

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007**

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**HOUSE BILL 706**

Short Title: The Governor's Budget 2007. (Public)

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Sponsors: Representatives Michaux, Haire, Jeffus (Primary Sponsors); Alexander and Jones.

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Referred to: Appropriations.

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March 15, 2007

A BILL TO BE ENTITLED  
AN ACT TO MAKE BASE BUDGET APPROPRIATIONS FOR CURRENT  
OPERATIONS OF STATE DEPARTMENTS, INSTITUTIONS, AND  
AGENCIES, AND FOR OTHER PURPOSES.  
The General Assembly of North Carolina enacts:

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

**INTRODUCTION**

**SECTION 1.** The appropriations made in this act are for maximum amounts necessary to provide the services and accomplish the purposes described in the budget. Savings shall be effected where the total amounts appropriated are not required to perform these services and accomplish these purposes and, except as allowed by the State Budget Act, or this act, the savings shall revert to the appropriate fund at the end of each fiscal year.

**TITLE OF ACT**

**SECTION 1.2.** This act shall be known as "The Current Operations and Capital Improvements Appropriations Act of 2007."

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

**SECTION 2.1.** Appropriations from the General Fund of the State for the maintenance of the State's departments, institutions, and agencies, and for other purposes as enumerated, are made for the biennium ending June 30, 2009, according to the following schedule:

State Agency or Division	<b>FY 2007-08 Recommended Appropriation</b>	<b>FY 2008-09 Recommended Appropriation</b>
<b>HEALTH AND HUMAN SERVICES</b>		
Central Administration	\$71,872,058	\$67,419,374
Aging	34,907,589	34,909,179
Child Development	305,916,143	305,939,926

1	Education Services	39,373,863	39,928,830
2	Public Health	186,706,619	179,716,681
3	Social Services	216,303,887	222,788,887
4	Medical Assistance	2,882,941,451	3,167,283,638
5	Child Health	59,391,155	59,391,155
6	Services for the Blind	12,413,913	12,536,515
7	Mental Health/DD/SAS	716,811,415	718,940,878
8	Facility Services	19,453,150	20,795,503
9	Vocational Rehabilitation	45,976,163	46,383,551
10	Total Health & Human Services	4,592,067,406	4,876,034,117
11			
12		<b>FY 2007-08</b>	<b>FY 2008-09</b>
13	<b>State Agency or Division</b>	<b>Recommended</b>	<b>Recommended</b>
14		<b>Appropriation</b>	<b>Appropriation</b>
15			
16	<b>NATURAL AND ECONOMIC RESOURCES</b>		
17	Agriculture & Consumer Services	67,134,939	61,314,179
18	Commerce	62,658,713	42,109,110
19	Commerce – State Aid to Non-State Entities	52,654,087	52,654,087
20	Environment and Natural Resources	200,131,656	201,707,134
21	Clean Water Management Trust Fund	100,000,000	100,000,000
22	Labor	16,594,758	16,594,951
23	Total Natural and Economic Resources	499,174,153	474,379,461
24			
25	<b>JUSTICE AND PUBLIC SAFETY</b>		
26	Correction	1,217,393,823	1,237,821,977
27	Crime Control & Public Safety	47,526,155	43,054,413
28	Judicial	420,098,593	423,824,541
29	Judicial – Indigent Defense	104,747,454	108,569,559
30	Justice	96,375,618	92,533,849
31	Juvenile Justice	161,610,825	165,811,556
32	Total Justice and Public Safety	2,047,752,468	2,071,615,895
33			
34	<b>GENERAL GOVERNMENT</b>		
35	Administration	68,508,544	69,010,048
36	State Auditor	12,903,026	12,916,479
37	Cultural Resources	70,463,491	71,352,733
38	Cultural Resources – Roanoke Island	2,020,023	2,020,023
39	General Assembly	55,729,083	56,931,204
40	Governor's Office	6,462,319	6,500,587
41	Insurance	32,003,945	31,958,716
42	Insurance – Worker's Compensation Fund	4,500,000	4,500,000
43	Lieutenant Governor	938,104	939,091
44	Office of Administrative Hearings	3,738,155	3,568,432
45	Revenue	87,619,246	87,711,626
46	NC Housing Finance	11,250,945	4,750,945
47	Secretary of State	10,704,933	10,776,784
48	State Board of Elections	9,528,421	6,798,147
49	State Budget and Management (OSBM)	5,930,060	5,936,765
50	OSBM – Special Appropriations	6,438,446	6,438,446
51	Office of State Controller	20,817,526	20,835,033
52	State Treasurer	9,441,130	9,438,190
53	State Treasurer – Retirement/Benefits	9,165,457	9,165,457
54	<b>Total General Government</b>	<b>428,162,854</b>	<b>421,548,706</b>
55			

	<b>FY 2007-08 Recommended Appropriation</b>	<b>FY 2008-09 Recommended Appropriation</b>
<b>State Agency or Division</b>		
<b>EDUCATION</b>		
Public Schools	7,603,203,498	7,663,846,464
Community Colleges	915,790,652	912,122,495
University System	2,304,460,041	2,357,978,162
UNC – Hospital	45,673,970	45,673,970
UNC – GA Passthrough	284,576,699	336,283,215
<b>Total Education</b>	<b>11,153,704,861</b>	<b>11,315,904,307</b>
<b>Total Budget</b>	<b>18,720,861,742</b>	<b>19,159,482,486</b>
<b>DEBT SERVICE</b>		
General Debt Service	619,793,004	655,299,484
Federal Reimbursement	1,616,380	1,616,380
<b>Total Debt Service</b>	<b>621,409,384</b>	<b>656,915,864</b>
<b>RESERVES &amp; ADJUSTMENTS</b>		
Contingency and Emergency Reserve	5,000,000	5,000,000
Compensation Increase Reserve	394,520,636	386,490,786
Salary Adjustment Reserve	28,188,000	28,188,000
Retirement System COLA	27,200,000	27,200,000
Retirement System – Payback	45,000,000	0
ITS Enterprise Fee Hold Harmless	1,500,000	1,500,000
Health Plan Reserve	111,247,930	146,563,167
Job Development Investment Grants	12,400,000	12,400,000
Reserve for Internal Control		
Task Force Recommendations	1,000,000	1,000,000
Reserve for ITAS Replacement	10,000,000	10,000,000
Beacon Project Reserve	20,000,000	
IT Initiative	4,140,000	2,840,000
<b>Total Reserves &amp; Adjustments</b>	<b>660,196,566</b>	<b>621,181,953</b>
<b>CAPITAL</b>		
Capital Improvements	63,883,409	0
<b>Total Capital</b>	<b>63,883,409</b>	<b>0</b>
<b>TOTAL GENERAL FUND BUDGET</b>	<b>\$20,066,351,100</b>	<b>20,437,580,303</b>

**GENERAL FUND AVAILABILITY STATEMENT**

**SECTION 2.2.(a)** The General Fund availability used in developing the 2007-2009 budget is shown below:

<b>Description</b>	<b>FY 2007-08 Recommended (In Millions)</b>	<b>FY 2008-09 Recommended (In Millions)</b>
Beginning Availability:		
Unappropriated Balance from Prior Fiscal Year	0	118,823,900
Credit Balance FY 2004-05 (Reversions & Over-collections)	950,100,000	0
Credit to Savings Reserve Account	(237,525,000)	0
Credit to Repairs and Renovations		

1	Reserve Account	(100,000,000)	0
2	<b>Beginning Unreserved Credit Balance</b>	<b>612,575,000</b>	<b>0</b>
3			
4	<b>REVENUES</b>		
5	Tax:		
6	Individual Income Tax	10,568,000,000	11,188,200,000
7	Corporate Income Tax	4,877,000,000	5,093,300,000
8	Sales and Use	1,194,000,000	1,251,900,000
9	Other Tax	1,853,600,000	1,937,000,000
10	Total Tax	18,492,600,000	19,470,400,000
11	Nontax/Transfers	869,000,000	889,000,000
12	<b>Total Revenue</b>	<b>19,361,600,000</b>	<b>20,359,400,000</b>
13			
14	<b>Tax Reductions</b>		
15	Income Tax Reduction	(28,000,000)	(63,000,000)
16	Adoption Tax Credit	(3,000,000)	(3,000,000)
17	Increased Expensing for Small Businesses	(35,800,000)	(27,900,000)
18	Deductions for Higher Education Tuition	(13,900,000)	(14,400,000)
19	Deductions for Qualified Expenses for K-12 Teachers	(2,300,000)	(1,300,000)
20	Health Insurance Premiums for Retired Officers	(2,000,000)	(2,200,000)
21	Miscellaneous IRC Conformities	(4,700,000)	(3,000,000)
22	<b>Subtotal Tax Reductions</b>	<b>(89,700,000)</b>	<b>(115,100,000)</b>
23			
24	<b>Other Tax Changes</b>		
25	Continue 4.25% State Sales Tax Rate	259,900,000	286,300,000
26	Continue 8.0% Income Tax Rate	40,800,000	93,700,000
27	<b>Subtotal Other Tax Changes</b>	<b>300,700,000</b>	<b>380,000,000</b>
28			
29	<b>Total Availability</b>	<b>20,185,175,000</b>	<b>20,743,123,899</b>
30			
31	<b>Less: Total General Fund Appropriations</b>	<b>(20,066,351,101)</b>	<b>(20,437,580,303)</b>
32			
33	<b>Unappropriated Balance Remaining</b>	<b>\$118,823,900</b>	<b>\$305,543,597</b>
34			

35 **SECTION 2.2.(b)** Notwithstanding G.S. 143C-9-3, of the funds credited to  
36 the Tobacco Trust Fund from the Master Settlement Agreement pursuant to Section 6(2)  
37 of S.L. 1999-2 during the 2007-2009 fiscal biennium, the sum of twenty-six million  
38 dollars (\$26,000,000) for the 2007-2008 fiscal year and the sum of sixteen million  
39 dollars (\$16,000,000) for the 2008-2009 fiscal year shall be transferred from the  
40 Department of Agriculture and Consumer Services, Budget Code 23703 (Tobacco Trust  
41 Fund) to the State Controller to be deposited in Non-tax Budget Code 19978 (Intra State  
42 Transfers) to support General Fund appropriations for the 2007-2008 and 2008-2009  
43 fiscal years.

44 **SECTION 2.2.(c)** Notwithstanding the allocations outlined in G.S. 143-15.2  
45 and G.S. 143-15.3A, the State Controller shall transfer one hundred million dollars  
46 (\$100,000,000) from the unreserved credit balance to the Repairs and Renovations  
47 Reserve Account on June 30, 2007. This section becomes effective June 30, 2007.

48  
49 **PART III. CURRENT OPERATIONS/HIGHWAY FUND**

50  
51 **CURRENT OPERATIONS/HIGHWAY FUND**

52 **SECTION 3.1.** Appropriations from the Highway Fund of the State for the  
53 maintenance and operation of the Department of Transportation, and for other purposes  
54 as enumerated, are made for the biennium ending June 30, 2009, according to the  
55 following schedule:

	2007-08	2008-09
	Recommended	Recommended
<b>Current Operations – Highway Fund</b>		
DOT – General Administration	\$ 95,787,091	\$ 93,204,187
Highway Division Administration	32,651,442	32,703,136
State Match for Federal Aid-Planning and Research	4,700,000	4,700,000
Construction Program:		
State Secondary System	93,046,035	95,073,949
Division Small Urban Construction	21,000,000	21,000,000
Discretionary Funds	15,000,000	15,000,000
Spot Safety Improvements	9,100,000	9,100,000
Access and Public Services Roads	2,000,000	2,000,000
Total Construction Program	140,146,035	140,173,949
Maintenance Program		
Primary System	155,323,184	155,323,184
Secondary System	243,316,065	243,316,065
System Preservation	100,289,071	88,403,935
Contract Resurfacing	284,525,663	284,525,663
General Maintenance Reserve	151,912,491	148,820,724
Total Maintenance Program	935,366,474	920,389,571
Ferry Operations	29,513,921	29,513,921
State Aid to Municipalities	93,046,035	93,073,949
State Aid to Railroads	25,125,153	25,125,153
State Aid for Public Transportation	73,466,447	73,466,447
Asphalt Plant Cleanup	425,000	425,000
Governor's Highway Safety Program	334,314	335,449
Division of Motor Vehicles	101,700,725	119,510,944
<b>Total Department of Transportation</b>	<b>\$1,554,122,759</b>	<b>\$ 1,555,751,739</b>
Appropriations to Other State Agencies:		
Agriculture	4,742,033	4,709,039
Revenue	5,778,561	5,786,604
Public Instruction – Driver Education	33,285,956	33,255,278
CCPS – Highway Patrol	205,685,608	203,516,779
DENR – LUST Trust Fund	4,952,900	4,988,378
DHHS – Chemical Test	622,183	622,183
Total – Other State Agencies	255,067,241	252,878,261
Reserves and Transfers:		
Salary Adjustment	1,650,000	1,650,000
Minority Contractor Development	150,000	150,000
State Fire Protection Grant	150,000	150,000
Stormwater Discharge Permit	500,000	500,000
Reserve for Visitor's Centers	400,000	400,000
Global TransPark	1,600,000	1,600,000
Reserve for Legislative Increase	12,700,000	12,700,000
Reserve for Health Insurance Adjustment	5,200,000	6,900,000
Employer's Contribution-Retiree	1,400,000	1,400,000
Reserve for Administrative Reduction	(2,500,000)	(2,500,000)

1	Total Reserves and Transfers	21,250,000	22,950,000
2			
3	<b>Total Highway Fund Appropriation</b>	<b>\$1,830,440,000</b>	<b>\$1,831,580,000</b>

**HIGHWAY FUND AVAILABILITY STATEMENT**

6 **SECTION 3.2.** The Highway Fund availability used in developing the  
7 2007-2009 biennial budget is shown below:

9	<b>Highway Fund Availability Statement</b>	<b>2007-08</b>	<b>2008-09</b>
10		<b>Recommended</b>	<b>Recommended</b>
11			
12	Beginning Credit Balance	\$ 30,000,000	0
13	Estimated Revenue	1,800,440,000	1,831,580,000
14	Estimated Reversions	0	0
15			
16	<b>Total Highway Fund Availability</b>	<b>\$ 1,830,440,000</b>	<b>\$ 1,831,580,000</b>

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

21 **SECTION 4.1.** Appropriations from the Highway Trust Fund are made for  
22 the biennium ending June 30, 2009, according to the following schedule:

24	<b>Highway Trust Fund</b>	<b>2007-08</b>	<b>2008-09</b>
25		<b>Recommended</b>	<b>Recommended</b>
26			
27	Department of Transportation:		
28	Maximum Allowance for Administration	\$ 42,722,640	\$ 43,386,880
29			
30	Construction Allocation:		
31	Intrastate System	540,326,825	550,107,613
32	Urban Loop System	218,485,665	222,440,608
33	Secondary Roads	94,808,677	96,786,225
34			
35	State Aid to Municipalities	56,692,887	57,719,120
36			
37	Transfer to the General Fund	172,543,306	172,619,554
38			
39	<b>TOTAL HIGHWAY TRUST FUND APPROPRIATIONS</b>	<b>\$ 1,125,580,000</b>	<b>\$ 1,143,060,000</b>
40	<b>1,143,060,000</b>		

**PART V. BLOCK GRANT PROVISIONS****DHHS BLOCK GRANTS**

45 **SECTION 5.1.(a)** Appropriations from federal block grant funds are made  
46 for the fiscal year ending June 30, 2008, according to the following schedule:

**TEMPORARY ASSISTANCE TO NEEDY FAMILIES BLOCK GRANT**

49	Local Program Expenditures		
50	Division of Social Services		
51	1. Work First Family Assistance (Cash Assistance)		\$95,807,234
52	2. Work First County Block Grants		94,653,315
53	3. Child Protective Services – Child Welfare Workers		
54	for Local DSS		14,452,391
55	4. Work First – Boys and Girls Clubs		1,500,000

1	5.	Work First – After-School Services for At-Risk Children	2,249,642
2	6.	Work First – After-School Programs for At-Risk	
3		Youth in Middle Schools	500,000
4	7.	Work First – Work Central	550,000
5	8.	Adoption Services – Special Children's Adoption Fund	3,000,000
6	9.	Family Violence Prevention	2,200,000
7		Division of Child Development	
8	10.	Subsidized Child Care Program	48,563,266
9		DHHS Administration	
10	11.	Division of Social Services	762,626
11	12.	Office of the Secretary	65,836
12	13.	Office of the Secretary/DIRM – TANF	
13		Automation Projects	592,500
14	14.	Office of the Secretary/DIRM – NCFAST Implementation	1,800,000
15		Transfers to other Block Grants	
16		Division of Child Development	
17	15.	Transfer to Child Care and Development Fund	81,292,880
18		Division of Social Services	
19	16.	Transfer to SSBG for Department of Juvenile	
20		Justice and Delinquency Prevention – Support our Students	2,749,642
21	17.	Transfer to SSBG for Child Protective Services –	
22		Child Welfare Training for Counties	2,550,000
23	18.	Transfer to SSBG for Maternity Homes	838,000
24	19.	Transfer to SSBG for Teen Pregnancy Prevention Initiatives	2,500,000
25	20.	Transfer to SSBG for County DSS for Children's Services	4,500,000
26	21.	Transfer to SSBG for Foster Care Services	1,181,907
27		TEMPORARY ASSISTANCE TO NEEDY FAMILIES	
28		BLOCK GRANT TOTAL	\$362,309,239
29			
30		SOCIAL SERVICES BLOCK GRANT	
31		Local Program Expenditures	
32		Divisions of Social Services and Aging & Adult Services	
33	1.	County departments of social services (Transfer	
34		from TANF – \$4,500,000)	\$ 28,868,189
35	2.	State In-Home Services Fund (DAAS)	2,101,113
36	3.	State Adult Day Care Fund (DAAS)	2,155,301
37	4.	Child Protective Services/CPS Investigative Services –	
38		Child Medical Evaluation Program (DSS)	238,321
39	5.	Foster Care Services (DSS)	
40		(Transfer from TANF-\$1,181,907)	2,649,662
41	6.	Foster Care Maintenance Payments	2,636,587
42	7.	CPS – Child Welfare Training for Counties	
43		(Transfer from TANF)	2,550,000
44	8.	Maternity Homes (Transfer from TANF)	838,000
45		Division of Aging and Adult Services	
46	9.	Home and Community Care Block Grant (HCCBG)	1,834,077
47	10.	Mental Health Services Program	422,003
48	11.	Developmental Disabilities Services Program	5,000,000
49	12.	Mental Health Services – Adult	
50		Mental Health Services – Child	
51		Developmental Disabilities Program	
52		Substance Abuse Services-Adult	3,234,601
53		Division of Child Development	
54	13.	Subsidized Child Care Program	3,195,000
55		Division of Vocational Rehabilitation	

1	14. Vocational Rehabilitation Services – Easter Seal	
2	Society/UCP	188,263
3	Office of the Secretary – OEO	
4	15. Elderly Supplemental Grant Program	41,302
5	Division of Public Health	
6	16. Teen Pregnancy Prevention Initiatives	
7	(Transfer from TANF)	2,500,000
8	Division of Aging and Adult Services	
9	17. UNC-CARES Training Contract	247,920
10	Division of Blind	
11	18. Independent Living Program	3,480,133
12	Division of Facility Services	
13	19. Adult Care Licensure Program	411,897
14	20. Mental Health Licensure and Certification Program	205,668
15	DHHS Administration	
16	21. Division of Aging and Adult Services	658,674
17	22. Division of Social Services	869,058
18	23. Office of the Secretary/Controller's Office	126,155
19	24. Office of the Secretary/DIRM	82,009
20	25. Office of the Secretary	46,819
21	26. Division of Child Development	15,000
22	27. Division of Mental Health Developmental	
23	Disabilities and Substance Abuse Services	28,860
24	28. Division of Facility Services	159,218
25	29. Office of the Secretary – NC Inter-Agency Council for	
26	Coordinating Homeless Programs	250,000
27	30. Office of the Secretary – Housing Coalition	100,000
28	Transfers to Other State Agencies	
29	Department of Administration	
30	31. NC Commission of Indian Affairs In-Home Services	
31	for the Elderly	203,198
32	Department of Juvenile Justice and Delinquency Prevention	
33	32. Support Our Students (Transfer from TANF)	2,749,642
34	Transfers to Other Block Grants	
35	Division of Public Health	
36	33. Transfer to Preventive Health Services BG for	
37	HIV/STD Prevention and Community Planning	145,819
38	<b>SOCIAL SERVICES BLOCK GRANT TOTAL</b>	<b>\$68,232,489</b>
39		
40	<b>LOW INCOME HOME ENERGY ASSISTANCE BLOCK GRANT</b>	
41	Local Program Expenditures	
42	Division of Social Services	
43	1. Low Income Energy Assistance Program (LIEAP)	\$17,315,919
44	2. Crisis Intervention Program (CIP)	12,904,706
45	Office of the Secretary – Office of Economic Opportunity	
46	3. Weatherization Program	5,578,702
47	4. Heating Air Repair & Replacement Program (HARRP)	2,602,008
48	Division of Social Services	
49	5. County DSS Administration	2,215,016
50	Office of the Secretary – Office of Economic Opportunity	
51	6. Local Residential Energy Efficiency Service Providers –	
52	Weatherization	262,837
53	7. Local Residential Energy Efficiency Service	
54	Providers – HARRP	122,591
55	DHHS Administration	



1	8. Division of Social Services	215,000
2	9. Division of Mental Health/DD/SAS	7,389
3	10. Office of the Secretary/DIRM	245,395
4	11. Office of the Secretary/Controller's Office	11,211
5	12. Office of the Secretary/Office of Economic	
6	Opportunity – Weatherization	262,837
7	13. Office of the Secretary/Office of Economic	
8	Opportunity – HARRP	122,591
9	Transfers to other State Agencies	
10	14. Department of Administration – N.C. Commission of	
11	Indian Affairs	59,740
12	LOW INCOME HOME ENERGY ASSISTANCE BLOCK	
13	GRANT TOTAL	\$41,925,942
14		
15	CHILD CARE AND DEVELOPMENT BLOCK GRANT	
16	Local Program Expenditures	
17	Division of Child Development	
18	1. Subsidized Child Care Services (CCDF)	\$163,231,913
19	2. Subsidized Child Care Services (TANF to CCDF)	81,292,880
20	3. Quality and Availability Initiatives	31,463,419
21	Local Administration	
22	Division of Child Development	
23	4. Administrative Expenses (Non-Direct Subsidy Services Support)	1,849,000
24	DHHS Administration	
25	Division of Child Development	
26	5. DCD Administrative Expenses	6,028,354
27	CHILD CARE AND DEVELOPMENT BLOCK	
28	GRANT TOTAL	\$283,865,566
29		
30	MENTAL HEALTH SERVICE BLOCK GRANT	
31	Local Program Expenditures	
32	Division of MH/DD/SAS	
33	1. Mental Health Services – Adult	\$5,654,932
34	2. Mental Health Services – Child	3,921,992
35	3. Comprehensive Treatment Service Program	1,500,000
36	DHHS Administration	
37	Division of MH/DD/SAS	
38	4. Division of Mental Health	100,000
39	MENTAL HEALTH SERVICES BLOCK GRANT	
40	TOTAL	\$11,176,923
41		
42	SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT	
43	Local Program Expenditures	
44	Division of Mental Health, Developmental	
45	Disabilities and Substance Abuse Services	
46	1. Substance Abuse Services – Adult	\$20,537,390
47	2. Substance Abuse Treatment Alternatives for Women	8,069,524
48	3. Substance Abuse – HIV and IV Drug	4,816,378
49	4. Substance Abuse Prevention – Child	5,835,701
50	5. Substance Abuse Services – Child	4,940,500
51	6. Substance Abuse Strengthening Families – Prevention	851,156
52	Division of Public Health	
53	7. Risk Reduction Projects	383,980
54	8. Aid to Counties	209,576
55	9. Maternal Health	37,779

1	DHHS Administration	
2	10. Division of Mental Health	500,000
3	SUBSTANCE ABUSE PREVENTION AND	
4	TREATMENT BLOCK GRANT TOTAL	\$46,181,984
5		
6	MATERNAL AND CHILD HEALTH BLOCK GRANT	
7	Local Program Expenditures	
8	Division Name	
9	1. Children's Health Services	\$6,657,275
10	2. Maternal Health	3,441,129
11	3. Family Planning	4,078,338
12	4. Oral Health	34,284
13	5. Teen Pregnancy Prevention Initiatives	85,710
14	DHHS Program Expenditures	
15	Division Name	
16	6. Children's Health Services	2,446,112
17	7. Maternal Health	106,927
18	8. State Center for Health Statistics	33,134
19	9. Local Technical Assistance & Training	17,318
20	10. Injury and Violence Prevention	142,850
21	11. Office of Minority Health	37,068
22	12. Immunization Program – Vaccine Distribution	310,667
23	DHHS Administration	
24	13. Division of Public Health administration	600,586
25	MATERNAL AND CHILD HEALTH BLOCK GRANT	
26	TOTAL	\$17,991,398
27		
28	PREVENTIVE HEALTH AND HEALTH SERVICES BLOCK GRANT	
29	Local Program Expenditures	
30	Division of Public Health	
31	1. NC Statewide Health Promotion	\$1,775,653
32	2. Services to Rape Victims	197,112
33	3. HIV/STD Prevention and Community Planning	
34	(Transfer from SSBG)	145,819
35	DHHS Program Expenditures	
36	Division of Public Health	
37	4. NC Statewide Health Promotion	718,451
38	5. Oral Health	70,000
39	DHHS Administration	
40	Division of Public Health	
41	6. Administration	163,806
42	PREVENTIVE HEALTH AND HEALTH SERVICES BLOCK	
43	GRANT TOTAL	\$3,070,841
44		
45		
46	COMMUNITY SERVICES BLOCK GRANT	
47	Local Program Expenditures	
48	Office of Economic Opportunity	
49	1. Community Action Agencies	\$15,071,666
50	2. Limited Purpose Agencies	823,136
51	DHHS Administration (by division)	
52	3. Office of Economic Opportunity	823,136
53	COMMUNITY SERVICES BLOCK GRANT TOTAL	\$16,717,938
54		

1           **SECTION 5.1.(b)** Changes in Federal Fund Availability. – If the Congress  
2 of the United States increases the federal fund availability for any of the Block Grants  
3 administered by the Department of Health and Human Services from the amounts  
4 appropriated in this section, the Department shall allocate the increase proportionally  
5 across the program and activity appropriations identified for that Block Grant in this  
6 section. In allocating an increase in federal fund availability, the Department shall not  
7 propose funding for new programs or activities not appropriated in this section.

