, and administrative costs as may be determined by the
17 Executive Director and the Board. ~~Disbursement from the Special Fund may be made~~
18 ~~by warrant drawn on the State Treasurer by the Executive Director, or the Executive~~
19 ~~Director and the Board may by contract authorize the Administrator to draw the~~
20 ~~warrant."~~

21 **SECTION 3.2.(c)** G.S. 58-50-235 reads as rewritten:

22 **"§ 58-50-235. Audit.**

23 An audit of the Pool shall be conducted annually under the oversight of the State
24 Auditor. The cost of the audit shall be reimbursed to the State Auditor from the ~~Special~~
25 ~~Fund."~~

26 **SECTION 3.2.(d)** Effective until June 30, 2010, G.S. 105-228.5B reads as
27 rewritten:

28 **"§ 105-228.5B. Proceeds credited to High Risk Pool.**

29 Within 75 days after the end of each fiscal year, the State Treasurer must transfer
30 from the General Fund to the North Carolina Health Insurance Risk Pool ~~Special Fund~~
31 established in G.S. 58-50-225 an amount equal to the growth in net revenue from the tax
32 applied to gross premiums under G.S. 105-228.5(d)(2). The growth in revenue from this
33 tax is the difference between the amount of revenue collected during the preceding
34 fiscal year on premiums taxed under that subdivision less \$475,545,413, which is the
35 amount of revenue collected during fiscal year 2006-2007 on premiums taxed under that
36 subdivision. The Treasurer must draw the amount required under this section from
37 revenue collected on premiums taxed under that subdivision."

38 **SECTION 3.2.(e)** Effective June 30, 2010, G.S. 105-228.5B reads as
39 rewritten:

40 **"§ 105-228.5B. ~~Proceeds credited to High Risk Pool.~~ Distribution of part of tax**
41 **proceeds to High Risk Pool.**

42 Within 75 days after the end of each fiscal year, the State Treasurer must transfer
43 from the General Fund to the North Carolina Health Insurance Risk Pool Fund
44 established in G.S. 58-50-225 an amount equal to thirty percent (30%) of the growth in

1 revenue from the tax applied to gross premiums under G.S. 105-228.5(d)(2). The
2 growth in revenue from this tax is the difference between the amount of revenue
3 collected during the preceding fiscal year on premiums taxed under that subdivision less
4 \$475,545,413, which is the amount of revenue collected during fiscal year 2006-2007
5 on premiums taxed under that subdivision. The Treasurer must draw the amount
6 required under this section from revenue collected on premiums taxed under that
7 subdivision."

8 **SECTION 3.2.(f)** Section 2.1 of S.L. 2007-532 reads as rewritten:

9 **"SECTION 2.1.** In addition to the North Carolina Health Insurance Risk Pool
10 ~~Special~~ Fund established under G.S. 58-50-225, as enacted in this act, there is
11 established in the Department of Insurance two separate funds, as follows:

12 (1) The Start-Up Reserve – State Funds. State funds appropriated to this
13 Fund shall be used to support reasonable expenses for personnel to
14 carry out the Board's responsibilities under the Pool, including
15 contracting a third-party administrator. Funds shall be allocated by the
16 Commissioner of Insurance for the reasonable expenses of the Board
17 in conducting its duties under this Article that are incurred on or before
18 July 1, 2009. At the end of the fiscal year, any unspent and
19 unencumbered State funds and any interest or investment income
20 earned on these funds shall not revert to the General Fund but shall be
21 transferred to the North Carolina Health Insurance Risk Pool ~~Special~~
22 Fund.

23 (2) The Start-Up Reserve – Federal Funds. Federal funds received in lump
24 sum or as a draw-down grant for the purposes of this Article shall be
25 deposited to this Reserve and shall be expended and accounted for in
26 accordance with requirements of the federal grant."