8           If the Congress of the United States decreases the federal fund availability for  
9 any of the Block Grants administered by the Department of Health and Human Services  
10 from the amounts appropriated in this section, the Department shall reduce State  
11 administration by at least the percentage of the reduction in federal funds. After  
12 determining the State administration, the remaining reductions shall be allocated  
13 proportionately across the program and activity appropriations identified for that Block  
14 Grant in this section.

15           Prior to allocating the change in federal fund availability, the proposed  
16 allocation must be approved by the Office of State Budget and Management. If the  
17 Department adjusts the allocation of any Block Grant due to changes in federal fund  
18 availability, then a report shall be made to the Joint Legislative Commission on  
19 Governmental Operations, the House of Representatives Appropriations Subcommittee  
20 on Health and Human Services, the Senate Appropriations Committee on Health and  
21 Human Services, and the Fiscal Research Division.

22           **SECTION 5.1.(c)** All changes to the budgeted allocations to the Block  
23 Grants administered by the Department of Health and Human Services that are not  
24 specifically addressed in this section shall be approved by the Office of State Budget  
25 and Management, and a report shall be submitted to the Joint Legislative Commission  
26 on Governmental Operations for review prior to implementing the changes. All changes  
27 to the budgeted allocations to the Block Grant shall be reported immediately to the  
28 House of Representatives Appropriations Subcommittee on Health and Human  
29 Services, the Senate Appropriations Committee on Health and Human Services, and the  
30 Fiscal Research Division. This subsection does not apply to Block Grant changes  
31 caused by legislative salary increases and benefit adjustments.

#### 32 **CHILD CARE AND DEVELOPMENT BLOCK GRANT**

33           **SECTION 5.1.(d)** Payment for subsidized child care services provided with  
34 federal TANF funds shall comply with all regulations and policies issued by the  
35 Division of Child Development for the subsidized child care program.

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

#### 41 **SOCIAL SERVICES BLOCK GRANT**

42           **SECTION 5.1.(f)** Social Services Block Grant funds appropriated to the  
43 North Carolina Inter-agency Council for Coordinating Homeless Program and the N. C.  
44 Housing Coalition are exempt from the provisions of 10A NCAC 71R.0201.(3).

#### 45 **NER BLOCK GRANTS**

46           **SECTION 5.2.** The Department of Commerce shall submit to the Office of  
47 State Budget and Management a plan for allocating federal funds received for the  
48 Community Development Block Grant. Upon receipt and approval of the Department's  
49 plan, the Office of State Budget and Management shall submit an allocation schedule to  
50 the North Carolina General Assembly for review and appropriation of federal block  
51 grant funds for the fiscal year ending June 30, 2008.

### 52 **PART VI. GENERAL PROVISIONS**

#### 53 **APPROPRIATION OF CASH BALANCES AND RECEIPTS**

1           **SECTION 6.1.(a)** Expenditures of cash balances, federal funds,  
2 departmental receipts, grants, and gifts from the various General Fund, Special Revenue  
3 Fund, Enterprise Fund, Internal Service Fund, and Trust and Agency Fund budget codes  
4 are appropriated and authorized for the 2007-2009 fiscal biennium as follows:

- 5           (1) For all budget codes listed in "North Carolina State Budget,  
6 Recommended Operating Budget 2007-2009, Volumes 1 through 6",  
7 cash balances and receipts are appropriated up to the amounts  
8 specified in Volumes 1 through 6, as adjusted by the General  
9 Assembly, for the 2007-2008 fiscal year and the 2008-2009 fiscal year.  
10 Funds may be expended only for the programs, purposes, objects, and  
11 line items specified in Volumes 1 through 6, or otherwise authorized  
12 by the General Assembly.
- 13           (2) For all budget codes that are not listed in "North Carolina State  
14 Budget, Recommended Operating Budget 2007-2009, Volumes 1  
15 through 6", cash balances and receipts are appropriated for each year  
16 of the 2007-2009 fiscal biennium up to the level of actual expenditures  
17 for the 2006-2007 fiscal year, unless otherwise provided by law. Funds  
18 may be expended only for the programs, purposes, objects, and line  
19 items authorized for the 2006-2007 fiscal year.
- 20           (3) Notwithstanding subdivisions (1) and (2) of this subsection, any  
21 receipts that are required to be used to pay debt service requirements  
22 for various outstanding bond issues and certificates of participation are  
23 appropriated up to the actual amounts received for the 2007-2008  
24 fiscal year and the 2008-2009 fiscal year and shall be used only to pay  
25 debt service requirements.
- 26           (4) Notwithstanding subdivisions (1) and (2) of this subsection, cash  
27 balances and receipts of funds that meet the definition issued by the  
28 Governmental Accounting Standards Board of a trust or agency fund  
29 are appropriated for and in the amounts required to meet the legal  
30 requirements of the trust agreement for the 2007-2008 fiscal year and  
31 the 2008-2009 fiscal year.

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

35           **SECTION 6.1.(b)** Receipts collected in a fiscal year in excess of the  
36 amounts authorized by this section shall remain unexpended and unencumbered until  
37 appropriated by the General Assembly in a subsequent fiscal year, unless the  
38 expenditure of overrealized receipts in the fiscal year in which the receipts were  
39 collected is authorized by the State Budget Act.

40           Overrealized receipts are appropriated up to the amounts necessary to  
41 implement this subsection.

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

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

## 54 **INSURANCE AND FIDELITY BONDS**

1           **SECTION 6.2.** All insurance and all official fidelity and surety bonds  
 2 authorized for the several departments, institutions, and agencies shall be effected and  
 3 placed by the Department of Insurance, and the cost of placement shall be paid by the  
 4 affected department, institution, or agency with the approval of the Commissioner of  
 5 Insurance.

6  
 7 **EXPENDITURES OF FUNDS IN RESERVES LIMITED**

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

10  
 11 **REDEPLOYMENT OF RESOURCES RESULTING FROM HR/PAYROLL**  
 12 **IMPLEMENTATION**

13           **SECTION 6.4.** Notwithstanding any other provision of law, the Office of  
 14 State Budget and Management is authorized to evaluate the impact of the BEACON  
 15 Program on affected agencies and to develop a plan for addressing resources affected by  
 16 the Program. As relates to the impact on personnel, the State Redeployment Plan shall  
 17 be implemented to the extent possible and, when compliance with federal or State law  
 18 requires, new positions may be created if balanced by the elimination of a current or  
 19 contracted position. This provision expires December 31, 2008.

20  
 21 **REVISE FREQUENCY OF FEE REPORT**

22           **SECTION 6.5.** G.S. 143C-9-4 reads as rewritten:  
 23 "**§ 143C-9-4. (Effective July 1, 2007) Annual Fee Report.**

24           The Office of State Budget and Management shall prepare a report ~~annually~~  
 25 biennially on the fees charged by each State department, bureau, division, board,  
 26 commission, institution, and agency during the previous fiscal year. The report shall  
 27 include the statutory or regulatory authority for each fee, the amount of the fee, when  
 28 the amount of the fee was last changed, the number of times the fee was collected  
 29 during the prior fiscal year, and the total receipts from the fee during the prior fiscal  
 30 year."

31  
 32 **BUDGET REALIGNMENT**

33           **SECTION 6.6.** Notwithstanding G.S. 143C-6-4(b), the Office of State  
 34 Budget and Management may adjust the enacted budget by making transfers among  
 35 purposes or programs for the sole purpose of correctly aligning authorized positions and  
 36 associated operating costs with the appropriate purposes or programs as defined in  
 37 G.S. 143C-1-1(d)(23). The Office of State Budget and Management shall change the  
 38 certified budget to reflect these adjustments only after reporting the proposed  
 39 adjustments to the Joint Legislative Commission on Governmental Operations and the  
 40 Fiscal Research Division. Under no circumstances shall total General Fund  
 41 expenditures for a State department exceed the amount appropriated to that department  
 42 from the General Fund for the fiscal year.

43  
 44 **EDUCATION LOTTERY**

45           **SECTION 6.7.(a)** Notwithstanding G.S. 18C-164, the revenue used to  
 46 support appropriations made in this act is transferred from the State Lottery Fund in the  
 47 amount of four hundred thirty-eight million dollars (\$438,000,000) for the 2007-2008  
 48 fiscal year.

49           **SECTION 6.7.(b)** Notwithstanding G.S. 18C-164, the appropriations made  
 50 from the Education Lottery Fund pursuant to G.S. 18C-164(d) for the 2007-2008 fiscal  
 51 year are as follows:

52		
53	Class Size Reduction	\$ 127,867,291
54	Prekindergarten Program	144,572,109
55	Public School Building Capital Fund	132,448,480

Scholarships for Needy Students	33,112,120
Total Appropriation	\$ 438,000,000

**SECTION 6.7.(c)** G.S. 18C-162(a) reads as rewritten:

"(a) To the extent ~~practicable, and in order to maximize total net revenues for education purposes,~~ the Commission shall allocate revenues to the North Carolina State Lottery Fund in the following manner:

- (1) At least fifty percent (50%) of the total annual revenues, as described in this Chapter, shall be returned to the public in the form of prizes.
- (2) ~~At least thirty five percent (35%)~~ The percentage of the total annual revenues, as described in this Chapter, that the Commission determines necessary to maximize total net revenues for education and satisfy the annual appropriation requirements set by the General Assembly shall be transferred as provided in G.S. 18C-164.
- (3) No more than eight percent (8%) of the total annual revenues, as described in this Chapter, shall be allocated for payment of expenses of the Lottery. Advertising expenses shall not exceed one percent (1%) of the total annual revenues.
- (4) No more than seven percent (7%) of the total annual revenues, as described in this Chapter, shall be allocated for compensation paid to lottery game retailers."

**SECTION 6.7.(d)** Notwithstanding G.S. 18C-164(e), any unexpended funds in budget code 13510 may be used to support the 2006-2007 appropriation for Class Size Reduction established in Section 6.15.(b) of S.L. 2006-66.

**SECTION 6.7.(e)** This section becomes effective June 30, 2007.

**PART VII. PUBLIC SCHOOLS**

**TEACHER SALARY SCHEDULES**

**SECTION 7.1.(a)** Effective for the 2007-2008 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 (c) 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 2007-2008 fiscal year to certified personnel of the public schools who are classified as teachers. The schedule contains 31 steps with each step corresponding to one year of teaching experience.

2007-2008 Monthly Salary Schedule

Years of Experience	"A" Teachers	NBPTS Certification
0	\$2,975	N/A
1	\$3,017	N/A
2	\$3,061	N/A
3	\$3,217	\$3,603
4	\$3,357	\$3,760
5	\$3,491	\$3,910
6	\$3,620	\$4,054
7	\$3,724	\$4,171

1	8	\$3,772	\$4,225
2	9	\$3,821	\$4,280
3	10	\$3,871	\$4,336
4	11	\$3,920	\$4,390
5	12	\$3,971	\$4,448
6	13	\$4,022	\$4,505
7	14	\$4,075	\$4,564
8	15	\$4,129	\$4,624
9	16	\$4,184	\$4,686
10	17	\$4,239	\$4,748
11	18	\$4,298	\$4,814
12	19	\$4,356	\$4,879
13	20	\$4,414	\$4,944
14	21	\$4,476	\$5,013
15	22	\$4,537	\$5,081
16	23	\$4,603	\$5,155
17	24	\$4,667	\$5,227
18	25	\$4,732	\$5,300
19	26	\$4,798	\$5,374
20	27	\$4,866	\$5,450
21	28	\$4,937	\$5,529
22	29	\$5,008	\$5,609
23	30+	\$5,106	\$5,719

2007-2008 Monthly Salary Schedule

"M" Teachers

Years of Experience	"M" Teachers	NBPTS Certification
28	0	N/A
29	1	N/A
30	2	N/A
31	3	\$3,964
32	4	\$4,136
33	5	\$4,301
34	6	\$4,460
35	7	\$4,588
36	8	\$4,647
37	9	\$4,707
38	10	\$4,769
39	11	\$4,829
40	12	\$4,892
41	13	\$4,955
42	14	\$5,021
43	15	\$5,087
44	16	\$5,154
45	17	\$5,223
46	18	\$5,295
47	19	\$5,367
48	20	\$5,438
49	21	\$5,515
50	22	\$5,590
51	23	\$5,671
52	24	\$5,750
53	25	\$5,830
54	26	\$5,911
55	27	\$5,995

1	28	\$5,431	\$6,083
2	29	\$5,509	\$6,170
3	30+	\$5,617	\$6,291

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

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

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

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

**SECTION 7.1.(f)** Speech pathologists who are certified as speech pathologists at the masters degree level and audiologists who are certified as audiologists at the masters degree level and who are employed in the public schools as speech and language specialists and audiologists shall be paid on the school psychologist salary schedule. Speech pathologists and audiologists with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided for speech pathologists and audiologists. Speech pathologists and audiologists with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per month in addition to the compensation provided for speech pathologists and audiologists.

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

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

**SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE**

**SECTION 7.2.(a)** Effective for the 2007-2008 school year, the Director of 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 2007-2008 fiscal year, commencing July 1, 2007, is as follows:

6  
 7 2007-2008 Principal and Assistant Principal Salary Schedules  
 8 Classification

9 Years of Exp	Assistant Principal	Prin I (0-10)	Prin II (11-21)	Prin III (22-32)	Prin IV (33-43)
10 0-4	\$3,730	-	-	-	-
11 5	\$3,878	-	-	-	-
12 6	\$4,022	-	-	-	-
13 7	\$4,137	-	-	-	-
14 8	\$4,190	\$4,190	-	-	-
15 9	\$4,245	\$4,245	-	-	-
16 10	\$4,301	\$4,301	\$4,355	-	-
17 11	\$4,355	\$4,355	\$4,412	-	-
18 12	\$4,412	\$4,412	\$4,468	-	-
19 13	\$4,468	\$4,468	\$4,528	\$4,528	\$4,648
20 14	\$4,528	\$4,528	\$4,587	\$4,587	\$4,710
21 15	\$4,587	\$4,587	\$4,648	\$4,648	\$4,775
22 16	\$4,648	\$4,648	\$4,710	\$4,710	\$4,840
23 17	\$4,710	\$4,710	\$4,775	\$4,775	\$4,904
24 18	\$4,775	\$4,775	\$4,840	\$4,840	\$4,973
25 19	\$4,840	\$4,840	\$4,904	\$4,904	\$5,041
26 20	\$4,904	\$4,904	\$4,973	\$4,973	\$5,114
27 21	\$4,973	\$4,973	\$5,041	\$5,041	\$5,185
28 22	\$5,041	\$5,041	\$5,114	\$5,114	\$5,257
29 23	\$5,114	\$5,114	\$5,185	\$5,185	\$5,331
30 24	\$5,185	\$5,185	\$5,257	\$5,257	\$5,407
31 25	\$5,257	\$5,257	\$5,331	\$5,331	\$5,485
32 26	\$5,331	\$5,331	\$5,407	\$5,407	\$5,564
33 27	\$5,407	\$5,407	\$5,485	\$5,485	\$5,675
34 28	\$5,485	\$5,485	\$5,564	\$5,564	\$5,789
35 29	\$5,564	\$5,564	\$5,675	\$5,675	\$5,905
36 30	\$5,675	\$5,675	\$5,789	\$5,789	\$6,023
37 31	\$5,789	\$5,789	\$5,905	\$5,905	\$6,143
38 32	-	\$5,905	\$6,023	\$6,023	\$6,266
39 33	-	-	\$6,143	\$6,143	\$6,391
40 34	-	-	\$6,266	\$6,266	\$6,519
41 35	-	-	-	\$6,391	\$6,649
42 36	-	-	-	\$6,519	\$6,782
43 37	-	-	-	\$6,649	\$6,918

44  
 45  
 46 2007-2008 Principal and Assistant Principal Salary Schedules  
 47 Classification

48 Years of Exp	Prin V (44-54)	Prin VI (55-65)	Prin VII (66-100)	Prin VIII (101+)
49 0-14	\$4,775	-	-	-
50 15	\$4,840	-	-	-
51 16	\$4,904	\$4,973	-	-
52 17	\$4,973	\$5,041	\$5,185	-
53 18	\$5,041	\$5,114	\$5,257	\$5,331
54 19	\$5,114	\$5,185	\$5,331	\$5,407

1	20	\$5,185	\$5,257	\$5,407	\$5,485
2	21	\$5,257	\$5,331	\$5,485	\$5,564
3	22	\$5,331	\$5,407	\$5,564	\$5,675
4	23	\$5,407	\$5,485	\$5,675	\$5,789
5	24	\$5,485	\$5,564	\$5,789	\$5,905
6	25	\$5,564	\$5,675	\$5,905	\$6,023
7	26	\$5,675	\$5,789	\$6,023	\$6,143
8	27	\$5,789	\$5,905	\$6,143	\$6,266
9	28	\$5,905	\$6,023	\$6,266	\$6,391
10	29	\$6,023	\$6,143	\$6,391	\$6,519
11	30	\$6,143	\$6,266	\$6,519	\$6,649
12	31	\$6,266	\$6,391	\$6,649	\$6,782
13	32	\$6,391	\$6,519	\$6,782	\$6,918
14	33	\$6,519	\$6,649	\$6,918	\$7,056
15	34	\$6,649	\$6,782	\$7,056	\$7,197
16	35	\$6,782	\$6,918	\$7,197	\$7,341
17	36	\$6,918	\$7,056	\$7,341	\$7,488
18	37	\$7,056	\$7,197	\$7,488	\$7,638
19	38	\$7,197	\$7,341	\$7,638	\$7,791
20	39		\$7,488	\$7,791	\$7,947
21	40		\$7,638	\$7,947	\$8,106
22	41			\$8,106	\$8,268

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

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

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

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

8           **SECTION 7.2.(g)** If a principal is reassigned to a higher job classification  
 9 because the principal is transferred to a school within a local school administrative unit  
 10 with a larger number of State-allotted teachers, the principal shall be placed on the  
 11 salary schedule as if the principal had served the principal's entire career as a principal  
 12 at the higher job classification. If a principal is reassigned to a lower job classification  
 13 because the principal is transferred to a school within a local school administrative unit  
 14 with a smaller number of State-allotted teachers, the principal shall be placed on the  
 15 salary schedule as if the principal had served the principal's entire career as a principal  
 16 at the lower job classification. This subsection applies to all transfers on or after the  
 17 effective date of this section, except transfers in school systems that have been created,  
 18 or will be created, by merging two or more school systems. Transfers in these merged  
 19 systems are exempt from the provisions of this subsection for one calendar year  
 20 following the date of the merger.

21           **SECTION 7.2.(h)** Participants in an approved full-time masters in school  
 22 administration program shall receive up to a 10-month stipend at the beginning salary of  
 23 an assistant principal during the internship period of the masters program. For the  
 24 2007-2008 fiscal year and subsequent fiscal years, the stipend shall not exceed the  
 25 difference between the beginning salary of an assistant principal plus the cost of tuition,  
 26 fees, and books and any fellowship funds received by the intern as a full-time student,  
 27 including awards of the Principal Fellows Program. The Principal Fellows Program or  
 28 the school of education where the intern participates in a full-time masters in school  
 29 administration program shall supply the Department of Public Instruction with  
 30 certification of eligible full-time interns.

31           **SECTION 7.2.(i)** During the 2007-2008 fiscal year, the placement on the  
 32 salary schedule of an administrator with a one-year provisional assistant principal's  
 33 certificate shall be at the entry-level salary for an assistant principal or the appropriate  
 34 step on the teacher salary schedule, whichever is higher.

35  
 36 **CENTRAL OFFICE SALARIES**

37           **SECTION 7.3.(a)** The monthly salary ranges that follow apply to assistant  
 38 superintendents, associate superintendents, directors/coordinators, supervisors, and  
 39 finance officers for the 2007-2008 fiscal year, beginning July 1, 2007. The local board  
 40 of education shall determine the appropriate category and placement for each assistant  
 41 superintendent, associate superintendent, director/coordinator, supervisor, or finance  
 42 officer within the salary ranges and within funds appropriated by the General Assembly  
 43 for central office administrators and superintendents. The category in which an  
 44 employee is placed shall be included in the contract of any employee hired on or after  
 45 July 1, 2007.

46

47 School Administrator I	\$3,170	\$5,954
48 School Administrator II	\$3,365	\$6,315
49 School Administrator III	\$3,572	\$6,699
50 School Administrator IV	\$3,716	\$6,966
51 School Administrator V	\$3,865	\$7,248
52 School Administrator VI	\$4,101	\$7,686
53 School Administrator VII	\$4,266	\$7,996

54

1           **SECTION 7.3.(b)** The monthly salary ranges that follow apply to public  
 2 school superintendents for the 2007-2008 fiscal year, beginning July 1, 2007. The local  
 3 board of education shall determine the appropriate category and placement for the  
 4 superintendent based on the average daily membership of the local school  
 5 administrative unit and within funds appropriated by the General Assembly for central  
 6 office administrators and superintendents.

7			
8	Superintendent I	\$4,527	\$8,482
9	Superintendent II	\$4,806	\$8,994
10	Superintendent III	\$5,099	\$9,543
11	Superintendent IV	\$5,412	\$10,122
12	Superintendent V	\$5,744	\$10,739

13  
 14           **SECTION 7.3.(c)** Longevity pay for superintendents, assistant  
 15 superintendents, associate superintendents, directors/coordinators, supervisors, and  
 16 finance officers shall be as provided for State employees under the State Personnel Act.

17           **SECTION 7.3.(d)** Superintendents, assistant superintendents, associate  
 18 superintendents, directors/coordinators, supervisors, and finance officers with  
 19 certification based on academic preparation at the six-year degree level shall receive a  
 20 salary supplement of one hundred twenty-six dollars (\$126.00) per month in addition to  
 21 the compensation provided pursuant to this section. Superintendents, assistant  
 22 superintendents, associate superintendents, directors/coordinators, supervisors, and  
 23 finance officers with certification based on academic preparation at the doctoral degree  
 24 level shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per  
 25 month in addition to the compensation provided for under this section.

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

29           **SECTION 7.3.(f)** The annual salary increase for all permanent full-time  
 30 personnel paid from the Central Office Allotment shall be two and one-half percent  
 31 (2.5%), commencing July 1, 2007. The State Board of Education shall allocate these  
 32 funds to local school administrative units. The local boards of education shall establish  
 33 guidelines for providing salary increases to these personnel.

### 34 35 **NONCERTIFIED PERSONNEL SALARIES**

36           **SECTION 7.4.(a)** The annual salary increase for permanent, full-time  
 37 noncertified public school employees whose salaries are supported from the State's  
 38 General Fund shall be two and one-half percent (2.5%), commencing July 1, 2007.

39           **SECTION 7.4.(b)** Local boards of education shall increase the rates of pay  
 40 for such employees who were employed for all or part of fiscal year 2006-2007 and who  
 41 continue their employment for fiscal year 2007-2008 by providing an annual salary  
 42 increase for employees of two and one-half percent (2.5%).

43           **SECTION 7.4.(c)** The State Board of Education may adopt salary ranges for  
 44 noncertified personnel to support increases of two and one-half percent (2.5%) for the  
 45 2007-2008 fiscal year.

### 46 47 **BONUS FOR CERTIFIED PERSONNEL AT THE TOP OF THEIR SALARY** 48 **SCHEDULES**

49           **SECTION 7.5.** Effective July 1, 2007, any permanent certified personnel  
 50 employed on July 1, 2007, and paid on the teacher salary schedule with 30+ years of  
 51 experience shall receive a one-time bonus equivalent to the average increase of the 27-  
 52 to 30-year steps. Effective July 1, 2007, any permanent personnel employed on July 1,  
 53 2007, and paid at the top of the principal and assistant principal salary schedule shall  
 54 receive a one-time bonus equivalent to two percent (2%). For permanent part-time

1 personnel, the one-time bonus shall be adjusted pro rata. Personnel defined under  
2 G.S. 115C-325(a)(5a) are not eligible to receive the bonus.

### 3 4 **USE OF SUPPLEMENTAL FUNDING IN LOW-WEALTH COUNTIES**

5 **SECTION 7.6.(a)** Use of Funds for Supplemental Funding. – All funds  
6 received pursuant to this section shall be used only: (i) to provide instructional  
7 positions, instructional support positions, teacher assistant positions, clerical positions,  
8 school computer technicians, instructional supplies and equipment, staff development,  
9 and textbooks; (ii) for salary supplements for instructional personnel and instructional  
10 support personnel; and (iii) to pay an amount not to exceed ten thousand dollars  
11 (\$10,000) of the plant operation contract cost charged by the Department of Public  
12 Instruction for services. Local boards of education are encouraged to use at least  
13 twenty-five percent (25%) of the funds received pursuant to this section to improve the  
14 academic performance of children who are performing at Level I or II on either reading  
15 or mathematics end-of-grade tests in grades 3-8 and children who are performing at  
16 Level I or II on the writing tests in grades 4 and 7. Local boards of education shall  
17 report to the State Board of Education on an annual basis on funds used for this purpose,  
18 and the State Board shall report this information to the Joint Legislative Education  
19 Oversight Committee. These reports shall specify how these funds were targeted and  
20 used to implement specific improvement strategies of each local school administrative  
21 unit and its schools, such as teacher recruitment, closing the achievement gap,  
22 improving student accountability, addressing the needs of at-risk students, and  
23 establishing and maintaining safe schools.

24 **SECTION 7.6.(b)** The State Board of Education shall report this  
25 information annually by October 31 to the Office of State Budget and Management, the  
26 Joint Legislative Education Oversight Committee, and the Fiscal Research Division.

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

- 28 (1) "Anticipated county property tax revenue availability" means the  
29 county-adjusted property tax base multiplied by the effective State  
30 average tax rate.
- 31 (2) "Anticipated total county revenue availability" means the sum of the:  
32 a. Anticipated county property tax revenue availability,  
33 b. Local sales and use taxes received by the county that are levied  
34 under Chapter 1096 of the 1967 Session Laws or under  
35 Subchapter VIII of Chapter 105 of the General Statutes,  
36 c. Sales tax hold harmless reimbursement received by the county  
37 under G.S. 105-521, and  
38 d. Fines and forfeitures deposited in the county school fund for the  
39 most recent year for which data are available.
- 40 (3) "Anticipated total county revenue availability per student" means the  
41 anticipated total county revenue availability for the county divided by  
42 the average daily membership of the county.
- 43 (4) "Anticipated State average revenue availability per student" means the  
44 sum of all anticipated total county revenue availability divided by the  
45 average daily membership for the State.
- 46 (5) "Average daily membership" means average daily membership as  
47 defined in the North Carolina Public Schools Allotment Policy  
48 Manual, adopted by the State Board of Education. If a county contains  
49 only part of a local school administrative unit, the average daily  
50 membership of that county includes all students who reside within the  
51 county and attend that local school administrative unit.
- 52 (6) "County-adjusted property tax base" shall be computed as follows:  
53 a. Subtract the present-use value of agricultural land, horticultural  
54 land, and forestland in the county, as defined in G.S. 105-277.2,  
55 from the total assessed real property valuation of the county,

- 1                   b.     Adjust the resulting amount by multiplying by a weighted  
2                   average of the three most recent annual sales assessment ratio  
3                   studies,  
4                   c.     Add to the resulting amount the:  
5                   1.     Present-use value of agricultural land, horticultural land,  
6                   and forestland, as defined in G.S. 105-277.2,  
7                   2.     Value of property of public service companies,  
8                   determined in accordance with Article 23 of Chapter 105  
9                   of the General Statutes, and  
10                  3.     Personal property value for the county.
- 11           (7)     "County-adjusted property tax base per square mile" means the  
12           county-adjusted property tax base divided by the number of square  
13           miles of land area in the county.
- 14           (8)     "County wealth as a percentage of State average wealth" shall be  
15           computed as follows:  
16           a.     Compute the percentage that the county per capita income is of  
17           the State per capita income and weight the resulting percentage  
18           by a factor of five-tenths,  
19           b.     Compute the percentage that the anticipated total county  
20           revenue availability per student is of the anticipated State  
21           average revenue availability per student and weight the  
22           resulting percentage by a factor of four-tenths,  
23           c.     Compute the percentage that the county-adjusted property tax  
24           base per square mile is of the State-adjusted property tax base  
25           per square mile and weight the resulting percentage by a factor  
26           of one-tenth,  
27           d.     Add the three weighted percentages to derive the county wealth  
28           as a percentage of the State average wealth.
- 29           (9)     "Effective county tax rate" means the actual county tax rate multiplied  
30           by a weighted average of the three most recent annual sales assessment  
31           ratio studies.
- 32           (10)    "Effective State average tax rate" means the average of effective  
33           county tax rates for all counties.
- 34           (10a)   "Local current expense funds" means the most recent county current  
35           expense appropriations to public schools, as reported by local boards  
36           of education in the audit report filed with the Secretary of the Local  
37           Government Commission pursuant to G.S. 115C-447.
- 38           (11)    "Per capita income" means the average for the most recent three years  
39           for which data are available of the per capita income according to the  
40           most recent report of the United States Department of Commerce,  
41           Bureau of Economic Analysis, including any reported modifications  
42           for prior years as outlined in the most recent report.
- 43           (12)    "Sales assessment ratio studies" means sales assessment ratio studies  
44           performed by the Department of Revenue under G.S. 105-289(h).
- 45           (13)    "State average current expense appropriations per student" means the  
46           most recent State total of county current expense appropriations to  
47           public schools, as reported by local boards of education in the audit  
48           report filed with the Secretary of the Local Government Commission  
49           pursuant to G.S. 115C-447.
- 50           (14)    "State average adjusted property tax base per square mile" means the  
51           sum of the county-adjusted property tax bases for all counties divided  
52           by the number of square miles of land area in the State.
- 53           (14a)   "Supplant" means to decrease local per student current expense  
54           appropriations from one fiscal year to the next fiscal year.

1 (15) "Weighted average of the three most recent annual sales assessment  
2 ratio studies" means the weighted average of the three most recent  
3 annual sales assessment ratio studies in the most recent years for which  
4 county current expense appropriations and adjusted property tax  
5 valuations are available. If real property in a county has been revalued  
6 one year prior to the most recent sales assessment ratio study, a  
7 weighted average of the two most recent sales assessment ratios shall  
8 be used. If property has been revalued the year of the most recent sales  
9 assessment ratio study, the sales assessment ratio for the year of  
10 revaluation shall be used.

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

15 **SECTION 7.6.(e)** Allocation of Funds. – Except as provided in subsection  
16 (g) of this section, the amount received per average daily membership for a county shall  
17 be the difference between the State average current expense appropriations per student  
18 and the current expense appropriations per student that the county could provide given  
19 the county's wealth and an average effort to fund public schools. (To derive the current  
20 expense appropriations per student that the county could be able to provide given the  
21 county's wealth and an average effort to fund public schools, multiply the county wealth  
22 as a percentage of State average wealth by the State average current expense  
23 appropriations per student.) The funds for the local school administrative units located  
24 in whole or in part in the county shall be allocated to each local school administrative  
25 unit located in whole or in part in the county based on the average daily membership of  
26 the county's students in the school units. If the funds appropriated for supplemental  
27 funding are not adequate to fund the formula fully, each local school administrative unit  
28 shall receive a pro rata share of the funds appropriated for supplemental funding.

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

35 **SECTION 7.6.(g)** Minimum Effort Required. – Counties that had effective  
36 tax rates in the 1996-1997 fiscal year that were above the State average effective tax  
37 rate but that had effective rates below the State average in the 1997-1998 fiscal year or  
38 thereafter shall receive reduced funding under this section. This reduction in funding  
39 shall be determined by subtracting the amount that the county would have received  
40 pursuant to Section 17.1(g) of Chapter 507 of the 1995 Session Laws from the amount  
41 that the county would have received if qualified for full funding and multiplying the  
42 difference by ten percent (10%). This method of calculating reduced funding shall apply  
43 one time only. This method of calculating reduced funding shall not apply in cases in  
44 which the effective tax rate fell below the statewide average effective tax rate as a result  
45 of a reduction in the actual property tax rate. In these cases, the minimum effort  
46 required shall be calculated in accordance with Section 17.1(g) of Chapter 507 of the  
47 1995 Session Laws. If the county documents that it has increased the per student  
48 appropriation to the school current expense fund in the current fiscal year, the State  
49 Board of Education shall include this additional per pupil appropriation when  
50 calculating minimum effort pursuant to Section 17.1(g) of Chapter 507 of the 1995  
51 Session Laws.

52 **SECTION 7.6.(h)** Nonsupplant Requirement. – A county in which a local  
53 school administrative unit receives funds under this section shall use the funds to  
54 supplement local current expense funds and shall not supplant local current expense  
55 funds. For the 2007-2009 fiscal biennium, the State Board of Education shall not

1 allocate funds under this section to a county found to have used these funds to supplant  
2 local per student current expense funds. The State Board of Education shall make a  
3 finding that a county has used these funds to supplant local current expense funds in the  
4 prior year, or the year for which the most recent data are available, if:

- 5 (1) The current expense appropriation per student of the county for the  
6 current year is less than ninety-five percent (95%) of the average of the  
7 local current expense appropriations per student for the three prior  
8 fiscal years; and
- 9 (2) The county cannot show: (i) that it has remedied the deficiency in  
10 funding or (ii) that extraordinary circumstances caused the county to  
11 supplant local current expense funds with funds allocated under this  
12 section.

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

14 **SECTION 7.6.(i)** Reports. – The State Board of Education shall report to the  
15 Joint Legislative Education Oversight Committee prior to May 1, 2008, if it determines  
16 that counties have supplanted funds.

17 **SECTION 7.6.(j)** Department of Revenue Reports. – The Department of  
18 Revenue shall provide to the Department of Public Instruction a preliminary report for  
19 the current fiscal year of the assessed value of the property tax base for each county  
20 prior to March 1 of each year and a final report prior to May 1 of each year. The reports  
21 shall include for each county the annual sales assessment ratio and the taxable values of  
22 (i) total real property, (ii) the portion of total real property represented by the  
23 present-use value of agricultural land, horticultural land, and forestland as defined in  
24 G.S. 105-277.2, (iii) property of public service companies determined in accordance  
25 with Article 23 of Chapter 105 of the General Statutes, and (iv) personal property.  
26

## 27 **SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING**

28 **SECTION 7.7.(a)** Funds for Small School Systems. – Except as provided in  
29 subsection (b) of this section, the State Board of Education shall allocate funds  
30 appropriated for small school system supplemental funding (i) to each county school  
31 administrative unit with an average daily membership of fewer than 3,175 students and  
32 (ii) to each county school administrative unit with an average daily membership from  
33 3,175 to 4,000 students if the county in which the local school administrative unit is  
34 located has a county-adjusted property tax base per student that is below the  
35 State-adjusted property tax base per student and if the total average daily membership of  
36 all local school administrative units located within the county is from 3,175 to 4,000  
37 students. The allocation formula shall:

- 38 (1) Round all fractions of positions to the next whole position.
- 39 (2) Provide five and one-half additional regular classroom teachers in  
40 counties in which the average daily membership per square mile is  
41 greater than four, and seven additional regular classroom teachers in  
42 counties in which the average daily membership per square mile is  
43 four or fewer.
- 44 (3) Provide additional program enhancement teachers adequate to offer  
45 the standard course of study.
- 46 (4) Change the duty-free period allocation to one teacher assistant per 400  
47 average daily membership.
- 48 (5) Provide a base for the consolidated funds allotment of at least seven  
49 hundred forty thousand seventy-four dollars (\$740,074), excluding  
50 textbooks for the 2007-2008 fiscal year and a base of seven hundred  
51 forty thousand seventy-four dollars (\$740,074) for the 2008-2009  
52 fiscal year.
- 53 (6) Allot vocational education funds for grade 6 as well as for grades 7-12.

54 If funds appropriated for each fiscal year for small school system  
55 supplemental funding are not adequate to fully fund the program, the State Board of



1 Education shall reduce the amount allocated to each county school administrative unit  
2 on a pro rata basis. This formula is solely a basis for distribution of supplemental  
3 funding for certain county school administrative units and is not intended to reflect any  
4 measure of the adequacy of the educational program or funding for public schools. The  
5 formula is also not intended to reflect any commitment by the General Assembly to  
6 appropriate any additional supplemental funds for such county administrative units.

7 **SECTION 7.7.(b) Nonsupplant Requirement.** – A county in which a local  
8 school administrative unit receives funds under this section shall use the funds to  
9 supplement local current expense funds and shall not supplant local current expense  
10 funds. For the 2007-2009 fiscal biennium, the State Board of Education shall not  
11 allocate funds under this section to a county found to have used these funds to supplant  
12 local per student current expense funds. The State Board of Education shall make a  
13 finding that a county has used these funds to supplant local current expense funds in the  
14 prior year, or the year for which the most recent data are available, if:

- 15 (1) The current expense appropriation per student of the county for the  
16 current year is less than ninety-five percent (95%) of the average of the  
17 local current expense appropriations per student for the three prior  
18 fiscal years; and
- 19 (2) The county cannot show: (i) that it has remedied the deficiency in  
20 funding or (ii) that extraordinary circumstances caused the county to  
21 supplant local current expense funds with funds allocated under this  
22 section.

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

24 **SECTION 7.7.(c) Phase-Out Provisions.** – If a local school administrative  
25 unit becomes ineligible for funding under this formula because of (i) an increase in the  
26 population of the county in which the local school administrative unit is located or (ii)  
27 an increase in the county-adjusted property tax base per student of the county in which  
28 the local school administrative unit is located, funding for that unit shall be continued  
29 for five years after the unit becomes ineligible.

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

- 31 (1) "Average daily membership" means within two percent (2%) of the  
32 average daily membership as defined in the North Carolina Public  
33 Schools Allotment Policy Manual adopted by the State Board of  
34 Education.
- 35 (2) "County-adjusted property tax base per student" means the total  
36 assessed property valuation for each county, adjusted using a weighted  
37 average of the three most recent annual sales assessment ratio studies,  
38 divided by the total number of students in average daily membership  
39 who reside within the county.
- 40 (2a) "Local current expense funds" means the most recent county current  
41 expense appropriations to public schools, as reported by local boards  
42 of education in the audit report filed with the Secretary of the Local  
43 Government Commission pursuant to G.S. 115C-447.
- 44 (3) "Sales assessment ratio studies" means sales assessment ratio studies  
45 performed by the Department of Revenue under G.S. 105-289(h).
- 46 (4) "State-adjusted property tax base per student" means the sum of all  
47 county-adjusted property tax bases divided by the total number of  
48 students in average daily membership who reside within the State.
- 49 (4a) "Supplant" means to decrease local per student current expense  
50 appropriations from one fiscal year to the next fiscal year.
- 51 (5) "Weighted average of the three most recent annual sales assessment  
52 ratio studies" means the weighted average of the three most recent  
53 annual sales assessment ratio studies in the most recent years for which  
54 county current expense appropriations and adjusted property tax  
55 valuations are available. If real property in a county has been revalued

1 one year prior to the most recent sales assessment ratio study, a  
2 weighted average of the two most recent sales assessment ratios shall  
3 be used. If property has been revalued during the year of the most  
4 recent sales assessment ratio study, the sales assessment ratio for the  
5 year of revaluation shall be used.

6 **SECTION 7.7.(e)** Reports. – The State Board of Education shall report to  
7 the Joint Legislative Education Oversight Committee prior to May 1, 2008, if it  
8 determines that counties have supplanted funds.

9 **SECTION 7.7.(f)** Use of Funds. – Local boards of education are encouraged  
10 to use at least twenty percent (20%) of the funds they receive pursuant to this section to  
11 improve the academic performance of children who are performing at Level I or II on  
12 either reading or mathematics end-of-grade tests in grades 3-8 and children who are  
13 performing at Level I or II on the writing tests in grades 4 and 7. Local boards of  
14 education shall report to the State Board of Education on an annual basis on funds used  
15 for this purpose, and the State Board shall report this information to the Joint  
16 Legislative Education Oversight Committee. These reports shall specify how these  
17 funds were targeted and used to implement specific improvement strategies of each  
18 local school administrative unit and its schools such as teacher recruitment, closing the  
19 achievement gap, improving student accountability, addressing the needs of at-risk  
20 students, and establishing and maintaining safe schools.

## 21 **DISADVANTAGED STUDENT SUPPLEMENTAL FUNDING**

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

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

- 36 (1) Provide instructional positions or instructional support positions and/or  
37 professional development;
- 38 (2) Provide intensive in-school and/or after-school remediation;
- 39 (3) Purchase diagnostic software and progress monitoring tools; and
- 40 (4) Provide funds for teacher bonuses and supplements. The State Board  
41 of Education shall set a maximum percentage of the funds that may be  
42 used for this purpose.

43 The State Board of Education may require districts receiving funding under  
44 the Disadvantaged Student Supplemental Fund to purchase the Education Value Added  
45 Assessment System in order to provide in-depth analysis of student performance and  
46 help identify strategies for improving student achievement. This data shall be used  
47 exclusively for instructional and curriculum decisions made in the best interest of  
48 children and for professional development for their teachers and administrators.

49 **SECTION 7.8.(b)** Beginning in the 2007-2008 fiscal year, funds  
50 appropriated to a local education agency (LEA) for disadvantaged student supplemental  
51 funding (DSSF) shall be allotted based on: (i) the LEA's eligible DSSF population and  
52 (ii) the difference between a teacher-to-student ratio of 1:21 and the following  
53 teacher-to-student ratios:  
54

- 1 (1) For counties with wealth greater than ninety percent (90%) of the  
2 statewide average, a ratio of 1:20;
- 3 (2) For counties with wealth not less than eighty percent (80%) and not  
4 greater than ninety percent (90%) of the statewide average, a ratio of  
5 1:19.5;
- 6 (3) For counties with wealth less than eighty percent (80%) of the  
7 statewide average, a ratio of 1:19; and
- 8 (4) For LEAs receiving DSSF funds in 2005-2006, a ratio of 1:16.

9 These LEAs shall receive no less than the DSSF amount allotted in  
10 2005-2006. For the purpose of this subsection, wealth shall be calculated under the  
11 low-wealth supplemental formula.

## 12 **STUDENTS WITH LIMITED ENGLISH PROFICIENCY**

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

16 The State Board shall allocate these funds to local school administrative units  
17 and to charter schools under a formula that takes into account the average percentage of  
18 students in the units or the charters over the past three years who have limited English  
19 proficiency. The State Board shall allocate funds to a unit or a charter school only if (i)  
20 average daily membership of the unit or the charter school includes at least 20 students  
21 with limited English proficiency or (ii) students with limited English proficiency  
22 comprise at least two and one-half percent (2.5%) of the average daily membership of  
23 the unit or charter school. For the portion of the funds that is allocated on the basis of  
24 the number of identified students, the maximum number of identified students for whom  
25 a unit or charter school receives funds shall not exceed ten and six-tenths percent  
26 (10.6%) of its average daily membership.

27 Local school administrative units shall use funds allocated to them to pay for  
28 classroom teachers, teacher assistants, tutors, textbooks, classroom  
29 materials/instructional supplies/equipment, transportation costs, and staff development  
30 of teachers for students with limited English proficiency. A county in which a local  
31 school administrative unit receives funds under this section shall use the funds to  
32 supplement local current expense funds and shall not supplant local current expense  
33 funds.

34 **SECTION 7.9.(b)** The Department of Public Instruction shall prepare a  
35 current head count of the number of students classified with limited English proficiency  
36 by December 1 of each year. Students in the head count shall be assessed at least once  
37 every three years to determine their level of English proficiency. A student who scores  
38 "superior" on the standard English language proficiency assessment instrument used in  
39 this State shall not be included in the head count of students with limited English  
40 proficiency.

## 41 **AT-RISK STUDENT SERVICES/ALTERNATIVE SCHOOLS**

42 **SECTION 7.10.** The State Board of Education may use up to two hundred  
43 thousand dollars (\$200,000) of the funds in the Alternative Schools/At-Risk Student  
44 allotment each year for the 2007-2008 fiscal year and for the 2008-2009 fiscal year to  
45 implement G.S. 115C-12(24).

## 46 **CHILDREN WITH DISABILITIES**

47 **SECTION 7.11.** The State Board of Education shall allocate funds for  
48 children with disabilities on the basis of three thousand one hundred fifty-seven dollars  
49 and fifty-five cents (\$3,157.55) per child for a maximum of 172,317 children for the  
50 2007-2008 school year. Each local school administrative unit shall receive funds for the  
51 lesser of (i) all children who are identified as children with disabilities, or (ii) twelve  
52  
53  
54

1 and five-tenths percent (12.5%) of the 2007-2008 allocated average daily membership  
2 in the 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 **FUNDS FOR ACADEMICALLY GIFTED CHILDREN**

9 **SECTION 7.12.** The State Board of Education shall allocate funds for  
10 academically or intellectually gifted children on the basis of one thousand twelve dollars  
11 and sixty cents (\$1,012.60) per child. A local school administrative unit shall receive  
12 funds for a maximum of four percent (4%) of its 2007-2008 allocated average daily  
13 membership, regardless of the number of children identified as academically or  
14 intellectually gifted in the unit. The State Board shall allocate funds for no more than  
15 58,470 children for the 2007-2008 school year.

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

## 20 21 **EXPENDITURE OF FUNDS TO IMPROVE STUDENT ACCOUNTABILITY**

22 **SECTION 7.13.(a)** Funds appropriated for the 2007-2008 and 2008-2009  
23 fiscal years for Student Accountability Standards shall be used to assist students to  
24 perform at or above grade level in reading and mathematics in grades 3-8 as measured  
25 by the State's end-of-grade tests. The State Board of Education shall allocate these funds  
26 to LEAs based on the number of students who score at Level I or Level II on either  
27 reading or mathematics end-of-grade tests in grades 3-8. Funds in the allocation  
28 category shall be used to improve the academic performance of (i) students who are  
29 performing at Level I or II on either reading or mathematics end-of-grade tests in grades  
30 3-8 or (ii) students who are performing at Level I or II on the writing tests in grades 4  
31 and 7. These funds may also be used to improve the academic performance of students  
32 who are performing at Level I or II on the high school end-of-course tests. These funds  
33 shall not be transferred to other allocation categories or otherwise used for other  
34 purposes. Except as otherwise provided by law, local boards of education may transfer  
35 other funds available to them into this allocation category.

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

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

43 These funds shall be allocated to local school administrative units for the  
44 2007-2008 fiscal year within 30 days of the date this act becomes law.

45 **SECTION 7.13.(b)** Funds appropriated for Student Accountability  
46 Standards shall not revert at the end of each fiscal year but shall remain available for  
47 expenditure until August 31 of the subsequent fiscal year.

48 **SECTION 7.13.(c)** Funds appropriated for the At-Risk/Alternative Schools  
49 allotment and the Improving Student Accountability allotment shall be used consistent  
50 with the policies and procedures adopted by the State Board of Education. Priority for  
51 use of the funds shall be to (i) provide instructional positions or instructional support  
52 positions and/or professional development; (ii) provide intensive in-school and/or  
53 after-school remediation; and (iii) purchase diagnostic software and progress monitoring  
54 tools.

1           **SECTION 7.13.(d)** To remain eligible for funds appropriated for the  
2 At-Risk/Alternative Schools allotment and the Improving Student Accountability  
3 allotment, local school administrative units must submit a report to the State Board of  
4 Education by October 31 of each year detailing the expenditure of the funds and the  
5 impact of these funds on student achievement. The State Board of Education shall report  
6 this information annually by October 31 to the Office of State Budget and Management,  
7 the Joint Legislative Education Oversight Committee, and the Fiscal Research Division.  
8

#### 9 **LITIGATION RESERVE FUNDS**

10           **SECTION 7.14.** The State Board of Education may expend up to five  
11 hundred thousand dollars (\$500,000) each year for the 2007-2008 and 2008-2009 fiscal  
12 years from unexpended funds for certified employees' salaries to pay expenses related to  
13 pending litigation.  
14

#### 15 **REPLACEMENT SCHOOL BUSES FUNDS**

16           **SECTION 7.15.(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 7.15.(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 **DISCREPANCIES BETWEEN ANTICIPATED AND ACTUAL ADM**

43           **SECTION 7.16.(a)** If the State Board of Education does not have sufficient  
44 resources in the ADM Contingency Reserve line item to make allotment adjustments in  
45 accordance with the Allotment Adjustments for ADM Growth provisions of the North  
46 Carolina Public Schools Allotment Policy Manual, the State Board of Education may  
47 use funds appropriated to State Aid for Public Schools for this purpose.

48           **SECTION 7.16.(b)** If the higher of the first or second month average daily  
49 membership in a local school administrative unit is at least two percent (2%) or 100  
50 students lower than the anticipated average daily membership used for allotments for  
51 the unit, the State Board of Education shall reduce allotments for the unit. The reduced  
52 allotments shall be based on the higher of the first or second month average daily  
53 membership plus one-half of the number of students overestimated in the anticipated  
54 average daily membership.

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

4  
5 **CHARTER SCHOOL ADVISORY COMMITTEE/CHARTER SCHOOL**  
6 **EVALUATION**

7 **SECTION 7.17.** The State Board of Education may spend up to fifty  
8 thousand dollars (\$50,000) a year from State Aid to Local School Administrative Units  
9 for the 2007-2008 and 2008-2009 fiscal years to continue support of a charter school  
10 advisory committee and to continue to evaluate charter schools.

11  
12 **MENTOR TEACHER FUNDS MAY BE USED FOR FULL-TIME MENTORS**

13 **SECTION 7.18.(a)** The State Board of Education shall grant flexibility to a  
14 local board of education regarding the use of mentor funds to provide mentoring  
15 support, provided the local board submits a detailed plan on the use of the funds to the  
16 State Board and the State Board approves that plan. The plan shall include information  
17 on how all mentors in the local school administrative unit have been or will be  
18 adequately trained to provide mentoring support.

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

23 **SECTION 7.18.(b)** The State Board, after consultation with the Professional  
24 Teaching Standards Commission, shall adopt standards for mentor training.

25 **SECTION 7.18.(c)** Each local board of education with a plan approved  
26 pursuant to subsection (a) of this section shall report to the State Board on the impact of  
27 its mentor program on teacher retention. The State Board shall analyze these reports to  
28 determine the characteristics of mentor programs that are most effective in retaining  
29 teachers and shall report its findings to the Joint Legislative Education Oversight  
30 Committee annually by October 15 each year of the biennium.

31 **SECTION 7.18.(d)** In addition to the report required in subsection (c) of this  
32 section, the State shall also evaluate the effectiveness of a representative sample of local  
33 mentor programs and report on its findings annually to the Joint Legislative Education  
34 Oversight Committee and the Fiscal Research Division by December 15 each year of  
35 the biennium. The evaluation shall focus on quantitative evidence, quality of service  
36 delivery, and satisfaction of those involved. The report shall include the results of the  
37 evaluation and recommendations both for improving mentor programs generally and for  
38 an appropriate level of State support for mentor programs.

39  
40 **FUNDS TO IMPLEMENT THE ABCS OF PUBLIC EDUCATION**

41 **SECTION 7.19.(a)** The State Board of Education shall use funds  
42 appropriated in this act for State Aid to Local School Administrative Units to provide  
43 incentive funding for schools that met or exceeded the projected levels of improvement  
44 in student performance during the 2006-2007 school year, in accordance with the ABCs  
45 of Public Education Program. In accordance with State Board of Education policy:

- 46 (1) Incentive awards in schools that achieve higher than expected  
47 improvements may be up to:  
48 a. One thousand five hundred dollars (\$1,500) for each teacher  
49 and for certified personnel; and  
50 b. Five hundred dollars (\$500.00) for each teacher assistant.  
51 (2) Incentive awards in schools that meet the expected improvements may  
52 be up to:  
53 a. Seven hundred fifty dollars (\$750.00) for each teacher and for  
54 certified personnel; and

- 1                   b.     Three hundred seventy-five dollars (\$375.00) for each teacher  
2                   assistant.