27 **SECTION 3.2.(g)** Section 6 of S.L. 2007-532 reads as rewritten:

28 **"SECTION 6.** For the purposes of providing the funds necessary to carry out the
29 powers and duties of the Pool, effective July 1, 2008, the Teachers' and State
30 Employees' Comprehensive Major Medical Plan and any successor Plan shall pay an
31 annual surcharge to the North Carolina Health Insurance Risk Pool ~~Special~~ Fund in the
32 amount of one dollar and fifty cents (\$1.50) per member per year based on enrollment
33 of active employee Plan members and their dependents covered under the Plan."

34 **SECTION 3.2.(h)** Subsection (e) of this section becomes effective June 30,
35 2010, and applies to the transfer at the end of fiscal year 2009-2010. The remainder of
36 this section is effective when it becomes law.

37 **SECTION 3.3.** The Department of Public Instruction may use up to four
38 hundred thirty thousand dollars (\$430,000) in funds appropriated for Learn and Earn
39 Online for 14 planning grants for Learn and Earn sites in the 2008-2009 fiscal year.

40 **SECTION 3.4.** The Office of State Budget and Management may, after a
41 request from the State Board of Education, provide from funds available in any agency
42 in the budget up to one million dollars (\$1,000,000) for the 2008-2009 fiscal year to the
43 Department of Public Instruction for efforts to inform eighth- and ninth-grade students
44 about opportunities to gain access to college and to college coursework. These efforts

1 should include, but not be limited to, strategies to ensure that parents, administrators,
 2 teachers, and students are fully informed about the Learn and Earn Online program, the
 3 Learn and Earn program, the UNC needs-based financial aid program, community
 4 college and UNC Online opportunities, and the EARN Grant.

5 The Department shall report no later than January 1, 2009, and June 30, 2009,
 6 to the Joint Legislative Education Oversight Committee on the use of any funds
 7 provided under this section.

8 **SECTION 3.5.** The Department of Crime Control and Public Safety shall
 9 use funds appropriated to the Department to keep and maintain the five North Carolina
 10 floodplain mapping positions that were not funded for fiscal year 2008-2009. The
 11 authority conferred by this section expires when the receipts of the Department received
 12 pursuant to G.S. 161-11.3 are sufficient to support these five positions.

13 **SECTION 3.6.(a)** Section 28.4(a) of S.L. 2007-323, as amended by Section
 14 26.4(a) of S.L. 2008-107 reads as rewritten:

15 "SECTION 28.4.(a) The annual salaries, payable monthly, for specified judicial
 16 branch officials for the 2008-2009 fiscal year are:

<u>Judicial Branch Officials</u>	<u>Annual Salary</u>
18 Chief Justice, Supreme Court	\$140,932
19 Associate Justice, Supreme Court	137,249
20 Chief Judge, Court of Appeals	133,817 135,061
21 Judge, Court of Appeals	131,531
22 Judge, Senior Regular Resident Superior Court	127,957
23 Judge, Superior Court	124,382
24 Chief Judge, District Court	112,946
25 Judge, District Court	109,372
26 District Attorney	119,305
27 Administrative Officer of the Courts	126,738
28 Assistant Administrative Officer of the Courts	115,763
29 Public Defender	119,305
30 Director of Indigent Defense Services	123,022".

31 **SECTION 3.6.(b)** The Administrative Office of the Courts shall use
 32 available salary reserve funds in the amount of one thousand two hundred forty-four
 33 dollars (\$1,244), plus the cost of benefits, to increase the salary of the Chief Judge,
 34 Court of Appeals, as provided by subsection (a) of this section. This additional salary
 35 increase is to restore the differential in the salary between the Chief Judge and the other
 36 judges in the Court of Appeals to pre-1994 levels and to increase the current differential
 37 such that it is approximately equivalent to the differential in salary between the Chief
 38 Justice and the other justices of the Supreme Court.

39 **SECTION 3.8.** Section 1.1 of S.L. 2004-179, as amended by Section 30.3A
 40 of S.L. 2005-276 and Section 2.1 of S.L. 2006-146, authorized the State to issue or
 41 incur special indebtedness in order to provide funds to the State for Western Carolina
 42 University to be used, together with other available funds, to pay the cost of land
 43 acquisition, site preparation, engineering, architectural, and other consulting services
 44

1 and construction of a building for Western Carolina University and the Mountain Area
2 Health Education Consortium for the North Carolina Center for Health and Aging to be
3 operated as a consortium among Western Carolina University, the University of North
4 Carolina at Asheville, and the Mountain Area Health Education Consortium.