3                   **SECTION 7.19.(b)** The State Board of Education may use funds  
4 appropriated to the State Public School Fund to implement the Consolidated Assistance  
5 program report required by Section 7.20 of this act.  
6

#### 7 **CONSOLIDATED ASSISTANCE PROGRAM**

8                   **SECTION 7.20.(a)** The State Board of Education (SBE) shall ensure that all  
9 assistance to Local Education Agencies LEAs and schools that is provided on behalf of  
10 the State Board of Education (SBE) by the Department of Public Instruction and its  
11 contractors shall be merged into the Consolidated Assistance Program.

12                   **SECTION 7.20.(b)** The SBE shall report to the Office of State Budget and  
13 Management, the Fiscal Research Division, and the Joint Legislative Education  
14 Oversight Committee no later than October 30, 2007. The report shall contain (i)  
15 measurable goals and objectives for the assistance program, (ii) clearly defined criteria  
16 used to determine which (LEAs) and schools are selected to receive assistance, (iii) a  
17 description of the delivery mechanism for providing assistance with the consolidated  
18 resources, (iv) annual historical data on the assistance that has been provided since  
19 1996-1997, (v) quantitative outcomes from the assistance program including student  
20 academic performance for each school and LEA assisted, (vi) an explanation of the  
21 assistance provided, (vii) research-based data regarding state LEA and school assistance  
22 programs, (viii) actual expenditures by category, (ix) recommendations for the  
23 continuance of this program, and (x) any other information the State Board deems  
24 necessary.

25                   **SECTION 7.20.(c)** The Department will develop and maintain a revised  
26 organizational structure, clearly defined functions of consolidated Assistance Team  
27 program positions, and a budget for the provision of consolidated assistance services to  
28 LEAs to ensure the department can meet the needs of the LEAs. The organization  
29 structure and budget must be approved by the State Board of Education.

30                   **SECTION 7.20.(d)** Funds in the amount of two million dollars (\$2,000,000)  
31 in 2007-2008 and two million dollars (\$2,000,000) in 2008-2009 are appropriated in this  
32 act to the State Board of Education to provide assistance through this consolidated  
33 program to the State's low-performing LEAs and schools to assist schools in meeting  
34 adequate yearly progress in each subgroup identified in the No Child Left Behind Act of  
35 2001. These funds shall be placed in a reserve. The Director of the Office of State  
36 Budget and Management shall not release funds appropriated in this act to the SBE until  
37 the Consolidated Assistance Program report is received.

38                   **SECTION 7.20.(e)** The State Board of Education shall contract with an  
39 independent evaluator to conduct an in-depth analysis of the effectiveness of the  
40 interventions provided to the State's low-performing schools. The evaluation should be  
41 scientifically based and address the following: the causal relationship between  
42 assistance team interventions, improvement in student performance in participating  
43 schools, participating schools' ability to meet adequate yearly progress in each subgroup  
44 identified in the No Child Left Behind Act of 2001, and the sustainability of any  
45 identified academic improvement.  
46

#### 47 **LEARN AND EARN HIGH SCHOOLS**

48                   **SECTION 7.21.(a)** Funds are appropriated in this act for the Learn and Earn  
49 high school workforce development program. The purpose of the program is to create  
50 rigorous and relevant high school options that provide students with the opportunity and  
51 assistance to earn an associate degree or two years of college credit by the conclusion of  
52 the year after their senior year in high school. The State Board of Education shall work  
53 closely with the Education Cabinet and the New Schools Project in administering the  
54 program.

1           **SECTION 7.21.(b)** These funds shall be used to establish new high schools  
2 in which a local school administrative unit, two- and four-year colleges and universities,  
3 and local employers work together to ensure that high school and postsecondary college  
4 curricula operate seamlessly and meet the needs of participating employers. Funds shall  
5 not be allotted until Learn and Earn high schools are certified as operational.

6           **SECTION 7.21.(c)** During the first year of its operation, a high school  
7 established under G.S. 115C-238.50 shall be allotted a principal regardless of the  
8 number of State-paid teachers assigned to the school or the number of students enrolled  
9 in the school. The budget flexibility authorized by G.S. 115C-105.25 does not apply to  
10 these positions.

11           **SECTION 7.21.(d)** The State Board of Education, in consultation with the  
12 State Board of Community Colleges and The University of North Carolina Board of  
13 Governors, shall conduct an annual evaluation of this program. The evaluation shall  
14 include measures as identified in G.S. 115C-238.55. It shall also include: (i) an  
15 accounting of how funds and personnel resources were utilized and their impact on  
16 student achievement, retention, and employability; (ii) recommended statutory and  
17 policy changes; and (iii) recommendations for improvement of the program. The State  
18 Board of Education shall report the results of this evaluation to the Office of State  
19 Budget and Management, the Joint Legislative Education Oversight Committee, and the  
20 Fiscal Research Division by January 15 of each fiscal year.

21           **SECTION 7.21.(e)** Enrollment fees and tuition for The University of North  
22 Carolina courses in which Learn and Earn students are enrolled are allowable uses of  
23 these funds. Tuition costs may include laboratory fees assessed to all students enrolled  
24 in the course or a similar course.

25           **SECTION 7.21.(f)** Textbooks required for college courses in which Learn  
26 and Earn students are enrolled may be purchased with these funds.

27           **SECTION 7.21.(g)** Payment of fees from these funds by local school  
28 administrative units to partnering community colleges and universities are restricted to  
29 technology or course fees. Funds appropriated in this act shall not be used to support the  
30 cost of athletic or other student activity or campus fees not required by enrollment in a  
31 specific course.

32           **SECTION 7.21.(h)** The State Board of Education shall allot funds for  
33 university enrollment, tuition and fees, and textbooks on the basis of and after  
34 verification of the credit hour enrollment of Learn and Earn students in university  
35 courses. The State Board of Education shall allot funds for community college fees and  
36 textbooks on the basis of and after verification of the credit hour enrollment of Learn  
37 and Earn students in community college courses.

#### 38 39 **FUNDS FOR TEACHER WORKING CONDITIONS SURVEY INITIATIVE** 40 **SHALL NOT REVERT**

41           **SECTION 7.22.(a)** Funds appropriated to the State Board of Education to be  
42 used in collaboration with the Professional Teaching Standards Commission for the  
43 Teachers Working Conditions Survey Initiative shall not revert at the end of the  
44 2006-2007 fiscal year but shall remain available until expended.

45           **SECTION 7.22.(b)** This section becomes effective June 30, 2007.

#### 46 47 **NORTH CAROLINA VIRTUAL PUBLIC SCHOOL**

48           **SECTION 7.23.(a)** The North Carolina Virtual Public School (NCVPS)  
49 program shall report to the State Board of Education and shall maintain an  
50 administrative office at the Department of Public Instruction.

51           **SECTION 7.23.(b)** The Director of NCVPS will continue to ensure that  
52 course quality standards are met and that all E-learning opportunities offered by  
53 State-funded entities to public school students are consolidated under the NC Virtual  
54 Public School program, eliminating course duplication. The Director shall report on the  
55 consolidation status and operating plan for 2007-2008 to the Joint Legislative Education



1 Oversight Committee, the Office of State Budget and Management, and the Fiscal  
2 Research Division no later than January 15, 2008. The report shall also address  
3 specific collaboration efforts with Learn and Earn Online.

4 **SECTION 7.23.(c)** Subsequent to course consolidation, the Director will  
5 prioritize e-learning course offerings for students residing in rural and low-wealth  
6 county LEAs, in order to expand available instructional opportunities. First-available  
7 E-learning instructional opportunities should include courses required as part of the  
8 standard course of study for high school graduation and AP offerings not otherwise  
9 available.

10 **SECTION 7.23.(d)** The State Board of Education shall develop an allotment  
11 formula for funding E-learning, effective in the 2007-2008 fiscal year. In developing the  
12 formula, the Board shall consider, at a minimum, the following:

- 13 (1) The number of students in average daily membership (ADM) projected  
14 to enroll in E-learning,
- 15 (2) The projected cost of fees for E-learning courses,
- 16 (3) The extent to which projected enrollment in E-learning courses affects  
17 funding required for other allotments that are based on ADM.

18 **SECTION 7.23.(e)** Any funds appropriated in this act for the NCVPS  
19 program that are not expended in fiscal year 2006-2007 shall be carried forward for  
20 expenditure in fiscal year 2007-2008. Any such funds that remain unexpended on June  
21 30, 2008, shall revert to the General Fund.

22 **SECTION 7.23.(f)** This section becomes effective June 30, 2007.

## 23 24 **SMALL REDESIGNED HIGH SCHOOLS**

25 **SECTION 7.24.** The State Board of Education shall report the evaluation  
26 results of the program to the Office of State Budget and Management, the Fiscal  
27 Research Division, and the Joint Legislative Education Oversight Committee no later  
28 than January 15 of each year. The evaluation shall include measures as identified in  
29 G.S. 115C-238.55. It shall also include: (i) an accounting of how funds and personnel  
30 resources were utilized and their impact on student achievement, retention, and  
31 employability; and (ii) recommendations for improvement of the program. The State  
32 Board of Education shall report the results of this evaluation to the Office of State  
33 Budget and Management, the Joint Legislative Education Oversight Committee, and the  
34 Fiscal Research Division no later than January 15 of each year.

## 35 36 **NC WISE POSITIONS**

37 **SECTION 7.25.** Notwithstanding G.S. 143C-6-4, the State Board of  
38 Education may in consultation with the Office of Information Technology Services, use  
39 funds appropriated in this act for NC WISE to create a maximum of 10 positions and  
40 incur expenditures necessary to maintain and administer the NC WISE system within  
41 the Department of Public Instruction.

## 42 43 **21ST CENTURY LITERACY COACHES**

44 **SECTION 7.26.(a)** Funds are appropriated in this act to support the  
45 selection and hiring of 200 literacy coaches. Coaches will be hired and placed in 200  
46 middle schools or other public schools with an eighth grade class. A site selection  
47 process including formal criteria will be developed by the State Board of Education in  
48 consultation with the North Carolina Teacher Academy. The site must receive formal  
49 approval of the State Board of Education to receive funds for this purpose. To be  
50 selected schools must

- 51 (1) Contain an eighth grade class, and
- 52 (2) Ensure that literacy coaches will have no administrative  
53 responsibilities in the schools in which they are placed.

54 **SECTION 7.26.(b)** National Board for Professional Teaching Standards  
55 (NBPTS) certified teachers serving in these positions shall be exempt from the

1 requirements in G.S. 115C-296.2(b)(2)d and shall remain on the NBPTS teacher salary  
2 schedule.

#### 3 4 **MORE AT FOUR PROGRAM AND OFFICE OF SCHOOL READINESS**

5 **SECTION 7.27.(a)** The Department of Public Instruction shall continue the  
6 implementation of the "More at Four" prekindergarten program for at-risk  
7 four-year-olds who are at risk of failure in kindergarten. The program is available  
8 statewide to all counties that choose to participate, including underserved areas. The  
9 goal of the program is to provide quality prekindergarten services to a greater number of  
10 at-risk children in order to enhance kindergarten readiness for these children. The  
11 program shall be consistent with standards and assessments established jointly by the  
12 Department of Health and Human Services and the Department of Public Instruction.  
13 The program shall include:

- 14 (1) A process and system for identifying children at risk of academic  
15 failure.
- 16 (2) A process and system for identifying children who are not being  
17 served in formal early education programs, such as child care, public  
18 or private preschools, Head Start, Early Head Start, early intervention  
19 programs, or other such programs, who demonstrate educational needs,  
20 and who are eligible to enter kindergarten the next school year, as well  
21 as children who are underserved.
- 22 (3) A curriculum or several curricula that are research-based and/or built  
23 on sound instructional theory. These curricula shall: (i) focus primarily  
24 on oral language and emergent literacy; (ii) engage children through  
25 key experiences and provide background knowledge requisite for  
26 formal learning and successful reading in the early elementary years;  
27 (iii) involve active learning; (iv) promote measurable kindergarten  
28 language-readiness skills that focus on emergent literacy and  
29 mathematical skills; and (v) develop skills that will prepare children  
30 emotionally and socially for kindergarten.
- 31 (4) An emphasis on ongoing family involvement with the prekindergarten  
32 program.
- 33 (5) Evaluation of child progress through a statewide evaluation, as well as  
34 ongoing assessment of the children by teachers.
- 35 (6) Guidelines for a system to reimburse local school boards and systems,  
36 private child care providers, and other entities willing to establish and  
37 provide prekindergarten programs to serve at-risk children.
- 38 (7) A system built upon existing local school boards and systems, private  
39 child care providers, and other entities that demonstrate the ability to  
40 establish or expand prekindergarten capacity.
- 41 (8) A quality-control system. Participating providers shall comply with  
42 standards and guidelines as established by the Department of Health  
43 and Human Services and the Department of Public Instruction. The  
44 Department may use the child care rating system to assist in  
45 determining program participation.
- 46 (9) Standards for minimum teacher qualifications. A portion of the  
47 classroom sites initially funded shall have at least one teacher who is  
48 certified or provisionally certified in birth-to-kindergarten education.
- 49 (10) A local contribution. Programs must demonstrate that they are  
50 accessing resources other than "More at Four".
- 51 (11) A system of accountability.
- 52 (12) Consideration of the reallocation of existing funds. In order to  
53 maximize current funding and resources, the Department of Health and  
54 Human Services and the Department of Public Instruction shall

1 consider the reallocation of existing funds from State and local  
2 programs that provide prekindergarten-related care and services.

3 **SECTION 7.27.(b)** The Department of Public Instruction, in collaboration  
4 with the Department of Health and Human Services, shall implement a plan to expand  
5 "More at Four" program standards within existing resources to include four- and  
6 five-star-rated centers and schools serving four-year-olds and develop guidelines for  
7 these programs. The "NC Prekindergarten Program Standards" initiative shall recognize  
8 four- and five-star-rated centers that choose to apply and meet equivalent "More at  
9 Four" program standards as high quality prekindergarten classrooms. Classrooms  
10 meeting these standards shall have access to training and workshops for "More at Four"  
11 programs. Whenever expansion slots are available, these classrooms shall have first  
12 priority to receive them.

13 The "More at Four" program shall review the number of slots filled by  
14 counties on a monthly basis and shift the unfilled slots to counties with waiting lists.  
15 The shifting of slots shall occur through January 31 of each year, at which time any  
16 remaining funds for slots unfilled shall be used to meet the needs of the waiting list for  
17 subsidized child care.

18 **SECTION 7.27.(c)** The Department of Public Instruction shall submit a  
19 report by February 1, 2008, to the Joint Legislative Commission on Governmental  
20 Operations, the Joint Legislative Education Oversight Committee, the Senate  
21 Appropriations Committee on Education, the House of Representatives Appropriations  
22 Subcommittee on Education, and the Fiscal Research Division. This final report shall  
23 include the following:

- 24 (1) The number of children participating in the program.
- 25 (2) The number of children participating in the program who have never  
26 been served in other early education programs, such as child care,  
27 public or private preschool, Head Start, Early Head Start, or early  
28 intervention programs.
- 29 (3) The expected expenditures for the programs and the source of the local  
30 match for each grantee.
- 31 (4) The location of program sites and the corresponding number of  
32 children participating in the program at each site.
- 33 (5) A comprehensive cost analysis of the program, including the cost per  
34 child served by the program.
- 35 (6) The status of the NC Prekindergarten initiatives as outlined in this  
36 section.

37 **SECTION 7.27.(d)** For the 2007-2008 and the 2008-2009 fiscal years, the  
38 "More at Four" program shall establish income eligibility requirements for the program  
39 not to exceed seventy-five percent (75%) of the State median income. Up to twenty  
40 percent (20%) of children enrolled may have family incomes in excess of seventy-five  
41 percent (75%) of median income if they have other designated risk factors.

42 **SECTION 7.27.(e)** The "More at Four" program funding shall not supplant  
43 any funding for classrooms serving four-year-olds as of the 2005-2006 fiscal year.  
44 Support of existing four-year-old classrooms with "More at Four" program funding  
45 shall be permitted when current funding is eliminated, reduced, or redirected as required  
46 to meet other specified federal or State educational mandates.

#### 47 **ADMINISTRATIVE FUNDING FOR TEACHING FELLOWS PROGRAM**

48 **SECTION 7.28.** The Public School Forum, as administrator for the  
49 Teaching Fellows Program, may use up to eight hundred ten thousand dollars  
50 (\$810,000) for the 2007-2008 fiscal year from the balance in the revolving fund  
51 established in G.S. 115C-363.23A(f) for costs associated with administration of the  
52 Teaching Fellows Program. The funding provided for administration of the Teaching  
53 Fellows Program in this subsection shall be used to meet current administrative  
54 expenses of the Program, expand minority recruitment initiatives, and expand the  
55

1 Program to up to four additional campuses using a merit-based selection process  
2 developed by the North Carolina Teaching Fellows Commission. The Teaching Fellows  
3 Program shall report to the Joint Legislative Education Oversight Committee by March  
4 15, 2008, on:

- 5 (1) Actual expenditures for the 2006-2007 fiscal year and budgeted  
6 expenditures for the 2007-2008 fiscal year for administration of the  
7 Program and
- 8 (2) Initiatives to recruit minorities to the Program.

#### 10 **CONVERT 100 TEACHING FELLOWS SCHOLARSHIP LOANS FOR** 11 **PROSPECTIVE MATHEMATICS AND SCIENCE TEACHERS**

12 **SECTION 7.29.** Beginning in the 2008-2009 fiscal year, 100 of the 500  
13 teaching fellows scholarship loans as established in G.S. 115C-363.23A shall be  
14 changed from four-year scholarship loans to two-year scholarship loans for North  
15 Carolina college juniors who intend to obtain licensure in middle school or high school  
16 mathematics or science.

#### 17 **NO COST SUMMER SCHOOL OR OTHER REMEDIATION ACTIVITIES**

18 **SECTION 7.30.(a)** G.S. 115C-105.41 prohibits charging tuition or fees to  
19 Students at Risk for Academic Failure. Effective July 1, 2007, LEAs shall formally  
20 communicate to at-risk students and their parents or guardians that there will be no  
21 charge for participation in intervention activities/practices offered by the LEA to at-risk  
22 students, or for transportation necessary for participation in the intervention activities.

23 **SECTION 7.30.(b)** Effective July 1, 2007, LEAs shall formally  
24 communicate to students and their parents or guardians that tuition and fees will not be  
25 charged for summer school courses that are required for remediation or courses that are  
26 necessary for the student to meet graduation requirements.

#### 27 **TRANSFER FUNDS DESIGNATED FOR INSTITUTE FOR PRINCIPALS IN** 28 **LOW-PERFORMING SCHOOLS TO THE STATE BOARD OF** 29 **EDUCATION**

30 **SECTION 7.31.** Two hundred fifty thousand dollars (\$250,000)  
31 appropriated to The University of North Carolina in the 2006-2007 fiscal year for the  
32 Principals' Executive Program initiative for principal leadership in high-need schools  
33 shall be permanently transferred to the State Board of Education (SBE) effective July 1,  
34 2007. These funds will support the training of principals in low-performing high  
35 schools. The professional development provider will be selected at the discretion of the  
36 SBE. The SBE will provide oversight for the training offered to these principals.

#### 37 **LOTTERY RECEIPTS SHALL NOT REVERT**

38 **SECTION 7.32.(a)** Education Lottery receipts appropriated to support the  
39 Prekindergarten Program and Class Size Reduction shall not revert at the end of the  
40 2006-2007 fiscal year but shall remain available until expended.

41 **SECTION 7.32.(b)** This section becomes effective June 30, 2007.

#### 42 **PROHIBIT USE OF STATE FUNDS FOR LOBBYING EXPENSES**

43 **SECTION 7.33.** State funds appropriated by this act for local school  
44 administrative units shall not be used for the payment of dues to organizations that  
45 conduct lobbying or legislative advocacy.

#### 46 **LEARN AND EARN ONLINE**

47 **SECTION 7.34.(a)** Funds are appropriated in this act for the Learn and Earn  
48 Online program. This program will allow high school students to enroll in college  
49 courses to qualify for college credit. Online courses will be made available to students  
50

1 through The University of North Carolina and the North Carolina Community College  
2 System.

3 **SECTION 7.34.(b)** Funds shall be used for course tuition, and only those  
4 technology and course fees, and textbooks required for course participation. Funds shall  
5 also support a liaison position to be housed at the Department of Public Instruction to  
6 coordinate with The University of North Carolina and the North Carolina Community  
7 College System, and to communicate course availability and related information to high  
8 school administrators, teachers, and counselors.

9 **SECTION 7.34.(c)** The State Board of Education shall determine the  
10 allocation of Learn and Earn Online course offerings across the State.

11 **SECTION 7.34.(d)** The State Board of Education shall allot funds for  
12 tuition, fees, and textbooks on the basis of and after verification of the credit hour  
13 enrollment of high school students in Learn and Earn Online courses. Community  
14 college student enrollments in Learn and Earn Online shall not be considered as a  
15 regular budget full-time equivalents (FTE) in the curriculum enrollment formula, but  
16 shall be accounted for separately and funds shall be allotted as a special allotment.

17 **SECTION 7.34.(e)** The University of North Carolina program shall report to  
18 The University of North Carolina Board of Governors, and the North Carolina  
19 Community College program shall report to the North Carolina Community College  
20 Board of Trustees. The Department of Public Instruction shall report to the State Board  
21 of Education.

22 **SECTION 7.34.(f)** Both The University of North Carolina and the North  
23 Carolina Community College System shall provide oversight and coordination,  
24 including coordination with the Department of Public Instruction, and with the North  
25 Carolina Virtual Public School (NCVPS) to avoid course duplication.

26 **SECTION 7.34.(g)** Course quality and rigor standards shall be established,  
27 and each program shall conduct course evaluations to ensure that the online courses  
28 made available to students meet the established standards.

29 **SECTION 7.34.(h)** The State Board of Education, The University of North  
30 Carolina, and the North Carolina Community College System shall report on the  
31 proposed operating plan for 2008-2009 to the Joint Legislative Education Oversight  
32 Committee, the Office of State Budget and Management, and the Fiscal Research  
33 Division no later than March 1, 2008.

## 34 35 **COOPERATIVE INNOVATIVE HIGH SCHOOL PROGRAMS**

36 **SECTION 7.35.(a)** G.S. 115C-238.53(b) reads as rewritten:

37 "(b) A program approved under this Part shall operate under the terms of a written  
38 agreement signed by the local board of education, local board of trustees, State Board of  
39 Education, and applicable governing Board, by the local superintendent, the local  
40 college/university president, the Superintendent of Public Instruction, and the president  
41 of the higher education system. The agreement shall incorporate the information  
42 provided in the application, as modified during the approval process, and any terms and  
43 conditions imposed on the program by the State Board of Education and the applicable  
44 governing Board. The first agreement may be for a term of no longer than five school  
45 years. Subsequent agreements shall continue until terminated by the local board of  
46 education, the board of trustees, or the applicable governing board upon written notice.  
47 Such notice shall extend through the end of the public school's academic school year."

48 **SECTION 7.35.(b)** G.S. 115C-238.53(f) reads as rewritten:

49 "(f) Except as provided in this Part and under the terms of the agreement, a  
50 program may be exempted by the applicable governing Board from laws and rules  
51 applicable to a local board of education, a local school administrative unit, a community  
52 college, a constituent institution, or a local board of trustees. The applicable governing  
53 board may also grant a standard of exemptions applicable to the operation of these  
54 programs."  
55

**CONNECTIVITY INITIATIVE**

**SECTION 7.36.(a)** Funds are appropriated in this act to support the enhancement of the technology infrastructure for public schools. These funds shall be used for broadband access and equipment to create or improve access to instructional opportunities for public school students offered via technology.

**SECTION 7.36.(b)** The State Board of Education shall conduct a formal needs assessment and submit a report to the Office of State Budget and Management and the Office of Information Technology Services via the Project Portfolio Management (PPM) tool, detailing the implementation plan based on the assessment results including:

- (1) Identified statewide needs,
- (2) The number, location and schedule of sites to be served in 2007-2008 and 2008-2009,
- (3) The criteria used to select sites to be served each year of the biennium,
- (4) The projected implementation budget including the per site costs, and
- (5) All other information required by the PPM tool.

**SECTION 7.36.(c)** Funds appropriated will be placed in a reserve. The Director of the Office of State Budget and Management shall not release funds appropriated in this act to the SBE until the Connectivity Initiative report is received and the Project Portfolio Management tool is approved by the Office of Information Technology Services and the Office of State Budget and Management.

**SECTION 7.36.(d)** The Department of Public Instruction, with the approval of the State Board of Education, Office of State Budget and Management, and the Office of Information Technology may hire up to eight individuals to implement this initiative. No more than one million dollars (\$1,000,000) of this appropriation shall be used for salary and related personnel costs.

**SECTION 7.36.(e)** All applicable e-rate reimbursements will be directed to the Department of Public Instruction to offset implementation costs incurred by this initiative.

**SECTION 7.36.(f)** Up to three hundred thousand dollars (\$300,000) may be transferred to the Office of the Governor to establish NC Virtual Public School (NCVPS) within the Education Cabinet. These funds may be used for services to coordinate E-learning activities across all State educational agencies.

**REORGANIZATION OF THE DEPARTMENT OF PUBLIC INSTRUCTION**

**SECTION 7.37.(a)** Notwithstanding G.S. 143C-6-4, the Department of Public Instruction may reorganize in accordance with the plan adopted by the State Board of Education.

**SECTION 7.37.(b)** This section expires June 30, 2008.

**PART VIII. COMMUNITY COLLEGES****USE OF FUNDS FOR THE COLLEGE INFORMATION SYSTEM PROJECT**

**SECTION 8.1.(a)** Funds appropriated to the Community Colleges System Office for the College Information System Project shall not revert at the end of the 2006-2007 fiscal year but shall remain available until expended.