5 Western Carolina University, the University of North Carolina at Asheville,
6 and the Mountain Area Health Education Consortium may expend available funds,
7 including appropriations, for the operation and maintenance of this facility.

8 **SECTION 3.10.(a)** G.S. 105-164.14(j) reads as rewritten:

9 "(j) Certain Industrial Facilities. – The owner of an eligible facility is allowed an
10 annual refund of sales and use taxes as provided in this subsection.

11 (1) Refund. – The owner of an eligible facility is allowed an annual refund
12 of sales and use taxes paid by it under this Article on qualified building
13 materials, building supplies, fixtures, and equipment that become a
14 part of the real property of the eligible facility. Liability incurred
15 indirectly by the owner for sales and use taxes on these items is
16 considered tax paid by the owner. Building materials, building
17 supplies, fixtures, and equipment are qualified if they are installed in
18 the construction of the facility. Purchases for subsequent repair,
19 renovation, or equipment replacement are not qualified.

20 A request for a refund must be in writing and must include any
21 information and documentation required by the Secretary. A request
22 for a refund is due within six months after the end of the State's fiscal
23 year. Refunds applied for after the due date are barred.

24 (2) Eligibility. – A facility is eligible under this subsection if it meets all
25 of the following conditions:

- 26 a. It is primarily engaged in one of the industries listed in this
27 subsection.
- 28 b. The Secretary of Commerce has certified that the owner of the
29 facility will invest at least the required amount of private funds
30 to construct the facility in this State. For the purpose of this
31 subsection, costs of construction may include costs of acquiring
32 and improving land for the facility and costs of equipment for
33 the facility. If the facility is located in a development tier one
34 area as defined in G.S. 143B-437.08 the required amount is fifty
35 million dollars (\$50,000,000). For all other facilities, the
36 required amount is one hundred million dollars (\$100,000,000).
37 In the case of a computer manufacturing facility, the owner may
38 invest these funds either directly or indirectly through a related
39 entity or strategic partner as those terms are defined in
40 G.S. 105-129.61. For the purpose of this subsection, the term
41 "facility" has the same meaning as under G.S. 105-129.61.
- 42 c. If the facility is primarily engaged in financial services,
43 securities operations, and related systems development, it
44 satisfies all of the following conditions:

- 1 1. It is owned and operated by the business for which the
2 services are provided or by a related entity of that
3 business as defined in G.S. 105-130.7A.
- 4 2. No part of it is leased to a third-party tenant that is not a
5 related entity of the business.
- 6 d. If the facility is primarily engaged in solar electricity generating
7 materials manufacturing, the business satisfies a wage standard
8 at the facility. The wage standard is equal to one hundred five
9 percent (105%) of the lesser of the average weekly wage for all
10 insured private employers in the State and the average weekly
11 wage for all insured private employers in the county. A business
12 satisfies the wage standard if it pays an average weekly wage
13 that is at least equal to the amount required by this
14 sub-subdivision. In making the wage calculation, the business
15 must include any jobs that were filled for at least 1,600 hours
16 during the calendar year.
- 17 (3) Industries. – This subsection applies to the following industries:
 - 18 a. Air courier services. Air courier services has the same meaning
19 as in G.S. 105-129.2.
 - 20 b. Aircraft manufacturing. Aircraft manufacturing means the
21 manufacturing or assembling of complete aircraft or of aircraft
22 engines, blisks, fuselage sections, flight decks, flight deck
23 systems or components, wings, fuselage fairings, fins, moving
24 leading and trailing wing edges, wing boxes, nose sections,
25 tailplanes, passenger doors, nacelles, thrust reversers, landing
26 gear, braking systems, or any combination thereof.
 - 27 c. Bioprocessing. Bioprocessing means biomanufacturing or
28 processing that includes the culture of cells to make commercial
29 products, the purification of biomolecules from cells, or the use
30 of these molecules in manufacturing.
 - 31 d. Computer manufacturing. Computer manufacturing means
32 manufacturing or assembling electronic computers, such as
33 personal computers, workstations, laptops, and computer
34 servers. The term includes the assembly or integration of
35 processors, coprocessors, memory, storage, and input/output
36 devices into a user-programmable final product. The term
37 includes manufacturing or assembling computer peripheral
38 equipment, such as storage devices, printers, monitors,
39 input/output devices, and terminals only if the manufacture or
40 assembly of this peripheral equipment occurs at a facility or
41 campus at which the taxpayer also manufactures or assembles
42 electronic computers.
 - 43 e. Reserved for future codification purposes.

- 1 f. Financial services, securities operations, and related systems
2 development. Financial services, securities operations, and
3 related systems development means one or both of the
4 following functions:
- 5 1. Performing analysis, operations, trading, or sales
6 functions for investment banking, securities dealing and
7 brokering, securities trading and underwriting,
8 investment portfolio/mutual fund management,
9 retirement services, or employee benefit administration.
 - 10 2. Developing information technology systems and
11 applications, managing and enhancing operating
12 applications and databases, or providing, operating, and
13 maintaining telecommunications networks and
14 distributed and mainframe computing resources for
15 investment banking, securities dealing and brokering,
16 securities trading and underwriting, investment
17 portfolio/mutual fund management, retirement services,
18 or employee benefit administration.
- 19 g. Motor vehicle manufacturing. Motor vehicle manufacturing
20 means any of the following:
- 21 1. Manufacturing complete automobiles and light-duty
22 motor vehicles.
 - 23 2. Manufacturing heavy-duty truck chassis and assembling
24 complete heavy-duty trucks, buses, heavy-duty motor
25 homes, and other special purpose heavy-duty motor
26 vehicles for highway use.
 - 27 3. Manufacturing complete military armored vehicles,
28 nonarmored military universal carriers, combat tanks,
29 and specialized components for combat tanks.
- 30 h. Reserved for future codification purposes.
- 31 i. Reserved for future codification purposes.
- 32 j. Pharmaceutical and medicine manufacturing and distribution of
33 pharmaceuticals and medicines. Pharmaceutical and medicine
34 manufacturing means any of the following:
- 35 1. Manufacturing biological and medicinal products. For
36 the purpose of this sub-subdivision, a biological product
37 is a preparation that is synthesized from living organisms
38 or their products and used medically as a diagnostic,
39 preventive, or therapeutic agent. For the purpose of this
40 sub-subdivision, bacteria, viruses, and their parts are
41 considered living organisms.
 - 42 2. Processing botanical drugs and herbs by grading,
43 grinding, and milling.

- 1 3. Isolating active medicinal principals from botanical
- 2 drugs and herbs.
- 3 4. Manufacturing pharmaceutical products intended for
- 4 internal and external consumption in forms such as
- 5 ampoules, tablets, capsules, vials, ointments, powders,
- 6 solutions, and suspensions.
- 7 k. Reserved for future codification purposes.
- 8 l. Reserved for future codification purposes.
- 9 m. Semiconductor manufacturing. Semiconductor manufacturing
- 10 means development and production of semiconductor material,
- 11 devices, or components.
- 12 n. Solar electricity generating materials manufacturing. Solar
- 13 energy generating materials manufacturing means the
- 14 development and production of one or more of the following:
- 15 1. Photovoltaic materials or modules used in producing
- 16 electricity.
- 17 2. Polymers or polymer films primarily intended for
- 18 incorporation into photovoltaic materials or modules
- 19 used in producing electricity.
- 20 (4) Forfeiture. – If the owner of an eligible facility does not make the
- 21 required minimum investment within five years after the first refund
- 22 under this subsection with respect to the facility, the facility loses its
- 23 eligibility and the owner forfeits all refunds already received under this
- 24 subsection. Upon forfeiture, the owner is liable for tax under this
- 25 Article equal to the amount of all past taxes refunded under this
- 26 subsection, plus interest at the rate established in G.S. 105-241.21,
- 27 computed from the date each refund was issued. The tax and interest
- 28 are due 30 days after the date of the forfeiture. A person that fails to
- 29 pay the tax and interest is subject to the penalties provided in
- 30 G.S. 105-236.
- 31 (5) Sunset. This subsection is repealed for sales made on or after January
- 32 1, 2013."