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

**SECTION 8.1.(c)** Subsection (a) of this section becomes effective June 30, 2007.

**CARRYFORWARD OF EQUIPMENT FUNDS FOR COMMUNITY COLLEGES**

1           **SECTION 8.2.(a)** Subject to the approval of the Office of State Budget and  
2 Management and cash availability, the North Carolina Community Colleges System  
3 Office may carry forward an amount not to exceed ten million dollars (\$10,000,000) of  
4 the operating funds that were not reverted in fiscal year 2006-2007 to be reallocated to  
5 the State Board of Community Colleges' Equipment Reserve Fund. These funds shall  
6 be distributed to colleges consistent with G.S. 115D-31.

7           **SECTION 8.2.(b)** This section becomes effective June 30, 2007.  
8

## 9           **SALARIES OF COMMUNITY COLLEGE FACULTY AND PROFESSIONAL** 10           **STAFF**

11           **SECTION 8.3.(a)** Funds appropriated in this act for salary increases shall be  
12 used to increase faculty and professional staff salaries by an average of two and one-half  
13 percent (2.5%). These increases are in addition to other salary increases provided for in  
14 this act and shall be calculated on the average salaries prior to the issuance of the  
15 compensation increase. Colleges may provide additional increases from funds available.

16           **SECTION 8.3.(b)** The State Board of Community Colleges shall adopt rules  
17 to ensure that these funds are used only to move faculty and professional staff to the  
18 respective national averages. These funds shall not be transferred by the State Board or  
19 used for any other budget purpose by the community colleges.  
20

## 21           **REPORT ON THE NCCCS BIONETWORK**

22           **SECTION 8.4.** The Community Colleges System Office shall report  
23 annually on November 1 to the Joint Legislative Education Oversight Commission, the  
24 Office of State Budget and Management, and the Fiscal Research Division on the  
25 implementation of the NCCCS BioNetwork. This report shall include an explanation of  
26 the BioNetwork's activities, accomplishments, and expenditures.  
27

## 28           **CARRYFORWARD OF SYSTEM OFFICE FUNDS FOR CASWELL BUILDING** 29           **SPACE RECONFIGURATION**

30           **SECTION 8.5.(a)** Subject to the approval of the Office of State Budget and  
31 Management and cash availability, the North Carolina Community Colleges System  
32 Office may carry forward an amount not to exceed three hundred forty thousand dollars  
33 (\$340,000) of the operating funds that were not reverted in fiscal year 2006-2007 to be  
34 used to reconfigure office space in the Community Colleges System Office, located in  
35 the Caswell Building in Raleigh. These funds may be used for the purchase of furniture  
36 and equipment necessary to implement the recommendations made by the State  
37 Property Office.

38           **SECTION 8.5.(b)** This section becomes effective June 30, 2007.  
39

## 40           **INSTRUCTIONAL RESOURCE ALLOCATION FORMULA**

41           **SECTION 8.6.** The State Board of Community Colleges shall develop a new  
42 funding formula for library books and related instructional resources before distributing  
43 funds appropriated in the 2007-2009 Continuation Budget. The revised instructional  
44 resource allocation formula shall reflect the availability of online subscription resources  
45 and electronic media and should include a base amount per college.  
46

## 47           **PILOT PROGRAMS TO BE STUDIED FOR NCCCS INCREMENTAL** 48           **CREDENTIALS**

49           **SECTION 8.7.** Funds appropriated in this act to create incremental  
50 credentials shall be used first to develop incremental credentials in the following  
51 programs: Early Childhood Education, Automotive Systems Technology, Computer  
52 Information Technology, and Building Construction Technology. The allocation of  
53 these funds shall be determined by the Community Colleges System Office and  
54 approved by the State Board of Community Colleges.  
55

1 **ONLINE COURSE INSTRUCTION DELIVERY REQUIRED TO BE**  
2 **COMPATIBLE AMONG ALL NC PUBLIC EDUCATION SYSTEMS**

3 **SECTION 8.8.(a)** Software purchased and used for online course instruction  
4 by the Department of Public Instruction, the NC Community Colleges, and The  
5 University of North Carolina shall be compatible and able to be integrated with course  
6 management and distance learning software adopted by the State Board of Education,  
7 the State Board of Community Colleges, and The University of North Carolina.

8 **SECTION 8.8.(b)** This provision shall apply to the NC Virtual Public  
9 School, the NCCCS Virtual Learning Community, and any future online course  
10 instruction software purchased.

11 **SECTION 8.8.(c)** The Office of Information Technology Services shall  
12 ensure compatibility pursuant to subsection (a) of this section.  
13

14 **JOINT NCCCS/UNC COURSE MANAGEMENT SYSTEM**

15 **SECTION 8.9.(a)** Funds appropriated in this act for the Joint NCCCS/UNC  
16 Course Management System shall be used to consider potential options for a shared  
17 course management system, to be implemented July 1, 2008. This solution shall  
18 consider the possibility of using open-source course management software.

19 **SECTION 8.9.(b)** The NC Community College System and The University  
20 of North Carolina shall report their recommendations for a shared course management  
21 system to the Joint Legislative Education Oversight Committee, the Office of  
22 Information Technology Services, and the Office of State Budget and Management by  
23 March 1, 2008.  
24

25 **PRIORITY FOR NEW PROGRAM START-UP FUNDS**

26 **SECTION 8.10.** The State Board of Community Colleges shall develop  
27 rules governing the distribution of new program start-up funds appropriated in this act.  
28 These funds shall be allocated first to programs fulfilling a high-priority need or  
29 programs that are classified as new to the system.  
30

31 **REPORT ON NCCCS DISTANCE LEARNING AND ONLINE CAPABILITIES**

32 **SECTION 8.11.** The Community Colleges System Office shall report by  
33 March 1, 2008, to the Joint Legislative Education Oversight Committee, the Fiscal  
34 Research Division, and the Office of State Budget and Management, on its efforts  
35 regarding distance learning opportunities. This report shall complement the report  
36 authorized by the General Assembly in S.L. 2004-179, Section 6, and shall address the  
37 following:

- 38 (1) The implementation of the Learning Objects Repository, as  
39 appropriated in this act;
- 40 (2) The expenditure of funds appropriated in this act, for bandwidth at  
41 community colleges, including a description of each community  
42 college's current bandwidth capacity;
- 43 (3) The Virtual Learning Community and its course development centers;
- 44 (4) Joint efforts between the NC Community College System and The  
45 University of North Carolina, regarding distance learning;
- 46 (5) Joint efforts between individual community colleges and special  
47 responsibility constituent institutions of The University of North  
48 Carolina or NC private colleges;
- 49 (6) Analysis of necessary changes or enhancements to improve the sharing  
50 of distance learning and online opportunities with The University of  
51 North Carolina and the Department of Public Instruction;
- 52 (7) The adequacy of current funding, and the need for additional funds, to  
53 support the initiatives listed in this section, as well as additional  
54 anticipated online and distance education collaborations between the



1 NC Community College System, The University of North Carolina,  
2 and the Department of Public Instruction.

#### 3 4 **FACULTY UPGRADE AND STAFF DEVELOPMENT FUNDS**

5 **SECTION 8.12.(a)** Funds appropriated in the act for faculty upgrade and  
6 staff development shall be allocated by the State Board of Community Colleges.  
7 Community colleges may use these funds to provide their employees with training  
8 opportunities that relate to teaching subject matter content and upgrading instructional  
9 and technical skills. These opportunities may include funds for faculty to earn  
10 baccalaureate and masters degrees, and for faculty to participate in industry-specific  
11 training.

12 **SECTION 8.12.(b)** These funds may be used only to support educational  
13 activities which serve to develop the employee's competencies, knowledge, skills, and  
14 abilities directly related to their employment.

#### 15 16 **ACHIEVING THE DREAM FUNDS**

17 **SECTION 8.13.** The Community Colleges System Office shall report by  
18 November 1, 2008, to the Joint Legislative Education Oversight Committee, the Fiscal  
19 Research Division, and the Office of State Budget and Management on its expenditures  
20 of funds appropriated in this act for the Achieving the Dream initiative.

#### 21 22 **CURRICULUM ENROLLMENT FORMULA**

23 **SECTION 8.14.** Student enrollment in Learn and Earn Online courses shall  
24 not count as regular budget FTE in the curriculum enrollment formula but shall be  
25 reported as self-supporting, and Learn and Earn Online funds shall be allotted as a  
26 categorical State allotment.

### 27 28 **PART IX. UNIVERSITIES**

#### 29 30 **NORTH CAROLINA SCHOOL OF SCIENCE AND MATHEMATICS** 31 **ENROLLMENT GROWTH FORMULA**

32 **SECTION 9.1.(a)** The Office of State Budget and Management shall  
33 conduct a study to create a formula for enrollment growth at the North Carolina School  
34 of Science and Mathematics. This formula will be used to calculate the amount of funds  
35 needed for enrollment growth for the North Carolina School of Science and  
36 Mathematics. The formula will be used for calculating the enrollment growth funding  
37 request to be submitted to the 2008 Session of the North Carolina General Assembly.

38 **SECTION 9.1.(b)** The Office of State Budget and Management shall submit  
39 the study to the Joint Legislative Education Oversight Committee and the Fiscal  
40 Research Division no later than March 1, 2008.

#### 41 42 **REPORTING ON UNC FACULTY WORKLOAD**

43 **SECTION 9.2.(a)** The Board of Governors shall conduct a study on faculty  
44 workload. The study shall be done using the Delaware Study Method of collecting data.  
45 Information in the report should include, but is not to be limited to:

- 46 (1) Faculty workload data for each UNC constituent institution compared  
47 to the UNC enrollment model.
- 48 (2) UNC faculty workload average as compared to the UNC enrollment  
49 model student credit hours per instructional position.
- 50 (3) Faculty workload of regional and peer institutions as compared to each  
51 UNC constituent institution faculty average and to the UNC faculty  
52 workload average.

53 **SECTION 9.2.(b)** The UNC Board of Governors shall submit the study to  
54 the Joint Legislative Education Oversight Committee, the Office of State Budget and  
55 Management, and the Fiscal Research Division no later than March 1, 2008.

**MILLENNIUM TEACHER SCHOLARSHIP PROGRAM**

**SECTION 9.3.(a)** The Millennium Teacher Scholarship Program was initially created by S.L. 2004-124, Section 9.2.(c) to provide scholarship loans in the amount of six thousand five hundred dollars (\$6,500) to North Carolina residents enrolled in a teacher education program at one of the State's three Historically Black Colleges and Universities without the Teaching Fellows program. One of the three eligible universities, Elizabeth City State University, is now a participant in the Teaching Fellows program effective with the fall 2007 semester.

**SECTION 9.3.(b)** Elizabeth City State University, due to participation in the Teaching Fellows program, no longer meets the criteria established for the Millennium Teacher Scholarship Program. All current Millennium Scholars at Elizabeth City State University shall retain the scholarship loan, and Elizabeth City State University shall forfeit to the Escheat Fund all unused funding that it has received for Millennium scholarship loans. No new Millennium scholarship loans shall be awarded to students at Elizabeth City State University after July 1, 2007.

**USE OF ESCHEAT FUND FOR NEED-BASED FINANCIAL AID PROGRAMS**

**SECTION 9.4.(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 six hundred thirty-eight thousand and sixteen dollars (\$67,638,016) for 2007-2008 and 2008-2009, 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 2007-2008 and 2008-2009, to the Department of Administration, Division of Veteran Affairs the sum of six million two hundred twenty-eight thousand six hundred thirty-three dollars (\$6,228,633) for 2007-2008 and the sum of six million five hundred twenty thousand nine hundred sixty-four dollars (\$6,520,964) for 2008-2009. These funds shall be allocated by the State Educational Assistance Authority for need-based student financial aid in accordance with G.S. 116B-7.

If the interest income generated from the Escheat Fund is less than the amounts referenced in 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 9.4.(b)** The North Carolina State Education Assistance Authority (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. SEAA may make recommendations for redistribution of funds to The University of North Carolina, Department of Administration, and/or 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 9.4.(c)** There is appropriated from the Escheat Fund to the Board of Governors of The University of North Carolina the sum of one million one hundred fifty-seven thousand dollars (\$1,157,000) for the 2007-2008 and 2008-2009 fiscal years 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 two 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

1 these scholarship loans, the conditions for forgiving the loans, and the collection of the  
2 loan repayments when necessary.

3 **SECTION 9.4.(d)** All obligations to students for uses of the funds set out in  
4 sections that were made prior to the effective date of Section 9.4(a) shall be fulfilled as  
5 to students who remain eligible under the provisions of the respective programs.  
6

#### 7 **BOARD OF GOVERNORS' MEDICAL SCHOLARSHIPS**

8 **SECTION 9.5.** The current Board of Governors' Medical Scholarship  
9 Program, under the purview of the Board of Governors of The University of North  
10 Carolina, shall make any awards to students admitted after July 1, 2007, as scholarship  
11 loan awards. The Board of Governors' Medical Scholarship program is administered by  
12 the Board of Governors of The University of North Carolina. The Board of Governors'  
13 Medical Scholarship Program shall be used to provide a four-year scholarship loan of  
14 relevant tuition and fees, mandatory medical insurance, required laptop computers, and  
15 an annual stipend of five thousand dollars (\$5,000) per year to students who have been  
16 accepted for admission to either Duke University School of Medicine, Brody School of  
17 Medicine at East Carolina University, the University of North Carolina at Chapel Hill  
18 School of Medicine, or the Wake Forest University School of Medicine. The Board  
19 may adopt standards, including minimum grade point average and scholastic aptitude  
20 test scores, for awarding these scholarship loans to ensure that only the most qualified  
21 students receive them. The Board shall make an effort to identify and encourage  
22 minority and economically disadvantaged youth to enter the program. All scholarship  
23 loans shall be evidenced by notes made payable to the Board that shall bear interest at  
24 the rate of ten percent (10%) per year beginning September 1 after completion of the  
25 program, or immediately after termination of the scholarship loan, whichever is earlier.  
26 The scholarship loan may be terminated by the recipient withdrawing from school or by  
27 the recipient not meeting the standards set by the Board. The Board shall forgive the  
28 loan if, within seven years after graduation, the recipient practices medicine in North  
29 Carolina for four years. The Board shall also forgive the loan if it finds that it is  
30 impossible for the recipient to practice medicine in North Carolina for four years, within  
31 seven years after graduation, because of the death or permanent disability of the  
32 recipient. All unused funds appropriated to or otherwise received by the Board for  
33 scholarships, all funds received as repayment of scholarship loans, and all interest  
34 earned on these funds, shall revert to the General Fund at the end of each fiscal year.  
35

#### 36 **BOARD OF GOVERNORS' DENTAL SCHOLARSHIPS**

37 **SECTION 9.6.** The current Board of Governors' Dental Scholarship  
38 Program, under the purview of the Board of Governors of The University of North  
39 Carolina, shall make any awards to students admitted after July 1, 2007, as scholarship  
40 loan awards. The Board of Governors' Dental Scholarship Program is administered by  
41 the Board of Governors of The University of North Carolina. The Board of Governors'  
42 Dental Scholarship Program shall be used to provide a four-year scholarship loan of  
43 relevant tuition and fees, mandatory medical insurance, required laptop computers for  
44 first-year students, required dental equipment, and an annual stipend of five thousand  
45 dollars (\$5,000) per year to students who have been accepted for admission to the  
46 School of Dentistry at the University of North Carolina at Chapel Hill. The Board may  
47 adopt standards, including minimum grade point average and scholastic aptitude test  
48 scores, for awarding these scholarship loans to ensure that only the most qualified  
49 students receive them. The Board shall make an effort to identify and encourage  
50 minority and economically disadvantaged youth to enter the program. All scholarship  
51 loans shall be evidenced by notes made payable to the Board that shall bear interest at  
52 the rate of ten percent (10%) per year beginning September 1 after completion of the  
53 program, or immediately after termination of the scholarship loan, whichever is earlier.  
54 The scholarship loan may be terminated by the recipient withdrawing from school or by  
55 the recipient not meeting the standards set by the Board. The Board shall forgive the

1 loan if, within seven years after graduation, the recipient practices medicine in North  
2 Carolina for four years. The Board shall also forgive the loan if it finds that it is  
3 impossible for the recipient to practice medicine in North Carolina for four years, within  
4 seven years after graduation, because of the death or permanent disability of the  
5 recipient. All unused funds appropriated to or otherwise received by the Board for  
6 scholarships, all funds received as repayment of scholarship loans, and all interest  
7 earned on these funds, shall revert to the General Fund at the end of each fiscal year.  
8

#### 9 **UNC-NCCCS 2+2 E-LEARNING INITIATIVE**

10 **SECTION 9.7.** The University of North Carolina and Community Colleges  
11 System Office shall report by September 1, 2007, and annually thereafter, to the Joint  
12 Legislative Education Oversight Committee, the Office of State Budget and  
13 Management, and the Fiscal Research Division of the General Assembly on the  
14 implementation of the UNC-NCCCS 2+2 E-Learning Initiative. This report shall  
15 include:

- 16 (1) The courses and programs within the 2+2 E-Learning Initiative;
- 17 (2) The total number of prospective teachers that have taken or are taking  
18 part in this initiative to date broken down by the current academic  
19 period and each of the previous academic periods since the program's  
20 inception;
- 21 (3) The total number of teachers currently in the State's classroom, by  
22 local school administrative unit, who have taken part in this initiative;
- 23 (4) The change in the number of teachers available to schools since the  
24 program's inception;
- 25 (5) The qualitative data from students, teachers, local school  
26 administrative unit personnel, university personnel, and community  
27 college personnel as to the impact of this initiative on our State's  
28 teaching pool; and
- 29 (6) An explanation of the expenditures and collaborative programs  
30 between the North Carolina Community College System and The  
31 University of North Carolina, including recommendations for  
32 improvement.  
33

#### 34 **MANAGEMENT FLEXIBILITY TO REORGANIZE BUDGET CODE 16012** 35 **UNC BOARD OF GOVERNORS RELATED EDUCATIONAL PROGRAMS**

36 **SECTION 9.8.(a)** Notwithstanding G.S. 143C-6-4, for the 2007-2008 fiscal  
37 year, the General Administration of The University of North Carolina and the State  
38 Educational Assistance Authority shall, with the approval of the Office of State Budget  
39 and Management, reorganize budget code 16012, UNC Board of Governors Related  
40 Educational Programs, so that the budget reflects and segregates each specific program  
41 individually. The Office of State Budget and Management shall work with the  
42 University of North Carolina General Administration and the State Educational  
43 Assistance Authority to ensure that each program represented in code 16012 is  
44 identified and budgeted separately.

45 **SECTION 9.8.(b)** The University of North Carolina General Administration  
46 shall report the new budget structure for budget code 16012, as approved by the Office  
47 of State Budget and Management, to the Fiscal Research Division of the General  
48 Assembly no later than March 31, 2008.  
49

#### 50 **MANAGEMENT FLEXIBILITY CARRYFORWARD OF 2.5% OF A SPECIAL** 51 **RESPONSIBILITY CONSTITUENT INSTITUTION OF THE UNIVERSITY** 52 **OF NORTH CAROLINA'S AUTHORIZED BUDGET MAY BE USED FOR** 53 **ONETIME CAPITAL PROJECTS**

54 **SECTION 9.9.** G.S. 116-30.3 reads as rewritten:  
55 **"§ 116-30.3. Reversions.**

1 (a) Of the General Fund current operations appropriations credit balance  
2 remaining at the end of each fiscal year in each budget code of a special responsibility  
3 constituent institution, except for the budget code of the Area Health Education Centers  
4 of the University of North Carolina at Chapel Hill, any amount of the General Fund  
5 appropriation for that fiscal year may be carried forward by the institution to the next  
6 fiscal year and is appropriated for one-time ~~expenditures~~ expenditures, to include  
7 nonrecurring funds to capital projects, that will not impose additional financial  
8 obligations on the State. Of the General Fund current operations appropriations credit  
9 balance remaining in the budget code of the Area Health Education Centers of the  
10 University of North Carolina at Chapel Hill, any amount of the General Fund  
11 appropriation for that fiscal year may be carried forward in that budget code to the next  
12 fiscal year and is appropriated for one-time ~~expenditures~~ expenditures, to include  
13 nonrecurring funds to capital projects, that will not impose additional financial  
14 obligations on the State. However, the amount carried forward under this section shall  
15 not exceed two and one-half percent (2 1/2%) of the General Fund appropriation. The  
16 Director of the Budget, under the authority set forth in G.S. 143C-6-2 shall establish the  
17 General Fund current operations credit balance remaining in each budget code of each  
18 institution. All capital projects, within the scope of this section that are new projects,  
19 less than three hundred thousand dollars (\$300,000) may be established with the  
20 permission of the Director of the Budget. If these capital projects are new projects  
21 greater than three hundred thousand dollars (\$300,000), they may only be established  
22 after consultation with the Joint Legislative Commission on Governmental Operations  
23 and permission from the Director of the Budget. The Director of the Budget may  
24 authorize the use of management flexibility carryforward funds to increase the cost of  
25 an existing capital project on a one time basis only.

26 (b) Repealed by Session Laws 1998-212, s. 11(b).

27 (c) Repealed by Session Laws 1998-212, s. 11(a).

28 (d) Repealed by Session Laws 1998-212, s. 11(b).

29 (e) Notwithstanding G.S. 143C-1-2 of the General Fund current operations  
30 appropriations credit balance remaining in Budget Code 16010 of the Office of General  
31 Administration of The University of North Carolina, any amount of the General Fund  
32 appropriation for that fiscal year may be carried forward in that budget code to the next  
33 fiscal year and is appropriated for one-time ~~expenditures~~ expenditures, to include  
34 nonrecurring funds to capital projects, that will not impose additional financial  
35 obligations on the State. However, the amount carried forward under this subsection  
36 shall not exceed two and one-half percent (2 1/2%) of the General Fund appropriation.  
37 The Director of the Budget, under the authority set forth in G.S. 143C-6-2, shall  
38 establish the General Fund current operations credit balance remaining in Budget Code  
39 16010 of the Office of General Administration of The University of North Carolina. The  
40 funds shall not be used to support positions. All capital projects, within the scope of this  
41 section that are new projects, less than three hundred thousand dollars (\$300,000) may  
42 be established with the permission of the Director of the Budget. If these capital projects  
43 are new projects greater than three hundred thousand dollars (\$300,000), they may only  
44 be established after consultation with the Joint Legislative Commission on  
45 Governmental Operations and permission from the Director of the Budget. The Director  
46 of the Budget may authorize the use of management flexibility carryforward funds to  
47 increase the cost of an existing capital project on a one time basis only."

48  
49 **GRADUATE NURSE SCHOLARSHIP LOANS FOR FULL-TIME NURSING**  
50 **FACULTY IN THE NC COMMUNITY COLLEGE SYSTEM**

51 **SECTION 9.10.(a)** G.S. 90-171.95(b) is amended to add the following  
52 subdivision:

53 "(3) A scholarship loan for up to two years in the amount of fifteen  
54 thousand dollars (\$15,000) per year, per recipient, to current nursing

1 faculty in the North Carolina Community College System enrolled in a  
2 masters degree program in nursing education."

3 **SECTION 9.10.(b)** Of the funds appropriated in this act for Graduate Nurse  
4 Scholarship Loans for full-time nursing faculty, current community college nursing  
5 faculty should receive preference for 25 scholarships in 2007-2008 and 50 scholarships  
6 in 2008-2009.

7 **SECTION 9.10.(c)** From funds appropriated in this act for Graduate Nurse  
8 Scholarship Loans, the North Carolina Nursing Scholars Commission shall grant  
9 stipends of up to fifteen thousand dollars (\$15,000) per year, per recipient, to current  
10 nursing faculty in the North Carolina Community College System who have received a  
11 Graduate Nurse Scholarship Loan. This stipend shall be prorated based on a student's  
12 enrollment. If a recipient continues to teach at a North Carolina community college  
13 while enrolled, the total salary and stipend shall not exceed forty-four thousand six  
14 hundred seventy-two dollars (\$44,672).

15  
16 **ESTABLISH THE EDUCATION ACCESS REWARDS NORTH CAROLINA**  
17 **SCHOLARS FUND (EARN)**

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

20 **"§ 116-209.26. Education Access Rewards North Carolina Scholars Fund.**

21 (a) There is established the Education Access Rewards North Carolina Scholars  
22 Fund. The purpose of the Fund is to provide grants to certain eligible students to enable  
23 them to obtain an education beyond the high school level at certain postsecondary  
24 institutions in North Carolina without incurring student loans to meet their financial  
25 need during the first two years of their postsecondary education. It is the intent of the  
26 General Assembly that the postsecondary institutions enrolling eligible students who  
27 receive the grants will, to the extent practicable, assist the students in securing part-time  
28 employment to help them gain experience in the workforce and earn money to defray  
29 some of the cost of their education. The State Education Assistance Authority (SEAA)  
30 shall administer the Fund.