33 **SECTION 3.10.(b)** This section becomes effective July 1, 2008, and applies
 34 to purchases made on or after that date.

35 **SECTION 3.11.** Section 10.15A(i) of S.L. 2008-107 is amended by
 36 rewriting the last underlined sentence in subdivision (6) to read:

37 "Sixty days after the tiered rates required under subsection (b) of this section have
 38 been implemented by the Department, thirty-five percent (35%) of community support
 39 services must be delivered by qualified professionals. Six months thereafter fifty percent
 40 (50%) of community support services must be delivered by qualified professionals."

41 **SECTION 3.12.(a)** Part 7 of Article 12 of Chapter 143B of the General
 42 Statutes is repealed.

43 **SECTION 3.12.(b)** G.S. 143B-515(20) is repealed.

44 **SECTION 3.12.(c)** G.S. 143B-516(f) reads as rewritten:

1 (f) The Department shall develop a cost-benefit model for each State-funded
2 program. Program commitment and recidivism rates shall be components of the model.
3 ~~In developing the model, the Department shall consider the recommendations of the~~
4 ~~state Advisory Council on juvenile Justice and Delinquency Prevention."~~

5 **SECTION 3.13.(a)** Subsection 10.15A(h1) of S.L. 2008-107 is rewritten to
6 read:

7 **"SECTION 10.15A.(h1)**

8 (1) General Rule. – Notwithstanding any provision of State law or rules to
9 the contrary, this subsection shall govern the process used by a
10 Medicaid applicant or recipient to appeal a determination made by the
11 Department of Health and Human Services to deny, terminate,
12 suspend, or reduce Medicaid covered services. For purposes of this
13 subsection, the phrase "adverse determination" means a determination
14 by the Department to deny, terminate, suspend, or reduce Medicaid
15 covered services. For purposes of this subsection, all references to an
16 applicant or recipient include the applicant or recipient's parent,
17 guardian, or legal representative; however, notice need only be given
18 to a parent, guardian, or legal representative who has requested in
19 writing to receive the notice.

20 (2) Notice. – Except as otherwise provided by federal law or regulation, at
21 least 30 days before the effective date of an adverse determination, the
22 Department shall notify the applicant or recipient, and the provider, if
23 applicable, in writing of the determination and of the applicant's or
24 recipient's right to appeal the determination. The notice shall be mailed
25 on the date indicated on the notice as the date of the determination.
26 The notice shall include:

- 27 a. An identification of the applicant or recipient whose services
28 are being affected by the adverse determination, including full
29 name and Medicaid identification number.
- 30 b. An explanation of what service is being denied, terminated,
31 suspended, or reduced and the reason for the determination.
- 32 c. The specific regulation, statute, or medical policy that supports
33 or requires the adverse determination.
- 34 d. The effective date of the adverse determination.
- 35 e. An explanation of the applicant's or recipient's right to appeal
36 the Department's adverse determination in an evidentiary
37 hearing before an administrative law judge.
- 38 f. An explanation of how the applicant or recipient can request a
39 hearing and a statement that the applicant or recipient may
40 represent himself or use legal counsel, a relative, or other
41 spokesperson.
- 42 g. A statement that the applicant or recipient will continue to
43 receive Medicaid services at the level provided on the day
44 immediately preceding the Department's adverse determination