31 (b) Criteria for awarding the grants shall be developed by the SEAA and include  
32 all of the following:

- 33 (1) The student must qualify as a legal resident of North Carolina and as a  
34 resident for tuition purposes in accordance with G.S. 116-143.1.  
35 (2) Within seven months of the fiscal year in which the grant is to be  
36 disbursed, the student must have:  
37 a. Graduated from a North Carolina high school;  
38 b. Received a General Education Development (GED) Certificate  
39 from a North Carolina institution; or  
40 c. Completed a high school education in a home school setting  
41 meeting the qualifications and requirements under  
42 G.S. 115C-564.  
43 (3) The student must meet enrollment standards by being admitted,  
44 enrolled, and classified as an undergraduate student in a matriculated  
45 status on a full-time basis at an eligible postsecondary institution in  
46 North Carolina.  
47 (4) The student must be an eligible dependent student. For purposes of this  
48 subsection, an "eligible dependent student" is a student who:  
49 a. Either is classified as dependent for the Title IV programs or is  
50 a ward or dependent of the court; and  
51 b. Demonstrates total family income not exceeding two hundred  
52 percent (200%) of the applicable federal poverty guideline,  
53 according to standards set by the SEAA and measured using  
54 data elements available to the SEAA from the Free Application

- 1                    for Federal Student Aid (FAFSA) or such other source as the  
2                    SEAA may deem appropriate.
- 3            (5)    The student must meet all other eligibility requirements for the federal  
4            Pell Grant.
- 5            (6)    In order to retain eligibility for a grant for the student's second  
6            academic year, the student must meet achievement standards by  
7            maintaining satisfactory academic progress in a course of study in  
8            accordance with the standards and practices used for Title IV programs  
9            by the eligible postsecondary institution in which the student is  
10           enrolled.
- 11           (7)    The student may not receive a grant in an amount that, when combined  
12           with the federal Pell Grant, exceeds the student's cost of attendance as  
13           defined under Title IV.
- 14           (8)    The student may not receive a grant under this section for more than  
15           the equivalent of two academic years.
- 16           (c)    The maximum grant for which a student is eligible under this section shall be  
17           four thousand dollars (\$4,000) per academic year. In the event there are not sufficient  
18           funds to provide each eligible student with the maximum grant, it is the intent of the  
19           General Assembly that eligible students who have matriculated into an eligible  
20           postsecondary institution in North Carolina with at least one academic year of college  
21           credit receive the maximum grant amount and all other eligible students shall receive a  
22           reduced grant amount.
- 23           (d)    The following definitions apply to this section:
- 24           (1)    Academic year. – A period of time in which a student in matriculated  
25           status is expected to complete the equivalent of at least two semesters'  
26           or three quarters' academic work.
- 27           (2)    Eligible postsecondary institution. – A school that is:
- 28           a.     A constituent institution of The University of North Carolina as  
29           defined in G.S. 116-2(4); or
- 30           b.     A community college as defined in G.S. 115D-2(2).
- 31           (3)    Matriculated status. – Being recognized as a first-time candidate for a  
32           degree or certificate, exclusive of any course credits earned while in  
33           high school, in a defined program of study at an eligible postsecondary  
34           institution.
- 35           (4)    Title IV. – Title IV of the Higher Education Act of 1965, as amended.
- 36           (e)    The grants provided for in this section shall be administered by the State  
37           Education Assistance Authority pursuant to rules adopted by the SEAA not inconsistent  
38           with this section.
- 39           (f)    The State Education Assistance Authority shall report to the Joint Legislative  
40           Education Oversight Committee by December 1, 2009, and by each December 1  
41           thereafter, regarding the Fund and grants awarded from the Fund.
- 42           (g)    Grant funds unexpended shall remain available to the SEAA for future grants  
43           to be awarded under this section."

44           **SECTION 9.11.(b)** Of the funds appropriated to the SEAA for the  
45 2007-2009 biennium, the sum of fifty million dollars (\$50,000,000) for the 2007-2008  
46 fiscal year and the sum of one hundred million dollars (\$100,000,000) shall be used to  
47 implement this act. Notwithstanding the foregoing, no grant shall be disbursed to an  
48 eligible student before July 1, 2008.

## 50 PART X. DEPARTMENT OF HEALTH AND HUMAN SERVICES

### 52 DHHS PAYROLL DEDUCTION FOR CHILD CARE SERVICES

53           **SECTION 10.1.** Subject to rules adopted by the State Controller, an  
54 employee of the Department of Health and Human Services may authorize, in writing,  
55 the periodic deduction from the employee's salary or wages paid for employment by the

1 State, a designated lump sum to be paid to satisfy the cost of services received for child  
2 care provided by the Department.  
3

#### 4 **PHYSICIAN SERVICES**

5 **SECTION 10.2.** With the approval of the Office of State Budget and  
6 Management, the Department of Health and Human Services may use funds  
7 appropriated in this act for across-the-board salary increases and performance pay to  
8 offset similar increases in the costs of contracting with private and independent  
9 universities for the provision of physician services to clients in facilities operated by the  
10 Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.  
11 This offsetting shall be done in the same manner as is currently done with the  
12 constituent institutions of The University of North Carolina.  
13

#### 14 **LIABILITY INSURANCE**

15 **SECTION 10.3.(a)** The Secretary of the Department of Health and Human  
16 Services, the Secretary of the Department of Environment and Natural Resources, and  
17 the Secretary of the Department of Correction may provide medical liability coverage  
18 not to exceed one million dollars (\$1,000,000) per incident on behalf of employees of  
19 the Departments licensed to practice medicine or dentistry, on behalf of all licensed  
20 physicians who are faculty members of The University of North Carolina who work on  
21 contract for the Division of Mental Health, Developmental Disabilities, and Substance  
22 Abuse Services for incidents that occur in Division programs, and on behalf of  
23 physicians in all residency training programs from The University of North Carolina  
24 who are in training at institutions operated by the Department of Health and Human  
25 Services. This coverage may include commercial insurance or self-insurance and shall  
26 cover these individuals for their acts or omissions only while they are engaged in  
27 providing medical and dental services pursuant to their State employment or training.

28 **SECTION 10.3.(b)** The coverage provided under this section shall not cover  
29 any individual for any act or omission that the individual knows or reasonably should  
30 know constitutes a violation of the applicable criminal laws of any state or the United  
31 States or that arises out of any sexual, fraudulent, criminal, or malicious act or out of  
32 any act amounting to willful or wanton negligence.

33 **SECTION 10.3.(c)** The coverage provided pursuant to this section shall not  
34 require any additional appropriations and shall not apply to any individual providing  
35 contractual service to the Department of Health and Human Services, the Department of  
36 Environment and Natural Resources, or the Department of Correction, with the  
37 exception that coverage may include physicians in all residency training programs from  
38 The University of North Carolina who are in training at institutions operated by the  
39 Department of Health and Human Services and licensed physicians who are faculty  
40 members of The University of North Carolina who work for the Division of Mental  
41 Health, Developmental Disabilities, and Substance Abuse Services.  
42

#### 43 **NON-MEDICAID REIMBURSEMENT CHANGES**

44 **SECTION 10.4.** Providers of medical services under the various State  
45 programs, other than Medicaid, offering medical care to citizens of the State shall be  
46 reimbursed at rates no more than those under the North Carolina Medical Assistance  
47 Program. When the Medical Assistance Program's per diem rates for inpatient services  
48 and its interim rates for outpatient services are used to reimburse providers in  
49 non-Medicaid medical service programs, retroactive adjustments to claims already paid  
50 shall not be required.

51 Notwithstanding the provisions of paragraph one, the Department of Health  
52 and Human Services may negotiate with providers of medical services under the various  
53 Department of Health and Human Services programs, other than Medicaid, for rates as  
54 close as possible to Medicaid rates for the following purposes: contracts or agreements  
55 for medical services and purchases of medical equipment and other medical supplies.



1 These negotiated rates are allowable only to meet the medical needs of its non-Medicaid  
 2 eligible patients, residents, and clients who require such services which cannot be  
 3 provided when limited to the Medicaid rate.

4 The income eligibility level for the following Department of Health and  
 5 Human Service programs shall be up to two hundred percent (200%) of the federal  
 6 poverty guidelines, as reviewed annually by the United States Department of Health and  
 7 Human Services and in effect on July 1 of each fiscal year: The Medical Eye Care  
 8 Program administered by the Division of Services for the Blind, the Vocational  
 9 Rehabilitation programs administered by the Division of Vocational Rehabilitation  
 10 Services and Division of Services for the Blind, the Independent Living Rehabilitation  
 11 Programs administered by the Divisions of Vocational Rehabilitation Services and  
 12 Division of Services for the Blind, and the Assistive Technology Program administered  
 13 by the Division of Rehabilitation Services.

14 Maximum net family annual income eligibility standards for services in other  
 15 programs shall be as follows:

<u>Family Size</u>	<u>Other</u>
1	\$4,200
2	5,300
3	6,400
4	7,500
5	7,900
6	8,300
7	8,800
8	9,300

25 The eligibility level for adults in the Atypical Antipsychotic Medication  
 26 Program in the Division of Mental Health, Developmental Disabilities, and Substance  
 27 Abuse Services shall be one hundred fifty percent (150%) of the federal poverty  
 28 guidelines, as revised annually by the United States Department of Health and Human  
 29 Services and in effect on July 1 of each fiscal year. Additionally, those adults enrolled  
 30 in the Atypical Antipsychotic Medication Program who become gainfully employed  
 31 may continue to be eligible to receive State support, in decreasing amounts, for the  
 32 purchase of atypical antipsychotic medication and related services up to three hundred  
 33 percent (300%) of the poverty level.

34 State financial participation in the Atypical Antipsychotic Medication  
 35 Program for those enrollees who become gainfully employed is as follows:

<u>Income</u> (% of poverty)	<u>State Participation</u>	<u>Client Participation</u>
0-150%	100%	0%
151-200%	75%	25%
201-250%	50%	50%
251-300%	25%	75%
300% and over	0%	100%

43 The Department of Health and Human Services shall contract at, or as close  
 44 as possible to, Medicaid rates for medical services provided to residents of State  
 45 facilities of the Department.

46  
 47 **SCHOOL-BASED CHILD AND FAMILY TEAM INITIATIVE**

48 **SECTION 10.5.(a)** School-Based Child and Family Team Initiative  
 49 established. –

- 50 (1) Purpose and duties. – There is established the School-Based Child and  
 51 Family Team Initiative. The purpose of the Initiative is to identify and  
 52 coordinate appropriate community services and supports for children  
 53 at risk of school failure or out-of-home placement in order to address  
 54 the physical, social, legal, emotional, and developmental factors that  
 55 affect academic performance. The Department of Health and Human

1 Services, the Department of Public Instruction, the State Board of  
2 Education, the Department of Juvenile Justice and Delinquency  
3 Prevention, the Administrative Office of the Courts, and other State  
4 agencies that provide services for children shall share responsibility  
5 and accountability to improve outcomes for these children and their  
6 families. The Initiative shall be based on the following principles:

- 7 a. The development of a strong infrastructure of interagency  
8 collaboration;
  - 9 b. One child, one team, one plan;
  - 10 c. Individualized strengths-based care;
  - 11 d. Accountability;
  - 12 e. Cultural competence;
  - 13 f. Children at risk of school failure or out-of-home placement may  
14 enter the system through any participating agency;
  - 15 g. Services shall be specified, delivered, and monitored through a  
16 unified Child and Family Plan that is outcome-oriented and  
17 evaluation-based;
  - 18 h. Services shall be the most efficient in terms of cost and  
19 effectiveness and shall be delivered in the most natural settings  
20 possible;
  - 21 i. Out-of-home placements for children shall be a last resort and  
22 shall include concrete plans to bring the children back to a  
23 stable, permanent home, their schools, and their community;  
24 and
  - 25 j. Families and consumers shall be involved in decision making  
26 throughout service planning, delivery, and monitoring.
- 27 (2) Program goals and services. – In order to ensure that children  
28 receiving services are appropriately served, the affected State and local  
29 agencies shall:
- 30 a. Increase capacity in the school setting to address the academic,  
31 health, mental health, social, and legal needs of children.
  - 32 b. Ensure that children receiving services are screened initially to  
33 identify needs and assessed periodically to determine progress  
34 and sustained improvement in educational, health, safety,  
35 behavioral, and social outcomes.
  - 36 c. Develop uniform screening mechanisms and a set of outcomes  
37 that are shared across affected agencies to measure children's  
38 progress in home, school, and community settings.
  - 39 d. Promote practices that are known to be effective based upon  
40 research or national best practice standards.
  - 41 e. Review services provided across affected State agencies to  
42 ensure that children's needs are met.
  - 43 f. Eliminate cost shifting and facilitate cost-sharing among  
44 governmental agencies with respect to service development,  
45 service delivery, and monitoring for participating children and  
46 their families.
  - 47 g. Participate in a local memorandum of agreement signed  
48 annually by the participating superintendent of the local LEA,  
49 directors of the county departments of social services and  
50 health, director of the local management entity, the chief district  
51 court judge, and the chief district court counselor.
- 52 (3) Local level responsibilities. – In coordination with the North Carolina  
53 Child and Family Leadership Council (Council), the local board of  
54 education shall establish the School-Based Child and Family Team  
55 Initiative (Initiative) at designated schools and shall appoint the Child

1 and Family Team Leaders who shall be a school nurse and a school  
2 social worker. Each local management entity that has any selected  
3 schools in its catchment area shall appoint a Care Coordinator, and any  
4 department of social services that has a selected school in its  
5 catchment area shall appoint a Child and Family Team Facilitator. The  
6 Care Coordinators and Child and Family Team Facilitators shall have  
7 as their sole responsibility working with the selected schools in their  
8 catchment areas and shall provide training to school-based personnel,  
9 as required. The Child and Family Team Leaders shall identify and  
10 screen children who are potentially at risk of academic failure or  
11 out-of-home placement due to physical, social, legal, emotional, or  
12 developmental factors. Based on the screening results, responsibility  
13 for developing, convening, and implementing the Child and Family  
14 Team Initiative is as follows:

- 15 a. School personnel shall take the lead role for those children and  
16 their families whose primary unmet needs are related to  
17 academic achievement.
- 18 b. The local management entity shall take the lead role for those  
19 children and their families whose primary unmet needs are  
20 related to mental health, substance abuse, or developmental  
21 disabilities and who meet the criteria for the target population  
22 established by the Division of Mental Health, Developmental  
23 Disabilities, and Substance Abuse Services.
- 24 c. The local department of public health shall take the lead role for  
25 those children and their families whose primary unmet needs  
26 are health-related.
- 27 d. Local departments of social services shall take the lead for  
28 those children and their families whose primary unmet needs  
29 are related to child welfare, abuse, or neglect.
- 30 e. The chief district court counselor shall take the lead for those  
31 children and their families whose primary unmet needs are  
32 related to juvenile justice issues.

33 A representative from each named or otherwise identified publicly  
34 supported children's agency shall participate as a member of the Team  
35 as needed. Team members shall coordinate, monitor, and assure the  
36 successful implementation of a unified Child and Family Plan.

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

- 41 a. The number of and other demographic information on children  
42 screened and assigned to a team and a description of the  
43 services needed by and provided to these children;
- 44 b. The number of and information about children assigned to a  
45 team who are placed in programs or facilities outside the child's  
46 home or outside the child's county and the average length of  
47 stay in residential treatment;
- 48 c. The amount and source of funds expended to implement the  
49 Initiative;
- 50 d. Information on how families and consumers are involved in  
51 decision making throughout service planning, delivery, and  
52 monitoring;
- 53 e. Other information as required by the Council to evaluate  
54 success in local programs and ensure appropriate outcomes; and  
55 f. Recommendations on needed improvements.

- 1 (5) Local advisory committee. – In each county with a participating  
2 school, the superintendent of the local LEA shall either identify an  
3 existing cross agency collaborative or council, or shall form a new  
4 group, to serve as a local advisory committee to work with the  
5 Initiative. Newly formed committees shall be chaired by the  
6 superintendent and one other member of the committee to be elected  
7 by the committee. The local advisory committee shall include the  
8 directors of the county departments of social services and health, the  
9 directors of the local management entity, the chief district court judge,  
10 the chief district court counselor, and representatives of other agencies  
11 providing services to children, as designated by the Committee. The  
12 members of the Committee shall meet as needed to monitor and  
13 support the successful implementation of the School-Based Child and  
14 Family Team Initiative.

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

18 **SECTION 10.5.(b)** North Carolina Child and Family Leadership Council. –

- 19 (1) Leadership Council established; location. – There is established the  
20 North Carolina Child and Family Leadership Council (Council). The  
21 Council shall be located within the Department of Administration for  
22 organizational and budgetary purposes.
- 23 (2) Purpose. – The purpose of the Council is to review and advise the  
24 Governor in the development of the School-Based Child and Family  
25 Team Initiative and to ensure the active participation and collaboration  
26 in the Initiative by all State agencies and their local counterparts  
27 providing services to children in participating counties in order to  
28 increase the academic success and reduce out-of-home and  
29 out-of-county placements of children at risk of academic failure.
- 30 (3) Membership. – The Superintendent of Public Instruction and the  
31 Secretary of Health and Human Services shall serve as cochair of the  
32 Council. Council membership shall include the Secretary of the  
33 Department of Juvenile Justice and Delinquency Prevention, the  
34 Chairman of the State Board of Education, the Director of the  
35 Administrative Office of the Courts, and other members as appointed  
36 by the Governor.
- 37 (4) The Council shall:
- 38 a. Sign an annual memorandum of agreement (MOA) among the  
39 named State agencies to define the purposes of the program and  
40 to ensure that program goals are accomplished.
- 41 b. Resolve State policy issues, as identified at the local level,  
42 which interfere with effective implementation of the  
43 School-Based Child and Family Team Initiative.
- 44 c. Direct the integration of resources, as needed, to meet goals and  
45 ensure that the Initiative promotes the most effective and  
46 efficient use of resources and eliminates duplication of effort.
- 47 d. Establish criteria for defining success in local programs and  
48 ensure appropriate outcomes.
- 49 e. Develop an evaluation process, based on expected outcomes, to  
50 ensure the goals and objectives of this Initiative are achieved.
- 51 f. Review progress made on integrating policies and resources  
52 across State agencies, reaching expected outcomes, and  
53 accomplishing other goals.
- 54 g. Report semiannually, on January 1 and July 1, on progress  
55 made and goals achieved to the Office of the Governor, the

1 Joint Appropriations Committees and Subcommittees on  
2 Education, Justice and Public Safety, and Health and Human  
3 Services, and the Fiscal Research Division of the Legislative  
4 Services Office.

5 The Council may designate existing cross agency collaboratives or  
6 councils as working groups or to provide assistance in accomplishing  
7 established goals.

8 **SECTION 10.5.(c)** Department of Health and Human Services. – The  
9 Secretary of the Department of Health and Human Services shall ensure that all  
10 agencies within the Department collaborate in the development and implementation of  
11 the School-Based Child and Family Team Initiative and provide all required support to  
12 ensure that the Initiative is successful.

13 **SECTION 10.5.(d)** Department of Juvenile Justice and Delinquency  
14 Prevention. – The Secretary of the Department of Juvenile Justice and Delinquency  
15 Prevention shall ensure that all agencies within the Department collaborate in the  
16 development and implementation of the School-Based Child and Family Team Initiative  
17 and provide all required support to ensure that the Initiative is successful.

18 **SECTION 10.5.(e)** Administrative Office of the Courts. – The Director of  
19 the Administrative Office of the Courts shall ensure that the Office collaborates in the  
20 development and implementation of the School-Based Child and Family Team Initiative  
21 and shall provide all required support to ensure that the Initiative is successful.

22 **SECTION 10.5.(f)** Department of Public Instruction. – The Superintendent  
23 of Public Instruction shall ensure that the Department collaborates in the development  
24 and implementation of the School-Based Child and Family Team Initiative and shall  
25 provide all required support to ensure that the Initiative is successful.

## 26 27 **FUNDS FOR SCHOOL NURSES**

28 **SECTION 10.6.(a)** Of the funds appropriated to the Department of Health  
29 and Human Services for school nurses, there shall be no supplanting of local, State, or  
30 federal funds. Communities shall maintain their current level of effort and funding for  
31 school nurses. These funds shall not be used for funding nurses for State agencies. All  
32 funding shall be used for direct services.

33 **SECTION 10.6.(b)** All school nurses funded with State funds shall  
34 participate, as needed, in child and family teams.

## 35 36 **COMPREHENSIVE TREATMENT SERVICES PROGRAM**

37 **SECTION 10.7.(a)** The Department of Health and Human Services shall  
38 continue the Comprehensive Treatment Services Program for children at risk for  
39 institutionalization or other out-of-home placement. The Program shall be implemented  
40 by the Department in consultation with the Department of Juvenile Justice and  
41 Delinquency Prevention, the Department of Public Instruction, and other affected State  
42 agencies. The purpose of the Program is to provide appropriate and medically necessary  
43 residential and nonresidential treatment alternatives for children at risk of  
44 institutionalization or other out-of-home placement. Program funds shall be targeted for  
45 non-Medicaid eligible children. Program funds may also be used to expand a  
46 system-of-care approach for services to children and their families statewide. The  
47 program shall include the following:

- 48 (1) Behavioral health screening for all children at risk of  
49 institutionalization or other out-of-home placement.
- 50 (2) Appropriate and medically necessary residential and nonresidential  
51 services for deaf children.
- 52 (3) Appropriate and medically necessary residential and nonresidential  
53 treatment services, including placements for sexually aggressive youth.
- 54 (4) Appropriate and medically necessary residential and nonresidential  
55 treatment services, including placements for youth needing substance

1 abuse treatment services and children with serious emotional  
2 disturbances.

3 (5) Multidisciplinary case management services, as needed.

4 (6) A system of utilization review specific to the nature and design of the  
5 Program.

6 (7) Mechanisms to ensure that children are not placed in department of  
7 social services custody for the purpose of obtaining mental health  
8 residential treatment services.

9 (8) Mechanisms to maximize current State and local funds and to expand  
10 use of Medicaid funds to accomplish the intent of this Program.

11 (9) Other appropriate components to accomplish the Program's purpose.

12 (10) The Secretary of the Department of Health and Human Services may  
13 enter into contracts with residential service providers.

14 (11) A system of identifying and tracking children placed outside of the  
15 family unit in group homes, therapeutic foster care home settings, and  
16 other out-of-home placements.

17 **SECTION 10.7.(b)** In order to ensure that children at risk for  
18 institutionalization or other out-of-home placement are appropriately served by the  
19 mental health, developmental disabilities, and substance abuse services system, the  
20 Department of Health and Human Services, Division of Mental Health, Developmental  
21 Disabilities, and Substance Abuse Services, shall do the following with respect to  
22 services provided to these children:

23 (1) Provide only those treatment services that are medically necessary.

24 (2) Implement utilization review of services provided.

25 (3) Adopt the following guiding principles for the provision of services:

26 a. Service delivery system must be outcome-oriented and  
27 evaluation-based.

28 b. Services should be delivered as close as possible to the child's  
29 home.

30 c. Services selected should be those that are most efficient in  
31 terms of cost and effectiveness.

32 d. Services should not be provided solely for the convenience of  
33 the provider or the client.

34 e. Families and consumers should be involved in decision making  
35 throughout treatment planning and delivery.

36 (4) Implement all of the following cost-reduction strategies:

37 a. Preauthorization for all services except emergency services.

38 b. Levels of care to assist in the development of treatment plans.

39 c. Clinically appropriate services.

40 **SECTION 10.7.(c)** The Department shall collaborate with other affected  
41 State agencies such as the Department of Juvenile Justice and Delinquency Prevention,  
42 the Department of Public Instruction, the Administrative Office of the Courts, and with  
43 local departments of social services, area mental health programs, and local education  
44 agencies to eliminate cost shifting and facilitate cost-sharing among these governmental  
45 agencies with respect to the treatment and placement services.

46 **SECTION 10.7.(d)** The Department shall not allocate funds appropriated for  
47 Program services until a Memorandum of Agreement has been executed between the  
48 Department of Health and Human Services, the Department of Public Instruction, and  
49 other affected State agencies. The Memorandum of Agreement shall address  
50 specifically the roles and responsibilities of the various departmental divisions and  
51 affected State agencies involved in the administration, financing, care, and placement of  
52 children at risk of institutionalization or other out-of-home placement. The Department  
53 shall not allocate funds appropriated in this act for the Program until the Memoranda of  
54 Agreement between local departments of social services, area mental health programs,  
55 local education agencies, and the Administrative Office of the Courts and the

1 Department of Juvenile Justice and Delinquency Prevention, as appropriate, are  
2 executed to effectuate the purpose of the Program. The Memoranda of Agreement shall  
3 address issues pertinent to local implementation of the Program, including provision for  
4 the immediate availability of student records to a local school administrative unit  
5 receiving a child placed in a residential setting outside the child's home county.

6 **SECTION 10.7.(e)** Notwithstanding any other provision of law to the  
7 contrary, services under the Comprehensive Treatment Services Program are not an  
8 entitlement for non-Medicaid eligible children served by the Program.

9 **SECTION 10.7.(f)** Of the funds appropriated in this act for the  
10 Comprehensive Treatment Services Program, the Department of Health and Human  
11 Services shall establish a reserve of three percent (3%) to ensure availability of these  
12 funds to address specialized needs for children with unique or highly complex  
13 problems.

#### 14 15 **AREA AUTHORITY AND COUNTY PROGRAM CRISIS REGIONS**

16 **SECTION 10.8.** LMEs shall report monthly to the Department regarding the  
17 use of the funds appropriated for crisis services, whether there has been a reduction in  
18 the use of State psychiatric hospitals for acute admissions, and any remaining gaps in  
19 local and regional crisis services.

#### 20 21 **LME ADMINISTRATIVE COSTS**

22 **SECTION 10.9.** To maximize the use of community services funds for the  
23 delivery of mental health, developmental disabilities, and substance abuse services, and  
24 to pursue a more efficient administration of community services envisioned in the  
25 system reform initiative, the Secretary, after consultation with the N.C. Council on  
26 Community Programs, shall develop a plan to meet the administrative needs of Local  
27 Management Entities (LME) within the existing resources of the LME administrative  
28 budget authorized by this act.

29 Prior to implementation, the Secretary shall report the plan to the chairs of the  
30 House Appropriations Subcommittee on Health and Human Services, Senate  
31 Appropriations Subcommittee on Health and Human Services, and the Joint Legislative  
32 Oversight Committee on Mental Health, Developmental Disabilities, and Substance  
33 Abuse Services.

#### 34 35 **DEVELOPMENTAL CENTER DOWNSIZING**

36 **SECTION 10.10.(a)** In accordance with the Department of Health and  
37 Human Services' plan for mental health, developmental disabilities, and substance abuse  
38 services system reform, the Department shall ensure that the downsizing of the State's  
39 regional Developmental Centers is based upon individual needs and the availability of  
40 community-based services with a targeted goal of four percent (4%) each year. The  
41 Department shall implement cost-containment and reduction strategies to ensure the  
42 corresponding financial and staff downsizing of each Developmental Center. The  
43 Department shall manage the client population of the Developmental Centers in order to  
44 ensure that placements for ICF-MR level of care shall be made into appropriate  
45 community based settings. Admission to a State-operated ICF-MR facility is permitted  
46 only as a last resort and only upon approval of the Department. The corresponding  
47 budgets for each of the Developmental Centers shall be reduced, and positions shall be  
48 eliminated as the census of each facility decreases.

49 **SECTION 10.10.(b)** The Department of Health and Human Services shall  
50 apply any savings in State appropriations that result from reductions in beds or services  
51 as follows:

- 52 (1) The Department shall place nonrecurring savings in the Trust Fund for  
53 Mental Health, Developmental Disabilities, and Substance Abuse  
54 Services and Bridge Funding Needs and use the savings to facilitate

- 1 the transition of clients into appropriate community-based services and  
2 support in accordance with G.S. 143C-9-2;
- 3 (2) The Department of Health and Human Services, Division of Mental  
4 Health, Developmental Disabilities, and Substance Abuse Services,  
5 shall retain recurring savings realized through implementation of this  
6 section to support the recurring costs of additional community-based  
7 placements from Division facilities in accordance with Olmstead vs.  
8 L.C. & E.W. In determining the savings in this section, savings shall  
9 include all savings realized from the downsizing of the Developmental  
10 Centers, including the savings in direct State appropriations in the  
11 budgets of the Developmental Centers; and
- 12 (3) The Department of Health and Human Services, Division of Medical  
13 Assistance, shall transfer any recurring Medicaid savings resulting  
14 from the downsizing of State-operated Developmental Centers from  
15 the ICF-MR line in Medicaid to the CAP-MR/DD line.

16  
17 **DHHS POLICIES AND PROCEDURES IN DELIVERING COMMUNITY**  
18 **MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND**  
19 **SUBSTANCE ABUSE SERVICES**

20 **SECTION 10.11.** The Department of Health and Human Services, Division  
21 of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall in  
22 cooperation with area mental health authorities and county programs, identify and  
23 eliminate administrative and fiscal barriers created by existing State and local policies  
24 and procedures in the delivery of community-based mental health, developmental  
25 disabilities, and substance abuse services provided through the area programs and  
26 county programs, including services provided through the Comprehensive Treatment  
27 Services Program for Children and services delivered to multiply diagnosed adults. The  
28 Department shall implement changes in policies and procedures in order to facilitate all  
29 of the following:

- 30 (1) The provision of services to adults and children as defined in the  
31 Mental Health System Reform State Plan as priority or targeted  
32 populations.
- 33 (2) The provision of services to children not deemed eligible for the  
34 Comprehensive Treatment Services Program for Children, but who  
35 would otherwise be in need of medically necessary treatment services  
36 to prevent out-of-home placement.
- 37 (3) The provision of services in the community to adults remaining in and  
38 being placed in State institutions addressed in Olmstead v. L.C. &  
39 E.W.

40 Area mental health, developmental disabilities, and substance  
41 abuse services authorities and county programs shall use all funds  
42 appropriated for and necessary to provide mental health,  
43 developmental disabilities, and substance abuse services to meet the  
44 need for these services. If excess funds are available after expending  
45 appropriated funds to fully meet service needs, one-half of these  
46 excess funds shall not revert to the General Fund but shall be  
47 transferred to the Trust Fund for Mental Health, Developmental  
48 Disabilities, and Substance Abuse Services and Bridge Funding Needs.  
49 The funds may be used to facilitate the development and  
50 implementation of regional crisis facilities and local crisis services and  
51 other needed community services.

52  
53 **NC KIDS' CARE**

54 **SECTION 10.12.(a)** The Division of Medical Assistance, Department of  
55 Health and Human Services shall develop and implement a limited benefit medical



1 assistance program, NC Kids' Care, to expand coverage to children in families with  
2 incomes between two hundred percent (200%) and three hundred percent (300%) of the  
3 federal poverty guidelines, as revised April 1 of each year. Except as otherwise  
4 provided by this section, the Division of Medical Assistance may use the  
5 recommendations of the North Carolina Institute of Medicine's Task Force on Covering  
6 the Uninsured, April 2006, as the basis for developing the program, specifying covered  
7 services, setting coverage limitations, and establishing cost-sharing requirements. The  
8 Division shall apply for any federal waivers and submit any State plan amendments  
9 required to implement this section.

10 **SECTION 10.12.(b)** The limited benefit package offered shall emphasize  
11 ambulatory care, enroll beneficiaries in Community Care of North Carolina, and  
12 provide incentives to participate in disease and case management services when  
13 appropriate. Coverage for inpatient hospital services shall not exceed ten thousand  
14 dollars (\$10,000) annually. The limited benefit package shall require enrollees to  
15 contribute to the cost of their care through the use of deductibles, co-payments,  
16 coinsurance, and premiums to ensure cost-effective use of health care services. The  
17 Division shall establish sliding-scale premiums based on income for enrollees, provided  
18 that such premiums do not exceed two percent (2%) of the individual's or four percent  
19 (4%) of the family's income.

20 **SECTION 10.12.(c)** The Division shall take steps to minimize "crowd out,"  
21 whereby eligible applicants terminate private or employer-sponsored health insurance  
22 coverage to enroll in NC Kids' Care, and may require applicants to demonstrate that  
23 they were uninsured for a specified period of time set by the Division, not to exceed six  
24 months, immediately prior to enrolling.

25 **SECTION 10.12.(d)** The limited benefit package shall not provide coverage  
26 for nursing home care, home health services, personal care services, or dental services.

27 **SECTION 10.12.(e)** Enrollment shall not exceed 12,100 children for each  
28 year of the 2007-2009 fiscal biennium.

29 **SECTION 10.12.(f)** The nonfederal costs of NC Kids' Care shall be paid  
30 with State funds and enrollee premiums. Counties shall not be required to share in the  
31 nonfederal costs of this program.

32 **SECTION 10.12.(g)** The Department of Health and Human Services may  
33 contract with a third party to administer this program.

34 **SECTION 10.12.(h)** Notwithstanding G.S. 143C-1-2(b), any unspent or  
35 unencumbered program or administrative funds appropriated for the 2007-2008 fiscal  
36 year to implement the requirements of this section may be carried forward by the  
37 Department of Health and Human Services for use during the 2008-2009 fiscal year as  
38 provided by this subsection. The Department may use funds carried forward under this  
39 subsection to cover administrative or other costs of NC Kids' Care. Prior to  
40 implementing this subsection, the Department shall demonstrate to the Office of State  
41 Budget and Management that there is a reasonable expectation that any funds carried  
42 forward can be spent or encumbered during the 2008-2009 fiscal year. Any funds  
43 carried forward under this subsection that remain unspent or unencumbered at the end  
44 of the 2008-2009 fiscal year shall revert.

45 **SECTION 10.12.(i)** This section becomes effective January 1, 2008, or upon  
46 approval of all required federal waivers and State plan amendments, whichever is later.

47  
48 **CODIFY LONG-STANDING MEDICAID PROVISIONS/FUNDS AND**  
49 **ALLOCATIONS**

50 **SECTION 10.13.(a)** Part 6 of Article 2 of Chapter 108A of the General  
51 Statutes is amended by adding a new section to read:

52 **"§ 108A-54.1A. Use of funds and allocation of costs.**

53 **(a) Use of Funds. – Funds appropriated to the Department of Health and Human**  
54 **Services for services provided in accordance with Title XIX of the Social Security Act,**

1 hereafter referred to as Medicaid, are for both the categorically needy and the medically  
2 needy.

3 (b) Allocation of Nonfederal Cost of Medicaid. – Except as otherwise provided,  
4 the State shall pay eighty-five percent (85%); the county shall pay fifteen percent (15%)  
5 of the nonfederal costs of all applicable services listed in this section. In addition, the  
6 State shall pay eighty-five percent (85%); the county shall pay fifteen percent (15%) of  
7 the federal Medicare Part D clawback payments under the Medicare Modernization Act  
8 of 2004."

9 **SECTION 10.13.(b)** G.S. 108A-54.2 reads as rewritten:

10 "**§ 108A-54.2. Procedures for changing medical policy.**~~Medical policy.~~

11 (a) The Department shall develop, amend, and adopt medical coverage policy in  
12 accordance with the following:

- 13 (1) During the development of new medical coverage policy or  
14 amendment to existing medical coverage policy, consult with and seek  
15 the advice of the Physician Advisory Group of the North Carolina  
16 Medical Society and other organizations the Secretary deems  
17 appropriate. The Secretary shall also consult with and seek the advice  
18 of officials of the professional societies or associations representing  
19 providers who are affected by the new medical coverage policy or  
20 amendments to existing medical coverage policy.
- 21 (2) At least 45 days prior to the adoption of new or amended medical  
22 coverage policy, the Department shall:
  - 23 a. Publish the proposed new or amended medical coverage policy  
24 on the Department's Web site;
  - 25 b. Notify all Medicaid providers of the proposed, new, or amended  
26 policy; and
  - 27 c. Upon request, provide persons copies of the proposed medical  
28 coverage policy.
- 29 (3) During the 45-day period immediately following publication of the  
30 proposed new or amended medical coverage policy, accept oral and  
31 written comments on the proposed new or amended policy.
- 32 (4) If, following the comment period, the proposed new or amended  
33 medical coverage policy is modified, then the Department shall, at  
34 least 15 days prior to its adoption:
  - 35 a. Notify all Medicaid providers of the proposed policy;
  - 36 b. Upon request, provide persons notice of amendments to the  
37 proposed policy; and
  - 38 c. Accept additional oral or written comments during this 15-day  
39 period.

40 (b) Notwithstanding subsection (a) of this section, the Department of Health and  
41 Human Services, Division of Medical Assistance, may, subject to the approval of a  
42 change in the State Medicaid Plan, contract for services, medical equipment, supplies,  
43 and appliances by implementation of volume purchase plans, single source  
44 procurement, or other contracting processes in order to improve cost containment.

45 (c) Notwithstanding subsection (a) of this section, the Department of Health and  
46 Human Services, Division of Medical Assistance, may undertake cost-containment  
47 programs, including contracting for services, preadmissions to hospitals, and prior  
48 approval for certain outpatient surgeries before they may be performed in an inpatient  
49 setting."

## 50 **CODIFY LONG-STANDING MEDICAID PROVISIONS/ELIGIBILITY**

51 **SECTION 10.13A.** Article 2 of Chapter 108A of the General Statutes is  
52 amended by adding a new section to read:

53 "**§ 108A-54.3. Eligibility.**

54 Eligibility for Medicaid shall be determined in accordance with the following:  
55

- (1) Medicaid and Work First Family Assistance  
 a. 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:

**Categorically Needy-WFFA\*                      Medically Needy**

Family Size	Standard Of Need	Families and Children Income Level	AA,AB,AD*
1	\$4,344	\$2,172	\$2,900
2	5,664	2,832	3,900
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

**Categorically Needy-WFFA\*                      Medically Needy**  
Standard of Need                      Families and Children  
and Families                      and  
and Children                      AA,AB,AD\*  
Income Level                      Income Level

Family Size	Standard of Need and Families and Children Income Level	WFFA* Payment Level	AA,AB,AD* Income Level
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).

- b. 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.
- c. The Department of Health and Human Services shall provide Medicaid coverage to 19- and 20-year-olds in accordance with federal rules and regulations.
- d. Medicaid enrollment of categorically needy families with children shall be continuous for one year without regard to changes in income or assets.
- (2) For the following Medicaid eligibility classifications for which the federal poverty guidelines are used as income limits for eligibility determinations, the income limits will be updated each April 1 immediately following publication of federal poverty guidelines. The Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to the following:

- 1 a. All elderly, blind, and disabled people who have incomes equal
- 2 to or less than one hundred percent (100%) of the federal
- 3 poverty guidelines.
- 4 b. Pregnant women with incomes equal to or less than one
- 5 hundred eighty-five percent (185%) of the federal poverty
- 6 guidelines and without regard to resources. Services to pregnant
- 7 women eligible under this subsection continue throughout the
- 8 pregnancy but include only those related to pregnancy and to
- 9 those other conditions determined by the Department as
- 10 conditions that may complicate pregnancy.
- 11 c. Infants and children under the age of six with family incomes
- 12 equal to or less than two hundred percent (200%) of the federal
- 13 poverty guidelines and without regard to resources.
- 14 d. Children aged six through 18 with family incomes equal to or
- 15 less than the federal poverty guidelines and without regard to
- 16 resources.
- 17 e. Family planning services to men and women of childbearing
- 18 age with family incomes equal to or less than one hundred
- 19 eighty-five percent (185%) of the federal poverty guidelines.
- 20 (3) The Department of Health and Human Services, Division of Medical
- 21 Assistance, shall provide Medicaid coverage to adoptive children with
- 22 special or rehabilitative needs regardless of the adoptive family's
- 23 income.
- 24 (4) The Department of Health and Human Services, Division of Medical
- 25 Assistance, shall provide Medicaid coverage to "independent foster
- 26 care adolescents", ages 18, 19, and 20, as defined in 42 U.S.C. §
- 27 1396d(w)(1), without regard to the adolescent's assets, resources, or
- 28 income levels.
- 29 (5) ICF and ICF/MR Work Incentive Allowances. – The Department of
- 30 Health and Human Services may provide an incentive allowance to
- 31 Medicaid-eligible recipients of ICF and ICF/MR services, who are
- 32 regularly engaged in work activities as part of their developmental
- 33 plan, and for whom retention of additional income contributes to their
- 34 achievement of independence. The State funds required to match the
- 35 federal funds that are required by these allowances shall be provided
- 36 from savings within the Medicaid budget or from other unbudgeted
- 37 funds available to the Department. The incentive allowances may be as
- 38 follows:
- 39 

<u>Monthly Net Wages</u>	<u>Monthly Incentive Allowance</u>
<u>\$1.00 to \$100.99</u>	<u>Up to \$50.00</u>
<u>\$101.00 to \$200.99</u>	<u>\$80.00</u>
<u>\$201.00 to \$300.99</u>	<u>\$130.00</u>
<u>\$301.00 and greater</u>	<u>\$212.00"</u>
- 40
- 41
- 42
- 43
- 44

**CODIFY LONG-STANDING MEDICAID PROVISIONS/SERVICES**

**SECTION 10.13B.** Article 2 of Chapter 108A of the General Statutes is amended by adding a new section to read:

**"§ 108A-54.4. Services and payment bases.**

Funds appropriated for Medicaid services shall be expended in accordance with the following schedule of services and payment bases. Unless otherwise provided, services and payment bases will be as prescribed in the State Plan as established by the Department of Health and Human Services and may be changed with the approval of the Director of the Budget.

- (1) Hospital inpatient.

- 1           (2)   Hospital outpatient. – Eighty percent (80%) of allowable costs or a  
2           prospective reimbursement plan as established by the Department of  
3           Health and Human Services.
- 4           (3)   Nursing facilities. – Nursing facilities providing services to Medicaid  
5           recipients who also qualify for Medicare must be enrolled in the  
6           Medicare program as a condition of participation in the Medicaid  
7           program. State facilities are not subject to the requirement to enroll in  
8           the Medicare program. Residents of nursing facilities who are eligible  
9           for Medicare coverage of nursing facility services must be placed in a  
10          Medicare-certified bed. Medicaid shall cover facility services only  
11          after the appropriate services have been billed to Medicare.
- 12          (4)   Physicians, certified nurse midwife services, nurse practitioners. – Fee  
13          schedules as developed by the Department of Health and Human  
14          Services.
- 15          (5)   Community Alternative Program, EPSDT Screens. – Payments in  
16          accordance with rate schedule developed by the Department of Health  
17          and Human Services.
- 18          (6)   Home health and related services, durable medical equipment. –  
19          Payments according to reimbursement plans developed by the  
20          Department of Health and Human Services.
- 21          (7)   Hearing aids. – Wholesale cost plus dispensing fee to provider.
- 22          (8)   Rural health clinical services. – Provider-based, reasonable cost;  
23          non-provider-based, single-cost reimbursement rate per clinic visit.
- 24          (9)   Family planning. – Negotiated rate for local health departments. For  
25          other providers see specific services, e.g. hospitals, physicians.
- 26          (10)   Independent laboratory and X-ray services. – Uniform fee schedules as  
27          developed by the Department of Health and Human Services.
- 28          (11)   Ambulatory surgical centers.
- 29          (12)   Private duty nursing, clinic services, prepaid health plans.
- 30          (13)   Intermediate care facilities for the mentally retarded.
- 31          (14)   Chiropractors, podiatrists, optometrists, dentists.
- 32          (15)   Limitations on dental coverage. – Dental services shall be provided on  
33          a restricted basis in accordance with criteria adopted by the  
34          Department to implement this subdivision.
- 35          (16)   Medicare Buy-In. – Social Security Administration premium.
- 36          (17)   Ambulance services. – Uniform fee schedules as developed by the  
37          Department of Health and Human Services. Public ambulance  
38          providers will be reimbursed at cost.
- 39          (18)   Optical supplies. – Payment for materials is made to a contractor in  
40          accordance with 42 C.F.R. § 431.54(d). Fees paid to dispensing  
41          providers are negotiated fees established by the State agency based on  
42          industry charges.
- 43          (19)   Medicare crossover claims. – The Department shall apply Medicaid  
44          medical policy to Medicare claims for dually eligible recipients. The  
45          Department shall pay an amount up to the actual coinsurance or  
46          deductible or both, in accordance with the State Plan, as approved by  
47          the Department of Health and Human Services.
- 48          (20)   Physical therapy, occupational therapy, and speech therapy. – Services  
49          limited to EPSDT-eligible children. Payments are to be made only to  
50          qualified providers at rates negotiated by the Department of Health and  
51          Human Services. Physical therapy, occupational therapy, and speech  
52          therapy services are subject to prior approval and utilization review.
- 53          (21)   Personal care services.

- 1           (22) Case management services. – Reimbursement in accordance with the  
2 availability of funds to be transferred within the Department of Health  
3 and Human Services.
- 4           (23) Hospice.
- 5           (24) Medically necessary prosthetics or orthotics. – In order to be eligible  
6 for reimbursement, providers must be licensed or certified by the  
7 occupational licensing board or the certification authority having  
8 authority over the provider's license or certification. Medically  
9 necessary prosthetics and orthotics are subject to prior approval and  
10 utilization review.
- 11           (25) Health insurance premiums.
- 12           (26) 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.
- 16           (27) Pregnancy-related services. – Covered services for pregnant women  
17 shall include nutritional counseling, psychosocial counseling, and  
18 predelivery and postpartum home visits by maternity care coordinators  
19 and public health nurses.
- 20           (28) Drugs. – Reimbursements. Reimbursements shall be available for  
21 prescription drugs as allowed by federal regulations plus a professional  
22 services fee per month, excluding refills for the same drug or generic  
23 equivalent during the same month. Payments for drugs are subject to  
24 the provisions of this subdivision or in accordance with the State Plan  
25 adopted by the Department of Health and Human Services, consistent  
26 with federal reimbursement regulations. Payment of the professional  
27 services fee shall be made in accordance with the State Plan adopted  
28 by the Department of Health and Human Services, consistent with  
29 federal reimbursement regulations. The professional services fee shall  
30 be five dollars and sixty cents (\$5.60) per prescription for generic  
31 drugs and four dollars (\$4.00) per prescription for brand-name drugs.  
32 Adjustments to the professional services fee shall be established by the  
33 General Assembly. In addition to the professional services fee, the  
34 Department may pay an enhanced fee for pharmacy services.
- 35           Limitations on quantity. – The Department of Health and Human  
36 Services may establish authorizations, limitations, and reviews for  
37 specific drugs, drug classes, brands, or quantities in order to manage  
38 effectively the Medicaid pharmacy program, except that the  
39 Department shall not impose limitations on brand-name medications  
40 for which there is a generic equivalent in cases where the prescriber  
41 has determined, at the time the drug is prescribed, that the brand-name  
42 drug is medically necessary and has written on the prescription order  
43 the phrase "medically necessary".
- 44           Dispensing of generic drugs. – Notwithstanding G.S. 90-85.27  
45 through G.S. 90-85.31, or any other law to the contrary, under the  
46 Medical Assistance Program (Title XIX of the Social Security Act),  
47 and except as otherwise provided in this subsection for atypical  
48 antipsychotic drugs and drugs listed in the narrow therapeutic index, a  
49 prescription order for a drug designated by a trade or brand name shall  
50 be considered to be an order for the drug by its established or generic  
51 name, except when the prescriber has determined, at the time the drug  
52 is prescribed, that the brand-name drug is medically necessary and has  
53 written on the prescription order the phrase "medically necessary". An  
54 initial prescription order for an atypical antipsychotic drug or a drug  
55 listed in the narrow therapeutic drug index that does not contain the

1 phrase "medically necessary" shall be considered an order for the drug  
2 by its established or generic name, except that a pharmacy shall not  
3 substitute a generic or established name prescription drug for  
4 subsequent brand or trade name prescription orders of the same  
5 prescription drug without explicit oral or written approval of the  
6 prescriber given at the time the order is filled. Generic drugs shall be  
7 dispensed at a lower cost to the Medical Assistance Program rather  
8 than trade or brand-name drugs. As used in this subsection, "brand  
9 name" means the proprietary name the manufacturer places upon a  
10 drug product or on its container, label, or wrapping at the time of  
11 packaging; and "established name" has the same meaning as in section  
12 502(e)(3) of the Federal Food, Drug, and Cosmetic Act as amended,  
13 21 U.S.C. § 352(e)(3).

14 Prior authorization. – The Department of Health and Human  
15 Services shall not impose prior authorization requirements or other  
16 restrictions under the State Medical Assistance Program on  
17 medications prescribed for Medicaid recipients for the treatment of: (i)  
18 mental illness, including, but not limited to, medications for  
19 schizophrenia, bipolar disorder, and major depressive disorder, or (ii)  
20 HIV/AIDS.

21 (29) Other mental health services. – Unless otherwise covered by this  
22 section, coverage is limited to:

23 a. Services as defined by the Division of Mental Health,  
24 Developmental Disabilities, and Substance Abuse Services and  
25 approved by the Centers for Medicare and Medicaid Services  
26 (CMS) when provided in agencies meeting the requirements of  
27 the rules established by the Commission for Mental Health,  
28 Developmental Disabilities, and Substance Abuse Services and  
29 reimbursement is made in accordance with a State Plan  
30 developed by the Department of Health and Human Services  
31 not to exceed the upper limits established in federal regulations,  
32 and

33 b. For children eligible for EPSDT services provided by:

34 1. Licensed or certified psychologists, licensed clinical  
35 social workers, certified clinical nurse specialists in  
36 psychiatric mental health advanced practice, nurse  
37 practitioners certified as clinical nurse specialists in  
38 psychiatric mental health advanced practice, licensed  
39 psychological associates, licensed professional  
40 counselors, licensed marriage and family therapists,  
41 certified clinical addictions specialists, and certified  
42 clinical supervisors, when Medicaid-eligible children are  
43 referred by the Community Care of North Carolina  
44 primary care physician, a Medicaid-enrolled psychiatrist,  
45 or the area mental health program or local management  
46 entity, and

47 2. Institutional providers of residential services as defined  
48 by the Division of Mental Health, Developmental  
49 Disabilities, and Substance Abuse Services and approved  
50 by the Centers for Medicare and Medicaid Services  
51 (CMS) for children and Psychiatric Residential  
52 Treatment Facility services that meet federal and State  
53 requirements as defined by the Department.

54 c. For Medicaid-eligible adults, services provided by licensed or  
55 certified psychologists, licensed clinical social workers,

1 certified clinical nurse specialists in psychiatric mental health  
2 advanced practice, and nurse practitioners certified as clinical  
3 nurse specialists in psychiatric mental health advanced practice,  
4 licensed psychological associates, licensed professional  
5 counselors, licensed marriage and family therapists, licensed  
6 clinical addictions specialists, and licensed clinical supervisors.  
7 Medicaid-eligible adults may be self-referred.

8 d. Payments made for services rendered in accordance with this  
9 subdivision shall be to qualified providers in accordance with  
10 approved policies and the State Plan. Nothing in  
11 sub-subdivision b. or c. of this subdivision shall be interpreted  
12 to modify the scope of practice of any service provider,  
13 practitioner, or licensee, nor to modify or attenuate any  
14 collaboration or supervision requirement related to the  
15 professional activities of any service provider, practitioner, or  
16 licensee. Nothing in sub-subdivision b. or c. of this subdivision  
17 shall be interpreted to require any private health insurer or  
18 health plan to make direct third-party reimbursements or  
19 payments to any service provider, practitioner, or licensee.

20 e. Notwithstanding G.S. 150B-21.1(a), the Department of Health  
21 and Human Services may adopt temporary rules in accordance  
22 with Chapter 150B of the General Statutes further defining the  
23 qualifications of providers and referral procedures in order to  
24 implement this subdivision. Coverage policy for services  
25 defined by the Division of Mental Health, Developmental  
26 Disabilities, and Substance Abuse Services under  
27 sub-subdivisions a. and b.2 of this subdivision shall be  
28 established by the Division of Medical Assistance."

## 30 CODIFY LONG-STANDING MEDICAID PROVISIONS/PROVIDERS

31 SECTION 10.13C Article 2 of Chapter 108A of the General Statutes is  
32 amended by adding a new section to read:

### 33 "§ 108A-54.5. Provider payments and visits.

34 (a) Payment is limited to Medicaid-enrolled providers that purchase a  
35 performance bond in an amount not to exceed one hundred thousand dollars (\$100,000)  
36 naming as beneficiary the Department of Health and Human Services, Division of  
37 Medical Assistance, or provide to the Department a validly executed letter of credit or  
38 other financial instrument issued by a financial institution or agency honoring a demand  
39 for payment in an equivalent amount. The Department may waive or limit the  
40 requirements of this paragraph for one or more classes of Medicaid-enrolled providers  
41 based on the provider's dollar amount of monthly billings to Medicaid or the length of  
42 time the provider has been licensed in this State to provide services. In waiving or  
43 limiting requirements of this paragraph, the Department shall take into consideration the  
44 potential fiscal impact of the waiver or limitation on the State Medicaid Program. The  
45 Department may adopt temporary rules in accordance with G.S. 150B-21.1 as necessary  
46 to implement this provision.

47 (b) Reimbursement is available for up to 30 visits per recipient per year to the  
48 following services: hospital outpatient providers, physicians, nurse practitioners, nurse  
49 midwives, clinics, health departments, optometrists, chiropractors, and podiatrists. The  
50 Department of Health and Human Services shall adopt medical policies, in accordance  
51 with Section 108A-54.2 of this Part, to distribute the allowable number of visits for each  
52 service or each group of services consistent with federal law. In addition, a threshold of  
53 some number of visits shall be established by the department for these services. Primary  
54 care providers and/or the appropriate CCNC network shall be notified when a patient is



1 nearing the established threshold to facilitate care coordination and intervention as  
2 needed.