- 1 or the amount requested by the applicant or recipient,
2 whichever is less, if the applicant or recipient requests a hearing
3 before the effective date of the adverse determination. The
4 services shall continue until the hearing is completed and a final
5 decision is rendered.
- 6 h. The name and telephone number of a contact person at the
7 Department to respond in a timely fashion to the applicant's or
8 recipient's questions.
- 9 i. The telephone number by which the applicant or recipient may
10 contact a Legal Aid/Legal Services office.
- 11 j. The appeal request form described in subdivision (4) of this
12 subsection that the applicant or recipient may use to request a
13 hearing.
- 14 (3) Appeals. – Except as provided by this subsection and subsection
15 10.15A(h2) of this act, a request for a hearing to appeal an adverse
16 determination of the Department under this section is a contested case
17 subject to the provisions of Article 3 of Chapter 150B of the General
18 Statutes. The applicant or recipient must request a hearing within 30
19 days of the mailing of the notice required by subdivision (2) of this
20 subsection by sending an appeal request form to the Office of
21 Administrative Hearings and the Department. The Department shall
22 immediately forward a copy of the notice to the Office of
23 Administrative Hearings electronically. The information contained in
24 the notice is confidential unless the recipient appeals. The Office of
25 Administrative Hearings may dispose of the records after one year.
26 The Department may not influence, limit, or interfere with the
27 applicant's or recipient's decision to request a hearing.
- 28 (4) Appeal Request Form. – Along with the notice required by subdivision
29 (2) of this subsection, the Department shall also provide the applicant
30 or recipient with an appeal request form which shall be no more than
31 one side of one page. The form shall include the following:
- 32 a. A statement that in order to request an appeal, the applicant or
33 recipient must send the form by mail or fax to the address or fax
34 number listed on the form within 30 days of mailing of the
35 notice.
- 36 b. The applicant's or recipient's name, address, telephone number,
37 and Medicaid identification number.
- 38 c. A preprinted statement that indicates that the applicant or
39 recipient would like to appeal the specific adverse
40 determination of which the applicant or recipient was notified in
41 the notice.
- 42 d. A statement informing the applicant or recipient that he or she
43 may choose to be represented by a lawyer, a relative, a friend,
44 or other spokesperson.

- 1 e. A space for the applicant's or recipient's signature and date.
2 (5) Final Decision. – After a hearing before an administrative law judge,
3 the judge shall return the decision and record to the Department in
4 accordance with subsection 10.15A(h2) of this act. The Department
5 shall make a final decision in the case within 20 days of receipt of the
6 decision and record from the administrative law judge and promptly
7 notify the applicant or recipient of the final decision and of the right to
8 judicial review of the decision pursuant to Article 4 of Chapter 150B
9 of the General Statutes.

10 **SECTION 3.13.(b)** Section 10.15A of S.L. 2008-107 is amended by adding
11 five new subsections to read:

12 **"SECTION 10.15A.(h2)**

- 13 (1) Application. – This subsection applies only to contested Medicaid
14 cases commenced by Medicaid applicants or recipients under
15 subsection 10.15A(h1) of this act. Except as otherwise provided by
16 subsection 10.15A(h1) and this subsection governing time lines and
17 procedural steps, a contested Medicaid case commenced by a
18 Medicaid applicant or recipient is subject to the provisions of Article 3
19 of Chapter 150B. To the extent any provision in this subsection or
20 subsection 10.15A(h1) of this act conflicts with another provision in
21 Article 3 of Chapter 150B, this subsection and subsection 10.15A(h1)
22 controls.
- 23 (2) Simple Procedures. – Notwithstanding any other provision of Article 3
24 of Chapter 150B of the General Statutes, the chief administrative law
25 judge may limit and simplify the procedures that apply to a contested
26 Medicaid case involving a Medicaid applicant or recipient in order to
27 complete the case as quickly as possible. To the extent possible, the
28 Hearings Division shall schedule and hear contested Medicaid cases
29 within 45 days of submission of a request for appeal. The simplified
30 procedure may include requiring that all prehearing motions be
31 considered and ruled on by the administrative law judge in the course
32 of the hearing of the case on the merits. An administrative law judge
33 assigned to a contested Medicaid case shall make reasonable efforts in
34 a case involving a Medicaid applicant or recipient who is not
35 represented by an attorney to assure a fair hearing and to maintain a
36 complete record of the hearing. The administrative law judge may
37 allow brief extensions of the time limits contained in this section for
38 good cause and to ensure that the record is complete. Good cause
39 includes delays resulting from untimely receipt of documentation
40 needed to render a decision and other unavoidable and unforeseen
41 circumstances.
- 42 (3) Mediation. – Upon receipt of an appeal request form as provided by
43 subdivision 10.15A(h1)(4) of this act or other clear request for a
44 hearing by a Medicaid applicant or recipient, the chief administrative

1 law judge shall immediately notify the Mediation Network of North
2 Carolina which shall within five days contact the petitioner to offer
3 mediation in an attempt to resolve the dispute. If mediation is
4 accepted, the mediation must be completed within 25 days of
5 submission of the request for appeal. If mediation is successful, the
6 mediator shall inform the Hearings Division, which shall confirm with
7 the agency that a settlement has been achieved, and the case shall be
8 dismissed. If the petitioner rejects the offer of mediation or the
9 mediation is unsuccessful, the mediator shall notify the Hearings
10 Division that the case will proceed to hearing. Nothing in this
11 subdivision shall restrict the right to a contested case hearing.

12 (4) Burden of Proof. – The petitioner has the burden of proof to show
13 entitlement to a requested benefit or the propriety of requested agency
14 action when the agency has denied the benefit or refused to take the
15 particular action. The agency has the burden of proof when the appeal
16 is from an agency determination to impose a penalty or reduce,
17 terminate, or suspend a benefit previously granted. The party with the
18 burden of proof on any issue has the burden of going forward, and the
19 administrative law judge shall not make any ruling on the
20 preponderance of evidence until the close of all evidence.

21 (5) Decision. – The administrative law judge assigned to a contested
22 Medicaid case shall hear and decide the case without unnecessary
23 delay. The Hearings Division shall send a copy of the audiotape or
24 diskette of the hearing to the agency within five days of completion of
25 the hearing. The judge shall prepare a written decision and send it to
26 the parties. The decision must be sent together with the record to the
27 agency within 20 days of the conclusion of the hearing.

28 **"SECTION 10.15A.(h3)** From funds available to the Department of Health and
29 Human Services for the 2008-2009 fiscal year, the sum of two million dollars
30 (\$2,000,000) shall be transferred by the Department of Health and Human Services to
31 the Office of Administrative Hearings. These funds shall be allocated by the Office of
32 Administrative Hearings for mediation services provided for Medicaid applicant and
33 recipient appeals and to contract for other services necessary to conduct the appeals
34 process.

35 **"SECTION 10.15A.(h4)** Effective October 1, 2008, the Department of Health and
36 Human Services shall discontinue its current informal appeals process for Medicaid
37 applicants and recipients appealing a determination made by the Department to deny,
38 terminate, suspend, or reduce Medicaid covered services. All such informal appeals by
39 Medicaid applicants or recipients under the current system which are pending on that
40 date and for which a hearing has not been held shall be discontinued and the applicant
41 or recipient offered an opportunity to appeal to the Office of Administrative Hearings in
42 accordance with the provisions of subsection 10.15A(h1) of this act. The Department
43 shall make every effort to resolve or settle all of the backlogged cases prior to the
44 effective date of this act.

1 **"SECTION 10.15A.(h5)** Nothing in this act shall prevent the Department of Health
2 and Human Services from engaging in an informal review of the case with the applicant
3 or recipient prior to issuing a notice of adverse determination as provided by subsection
4 10.15A(h1) of this act.

5 **"SECTION 10.15A.(h6)** The appeals process for Medicaid applicants and
6 recipients established under this section shall expire July 1, 2010. The Department of
7 Health and Human Services and the Office of Administrative Hearings shall each report
8 to the House of Representatives Appropriations Subcommittee on Health and Human
9 Services, the Senate Appropriations Subcommittee on Health and Human Services, the
10 Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities,
11 and Substance Abuse Services, and the Fiscal Research Division on March 1, 2009,
12 October 1, 2009, and March 1, 2010, on the costs, effectiveness, and efficiency of the
13 appeals process for Medicaid applicants and recipients and make recommendations
14 regarding the continuation of the process."
15

16 **PART IV. EFFECTIVE DATE**

17 **SECTION 4.1.** This act becomes effective July 1, 2008.