3 Prenatal services, all EPSDT children, emergency room services, and mental health  
4 services subject to independent utilization review are exempt from the visit limitations  
5 contained in this paragraph. Exceptions may be authorized by the Department of Health  
6 and Human Services where the life of the patient would be threatened without such  
7 additional care."

## 8 9 **CODIFY LONG-STANDING MEDICAID PROVISIONS/EXCEPTIONS**

10 **SECTION 10.13D.** Article 2 of Chapter 108A of the General Statutes is  
11 amended by adding a new section to read:

### 12 **"§ 108A-54.6. Exceptions, limitations, authorization and co-payments.**

13 (a) Service limitations, eligibility requirements, and payments bases in this  
14 section may be waived by the Department of Health and Human Services, with the  
15 approval of the Director of the Budget, to allow the Department to carry out pilot  
16 programs for prepaid health plans, contracting for services, managed care plans, or  
17 community-based services programs in accordance with plans approved by the United  
18 States Department of Health and Human Services or when the Department determines  
19 that such a waiver will result in a reduction in the total Medicaid costs for the recipient.

20 (b) The Department of Health and Human Services may establish co-payments  
21 up to the maximum permitted by federal law and regulation."

## 22 23 **CODIFY LONG-STANDING MEDICAID PROVISIONS/RULES/REPORTS**

24 **SECTION 10.13E.** Article 2 of Chapter 108A of the General Statutes is  
25 amended by adding a new section to read:

### 26 **"§ 108A-54.7. Rules, reports, and other matters.**

27 (a) Rules. – The Department of Health and Human Services may adopt  
28 temporary or emergency rules according to the procedures established in  
29 G.S. 150B-21.1 and G.S. 150B-21.1A when it finds that these rules are necessary to  
30 maximize receipt of federal funds within existing State appropriations, to reduce  
31 Medicaid expenditures, and to reduce fraud and abuse. Prior to the filing of these  
32 temporary or emergency rules with the Rules Review Commission and the Office of  
33 Administrative Hearings, the Department shall consult with the Office of State Budget  
34 and Management on the possible fiscal impact of the temporary or emergency rule and  
35 its effect on State appropriations and local governments.

36 (b) Changes to Medicaid Program; Reports. – The Department shall report on  
37 any change it anticipates making in the Medicaid program that impacts the type or level  
38 of service, reimbursement methods, or waivers, any of which require a change in the  
39 State Plan or other approval by the Centers for Medicare and Medicaid Services (CMS).  
40 The reports shall be provided at the same time they are submitted to CMS for approval.  
41 The reports shall be submitted to the House of Representatives Appropriations  
42 Subcommittee for Health and Human Services, the Senate Appropriations Committee  
43 on Health and Human Services, the Joint Legislative Health Care Oversight Committee,  
44 and the Fiscal Research Division of the Legislative Services Office."

## 45 46 **RECODIFY MEDICAID BUY-IN/CHANGE EFFECTIVE DATE**

47 **SECTION 10.13F.(a)** The Revisor of Statutes shall recodify G.S. 108A-54.1  
48 as G.S. 108A-54.8.

49 **SECTION 10.13F.(b)** Section 10.18(c) of S.L. 2005-276 reads as rewritten:

50 **"SECTION 10.18.(c)** Subsection (b) of this section becomes effective July 1, 2006.  
51 Subsection (a) of this section becomes effective ~~January 1, 2007, or within 30 days after~~  
52 ~~the date on which the MMIS becomes operational, as determined by the Department of~~  
53 ~~Health and Human Services, whichever occurs later. Client enrollment shall begin not~~  
54 ~~later than six months from the date subsection (a) becomes effective. 12 months after~~

1 the Medicaid Management Information System or its replacement becomes operational  
2 and stabilized. The remainder of this section is effective when it becomes law."  
3

#### 4 **PROPOSED CHANGES TO MEDICAL POLICY**

5 **SECTION 10.14.** Unless required for compliance with federal law, the  
6 Department shall not change medical policy affecting the amount, sufficiency, duration,  
7 and scope of health care services and who may provide services until the Division of  
8 Medical Assistance has prepared a five-year fiscal analysis documenting the increased  
9 cost of the proposed change in medical policy and submitted it for Departmental review.  
10 If the fiscal impact indicated by the fiscal analysis for any proposed medical policy  
11 change exceeds three million dollars (\$3,000,000) in total requirements for a given  
12 fiscal year, then the Department shall submit the proposed policy change with the fiscal  
13 analysis to the Office of State Budget and Management and the Fiscal Research  
14 Division. The Department shall not implement any proposed medical policy change  
15 exceeding three million dollars (\$3,000,000) in total requirements for a given fiscal year  
16 unless the source of State funding is identified and approved by the Office of State  
17 Budget and Management. The Department shall provide the Office of State Budget and  
18 Management and the Fiscal Research Division a quarterly report itemizing all medical  
19 policy changes with total requirements of less than three million dollars (\$3,000,000).  
20

#### 21 **CONTINUE EFFORTS TO EXPAND COMMUNITY CARE AND IMPROVE** 22 **QUALITY OF CARE FOR AGED, BLIND, AND DISABLED MEDICAID** 23 **RECIPIENTS**

24 **SECTION 10.15.** The Department of Health and Human Services shall  
25 continue its efforts to expand the scope of the Community Care of NC care management  
26 model to recipients of Medicaid and dually eligible individuals with a chronic condition  
27 and long-term care needs. In expanding the scope, the department shall focus on the  
28 Aged, Blind, and Disabled, and CAP-DA populations for improvement in management,  
29 cost-effectiveness, and local coordination of services through Community Care of NC  
30 and in collaboration with local providers of care. The Department shall target personal  
31 care services, private duty nursing, home health, durable medical equipment, ancillary  
32 professional services, specialty care, residential services, including skilled nursing  
33 facilities, home infusion therapy, pharmacy, and other services determined  
34 target-worthy by the department. The department shall pilot communitywide initiatives  
35 and shall expand statewide successful models. The initiatives may include one or more  
36 pilot projects to control costs and improve quality of care for the aged, blind, and  
37 disabled recipients of Medicaid. Pilot projects or the expansion of pilot projects shall be  
38 approved by the Office of State Budget and Management prior to implementation.  
39

#### 40 **IMPLEMENT ELECTRONIC QUALITY PRESCRIPTION MANAGEMENT** 41 **PROGRAM**

42 **SECTION 10.16.** The Department of Health and Human Services, Division  
43 of Medical Assistance, shall implement an Electronic Quality Prescription Management  
44 program for prescription drugs through the use of personal data assistance (PDA)  
45 technology. The division may designate CCNC through the Office of Rural Health and  
46 Community Care as the lead program to implement this section. Notwithstanding  
47 G.S. 143C-6-4(b), the division may transfer cost-containment funds, in accordance with  
48 Section 10.17 of this act to the Office of Rural Health and Community Care to purchase  
49 PDAs, connectivity, software, and other related costs.  
50

#### 51 **MEDICAID COST-CONTAINMENT ACTIVITIES**

52 **SECTION 10.17.** The Department of Health and Human Services may use  
53 not more than five million dollars (\$5,000,000) in the 2007-2008 fiscal year and not  
54 more than five million dollars (\$5,000,000) in the 2008-2009 fiscal year in Medicaid  
55 funds budgeted for program services to support the cost of administrative activities

1 when cost-effectiveness and savings are demonstrated. Cost savings must be realized in  
2 the same fiscal year that the proposed expenditures will occur. The funds shall be used  
3 to support activities that will contain the cost of the Medicaid program.

4 Medicaid cost-containment activities may include prospective reimbursement  
5 methods, incentive-based reimbursement methods, service limits, prior authorization of  
6 services, periodic medical necessity reviews, revised medical necessity criteria, service  
7 provision in the least costly settings, plastic magnetic stripped Medicaid identification  
8 cards for issuance to Medicaid enrollees, fraud detection software or other fraud  
9 detection activities, technology that improves clinical decision making, credit balance  
10 recovery and data mining services, contracting for services, hiring additional staff,  
11 providing grants through the Office of Rural Health and Community Care to plan,  
12 develop, and implement cost-containment programs, and other cost-containment  
13 activities.

14 Funds may be expended under this section only after the Office of State  
15 Budget and Management has approved a proposal for the expenditure submitted by the  
16 Department. Proposals for expenditure of funds under this section shall include the cost  
17 of implementing the cost-containment activity and documentation of the amount of  
18 savings expected to be realized from the cost-containment activity. The Department  
19 shall provide a copy of proposals for expenditures under this section to the Fiscal  
20 Research Division.

## 21 22 **EXTEND IMPLEMENTATION OF COMMUNITY ALTERNATIVE** 23 **PROGRAMS REIMBURSEMENT SYSTEM**

24 **SECTION 10.18.** Full implementation for the Community Alternatives  
25 Programs reimbursement system shall be not later than 12 months after the date of  
26 which the replacement Medicaid Management Information System becomes operational  
27 and stabilized.

## 28 29 **COUNTY MEDICAID COST SHARE FOR CERTAIN SERVICES**

30 **SECTION 10.19.(a)** Effective July 1, 2000, the county share of the cost of  
31 Medicaid services currently and previously provided by Local Management Entities  
32 shall be increased incrementally each fiscal year until the county share reaches fifteen  
33 percent (15%) of the nonfederal share by State fiscal year 2009-2010.

34 **SECTION 10.19.(b)** Effective July 1, 2000, the county share of the cost of  
35 Medicaid Personal Care Services paid to adult care homes shall be decreased  
36 incrementally each fiscal year until the county share reaches fifteen percent (15%) of  
37 the nonfederal share by State fiscal year 2009-2010.

## 38 39 **DISPOSITION OF DISPROPORTIONATE SHARE RECEIPTS**

40 **SECTION 10.20.** For each year of the 2007-2009 fiscal biennium, the  
41 Department of Health and Human Services, Division of Medical Assistance, shall  
42 receive funds associated with Disproportionate Share Payments from State hospitals and  
43 shall deposit up to one hundred million dollars (\$100,000,000) of these  
44 Disproportionate Share Payments to the Department of State Treasurer for deposit as  
45 nontax revenue. Any Disproportionate Share Payments collected in excess of one  
46 hundred million dollars (\$100,000,000) shall be reserved by the State Treasurer for  
47 future appropriations.

## 48 49 **DISPROPORTIONATE SHARE GAIN**

50 **SECTION 10.21.(a)** G.S. 143C-9-1 reads as rewritten:

51 **"§ 143C-9-1. Medicaid Special Fund; transfers to Department of Health and**  
52 **Human Services.**

53 **(a)** The Medicaid Special Fund is established as a nonreverting special fund in  
54 the Department of Health and Human Services. The Medicaid Special Fund shall  
55 consist of the federal Medicaid disproportionate share monies remaining after payments

1 are made to hospitals. Annually, the Department shall transfer the disproportionate  
2 share gain, after payments are made to hospitals, to the Medicaid Special Fund. Funds  
3 deposited to the Medicaid Special Fund shall only be available for expenditure upon an  
4 act of appropriation of the General Assembly.

5 ~~(a)~~(b) Political subdivisions may appropriate funds directly to the Department of  
6 Health and Human Services for Medicaid programs. Other public agencies and private  
7 sources may transfer funds to the Department for Medicaid programs. The Department  
8 may accept unconditional and unrestricted donations of such funds. Notwithstanding the  
9 provisions of this Article which might forbid such transfer or donation, the University of  
10 North Carolina Hospitals at Chapel Hill may transfer funds as provided by the previous  
11 sentence of this section.

12 ~~(b)~~(c) Contributed funds shall be subject to the Department of Health and Human  
13 Services administrative control and shall be allocated only as specifically provided in  
14 the Current Operations Appropriations Act, except such contributions shall not reduce  
15 State general revenue funding. At the end of any fiscal year, the unobligated balance of  
16 any such funds shall not revert to the General Fund, but shall be reappropriated for these  
17 purposes in the next fiscal year."

18 **SECTION 10.21.(b)** This section becomes effective July 1, 2007.

## 20 **MEDICAID SPECIAL FUND TRANSFER**

21 **SECTION 10.22.** Of the funds transferred to the Department of Health and  
22 Human Services for Medicaid programs pursuant to G.S. 143C-9-1, there is  
23 appropriated from the fund the sum of fifty-three million dollars (\$53,000,000) for the  
24 2007-2008 fiscal year and the sum of fifty-three million dollars (\$53,000,000) for the  
25 2008-2009 fiscal year. These funds shall be allocated as prescribed by  
26 G.S. 143C-9-1(b) for Medicaid programs. Notwithstanding the prescription in  
27 G.S. 143C-9-1(b) that these funds not reduce State general revenue funding, these funds  
28 shall replace the reduction in general revenue funding effected in this act. The  
29 Department may also use funds in the Medicaid Special Fund to fund the settlement of  
30 the Disproportionate Share Hospital payment audit issues between the Department of  
31 Health and Human Services and the federal government related to fiscal years  
32 1997-2002, and funds are hereby appropriated from the fund for the 2007-2009 fiscal  
33 biennium for this purpose.

## 35 **MEDICAID ESTATE RECOVERY TO INCLUDE LIENS ON REAL** 36 **PROPERTY**

37 **SECTION 10.23.(a)** G.S. 108A-70.5 reads as rewritten:

### 38 **"§ 108A-70.5. Medicaid Estate Recovery Plan.**

39 (a) There is established in the Department of Health and Human Services, the  
40 Medicaid Estate Recovery Plan, as required by the Omnibus Budget Reconciliation Act  
41 of 1993. 1993, to recover from the estates of recipients of medical assistance an  
42 equitable amount of the State and federal shares of the cost paid the recipient. The  
43 Department shall administer the program in accordance with applicable federal law and  
44 regulations, including those under Title XIX of the Social Security Act, 42 U.S.C. §  
45 1396(p). ~~To the extent allowed by section 1396(p) of Title XIX of the Social Security~~  
46 ~~Act, the Department may impose liens against real property, including the home, of a~~  
47 ~~recipient of medical assistance. The Department shall file any liens imposed under this~~  
48 ~~section in the court where the property is located in the same manner as for any other~~  
49 ~~lien under North Carolina law.~~

50 (b) As used in this section:

51 (1) "Medical assistance" means medical care services paid for by the  
52 North Carolina Medicaid Program on behalf of the recipient:

53 a. If the recipient ~~of any age~~ is receiving these medical care  
54 services as an inpatient in a nursing facility, intermediate care  
55 facility for the mentally retarded, or other medical institution,

and cannot reasonably be expected to be discharged to return home; or

b. If the recipient is 55 years of age or older and is receiving ~~one or more of the following medical care services: these medical care services, including related hospital care and prescription drugs, for nursing facility services, personal care services, or home- and community-based services.~~

1. Nursing facility services.
2. Home and community-based services.
3. Hospital care and prescription drugs related to nursing facility services or home and community-based services.
4. Personal care services.
5. Medicare premiums.
6. Private duty nursing.
7. Home health aide services.
8. Home health therapy.
9. Speech pathology services.

(2) "Estate" means all the real and personal property considered assets of the estate available for the discharge of debt pursuant to G.S. 28A-15-1.

~~(3) "Home" means property in which a recipient has, or had immediately before or at the time of the recipient's death, an ownership interest or legal title to, consisting of the recipient's dwelling and the land used and operated in connection with the dwelling.~~

(c) The amount the Department recovers from the estate of any recipient shall not exceed the amount of medical assistance made on behalf of the recipient and shall be recoverable only for medical care services prescribed in subsection (b) of this section. ~~To the extent that allowable Medicaid claims are not satisfied as a result of the execution of any liens held by the Department, the~~ The Department is a fifth-class creditor, as prescribed in G.S. 28A-19-6, for purposes of determining the order of claims against an estate; provided, however, that judgments in favor of other fifth-class creditors docketed and in force before the Department seeks recovery for medical assistance shall be paid prior to recovery by the Department.

(d) The Department of Health and Human Services shall adopt rules pursuant to Chapter 150B of the General Statutes to implement the ~~Plan~~ Plan, including rules to waive whole or partial recovery when this recovery would be inequitable because it would work an undue hardship or because it would not be administratively cost-effective and rules to ensure that all recipients are notified that their estates are subject to recovery at the time they become eligible to receive medical assistance.

(e) Regarding trusts that contain the assets of an individual who is disabled as defined in Title 19 of Section 1014(a)(3) of the Social Security Act, as amended, if the trust is established and managed by a nonprofit association, to the extent that amounts remaining in the beneficiary's account upon the death of the beneficiary are not retained by the nonprofit association, the trust pays to the Department from these remaining amounts in the account an amount equal to the total amount of medical assistance paid on behalf of the beneficiary under the North Carolina Medicaid Program."

**SECTION 10.23.(b)** G.S. 108A-70.6 through G.S. 108A-70.9 are repealed.

**SECTION 10.23.(c)** This section becomes effective July 1, 2007.

**REQUIRED DATA SHARING BY PRIVATE HEALTH INSURERS**

**SECTION 10.23A.** G.S. 108A-55.4 reads as rewritten:

**"§ 108A-55.4. Insurers to provide certain information to Department of Health and Human Services.**

(a) As used in this section, the terms:

- 1 (1) "Department" means the Department of Health and Human ~~Services.~~  
 2 Services and any contracted parties working on behalf of the  
 3 Department of Health and Human Services.  
 4 (2) "Division" means the Division of Medical Assistance of the  
 5 Department of Health and Human ~~Services.~~ Services and any  
 6 contracted parties working on behalf of the Department of Health and  
 7 Human Services.  
 8 (3) "Health insurer" includes self-insured plans, group health plans (as  
 9 defined in section 607(1) of the Employee Retirement Income Security  
 10 Act of 1974, ~~[29 USC Section 1167(1)]~~, 29 U.S.C. § 1167(1), service  
 11 benefit plans, managed care organizations, or other parties that are, by  
 12 statute, contract, or agreement, legally responsible for payment of a  
 13 claim for a health care item or service as a condition of doing business  
 14 in the State.  
 15 (4) "Medical assistance" means medical assistance benefits provided  
 16 under the State Medical Assistance Plan.  
 17 (5) Subscriber is defined as the policyholder of the insurance.  
 18 (6) Applicant or recipient is defined as any applicant or present or former  
 19 applicant or recipient of medical assistance benefits.  
 20 (7) Request is defined as any inquiry by the Department, the Division, or  
 21 both for the purpose of determining the existence of insurance where  
 22 the Department or Division or both may have expended public  
 23 assistance benefits or to enforce or establish child or medical support  
 24 enforcement orders.

25 (b) Health insurers, and pharmacy benefit managers regulated as third-party  
 26 administrators under Article 56 of Chapter 58 of the General Statutes, shall provide,  
 27 with respect to ~~individuals who are eligible for, or are provided, medical assistance, any~~  
 28 applicant or recipient, upon request of the Division, information to determine during  
 29 what period the individual or the individual's spouse or dependents may be (or may  
 30 have been) covered by a health insurer and the nature of the coverage that is or was  
 31 provided by the health insurer (including the subscriber's name, subscriber's address,  
 32 and subscriber's identification number, identifying number of the plan) ~~plan, the~~  
 33 applicant's or recipient's social security number, the applicant's or recipient's name, and  
 34 the applicant's or recipient's date of birth) in a manner prescribed by the Division.  
 35 Notwithstanding any other provision of law, and in addition to the requirements set  
 36 forth in subdivision(b)(5) of this subsection, every health insurer issuing a health benefit  
 37 plan shall also provide, not more frequently than twelve times in a year and at no cost,  
 38 to the Department of Health and Human Services, Division of Medical Assistance, upon  
 39 its request, information, ~~including automated data matches conducted under the~~  
 40 ~~direction of the Department of Health and Human Services, Division of Medical~~  
 41 ~~Assistance,~~ as necessary ~~to so that the Division may~~ (i) identify individuals who may  
 42 also be applicants or recipients of medical assistance covered under the insurer's health  
 43 benefit plans of the health insurer; who are also recipients of medical assistance; (ii)  
 44 determine the period during which the ~~individual individual, or the individual's spouses~~  
 45 spouse, or the individual's dependents may be or may have been covered by the health  
 46 benefit plan; and (iii) determine the nature of the coverage. To facilitate the Division in  
 47 obtaining this and other related information, every health insurer shall:

- 48 (1) ~~Cooperate with the Division to determine whether a named individual~~  
 49 ~~who is a recipient of medical assistance may be covered under the~~  
 50 ~~insurer's health benefit plan and eligible to receive benefits under the~~  
 51 ~~health benefit plan for services provided under the State Medical~~  
 52 ~~Assistance Plan.~~  
 53 (2) Respond to the request for information within 90 working days after  
 54 receipt of written proof of loss or claim for payment for health care

- 1 services provided to a recipient of medical assistance who is covered  
 2 by the insurer's health benefit plan.
- 3 (3) Accept the Division's right of recovery and the assignment to the  
 4 Division of any right of an individual or other entity to payment from  
 5 the party for an item or service for which payment has been made  
 6 under the State Medical Assistance Plan.
- 7 (4) Respond to any inquiry by the Division regarding a claim for payment  
 8 for any health care item or service that is submitted not later than three  
 9 years after the date of the provision of the health care item or service.
- 10 (5) Agree not to deny a claim submitted by the Division solely on the  
 11 basis of the date of submission of the claim, the type of format of the  
 12 claim form, or a failure to present proper documentation at the  
 13 point-of-sale that is the basis of the claim, if:
- 14 a. The claim is submitted by the Division within the three-year  
 15 period beginning on the date on which the item or service was  
 16 furnished; and
- 17 b. Any action by the Division to enforce its rights with respect to  
 18 such claim is commenced within six years of the Division's  
 19 submission of the claim.
- 20 (6) Cooperate with the Division's requests to determine a named  
 21 individual's eligibility or payment information under the benefit plan  
 22 of the health insurer.
- 23 (c) ~~An A health insurer that which complies with this section G.S. 108A-55.4~~  
 24 ~~shall not be liable on that account for its compliance in any civil or criminal actions or~~  
 25 ~~proceedings."~~

## 26 SUBROGATION RIGHTS FOR MEDICAID AND NC HEALTH CHOICE

### 27 SECTION 10.24.(a) G.S. 108A-57(a) reads as rewritten:

28 "(a) Notwithstanding any other provisions of the law, to the extent of payments  
 29 under this Part, the State, or the county providing medical assistance benefits, shall be  
 30 subrogated to all rights of recovery, contractual or otherwise, of the beneficiary of this  
 31 assistance, or of the beneficiary's personal representative, heirs, or the administrator or  
 32 executor of the estate, against any ~~person-person liable for payment for medical care.~~  
 33 The county attorney, or an attorney retained by the county or the State or both, or an  
 34 attorney retained by the beneficiary of the assistance if this attorney has actual notice of  
 35 payments made under this Part shall enforce this section. ~~Any attorney retained by the~~  
 36 ~~beneficiary of the assistance shall, out of the proceeds obtained on behalf of the~~  
 37 ~~beneficiary by settlement with, judgment against, or otherwise from a third party by~~  
 38 ~~reason of injury or death, distribute to the Department the amount of assistance paid by~~  
 39 ~~the Department on behalf of or to the beneficiary, as prorated with the claims of all~~  
 40 ~~others having medical subrogation rights or medical liens against the amount received~~  
 41 ~~or recovered, but the amount paid to the Department shall not exceed one third of the~~  
 42 ~~gross amount obtained or recovered.~~

43 Any action or claim brought by the beneficiary, including a beneficiary who is a  
 44 minor, whether or not the beneficiary is represented by an attorney, for damages arising  
 45 out of any accident or injury for which medical assistance benefits have been paid shall  
 46 include a claim for all medical payments made under this Part.

47 Any proceeds obtained by a beneficiary not represented by an attorney, including a  
 48 beneficiary who is a minor, by settlement, release, or otherwise from a third party by  
 49 reason of injury or death, shall be designated as medical damages payable to the  
 50 Department up to the full amount of assistance paid on behalf of the beneficiary by the  
 51 Department, or shall be designated as medical damages payable to the Department up to  
 52 two-thirds of the gross amount of the recovery, whichever is less.

53 Any proceeds obtained by a beneficiary who is represented by an attorney, including  
 54 a beneficiary who is a minor, by settlement, release, or otherwise from a third party by  
 55

1 reason of injury or death, shall be designated as medical damages payable to the  
2 Department up to the full amount of assistance paid on behalf of the beneficiary by the  
3 Department or up to one-third of the gross amount of the recovery, whichever is less.  
4 Any attorney representing a beneficiary, including a beneficiary who is a minor, shall  
5 distribute to the Department the amount owed the Department under this Part as  
6 prorated with the claims of all others having medical subrogation rights or medical liens  
7 against the amount received or recovered.

8 It shall be the duty of the beneficiary, including a beneficiary who is a minor, any  
9 attorney who represents the beneficiary, and any person who is responsible or liable for  
10 payment of the medical damages to ensure that this recovery for medical damages is  
11 distributed to the Department in a timely fashion.

12 The United States and the State of North Carolina shall be entitled to shares in each  
13 net recovery under this section. Their shares shall be promptly paid under this section  
14 and their proportionate parts of such sum shall be determined in accordance with the  
15 matching formulas in use during the period for which assistance was paid to the  
16 recipient."

17 **SECTION 10.24.(b)** G.S. 135-40.13A reads as rewritten:

18 **"§ 135-40.13A. Liability of third person; right of subrogation; right of first**  
19 **recovery.**

20 (a) The Plan or the Health Insurance Program for Children, otherwise known as  
21 NC Health Choice shall have the right of subrogation upon all of the Plan member's or  
22 NC Health Choice recipient's right to recover from a liable third party for payment made  
23 under the Plan, Plan or NC Health Choice, for all medical expenses, including provider,  
24 hospital, surgical, or prescription drug expenses, to the extent those payments are  
25 related to an injury caused by a liable third party. Those benefits subrogated on behalf  
26 of NC Health Choice shall be returned to the Division of Medical Assistance. The Plan  
27 member or NC Health Choice recipient shall do nothing to prejudice these rights. The  
28 Plan or NC Health Choice has the right to first recovery on any amounts so recovered,  
29 whether by the Plan or the Plan member, or by NC Health Choice or the NC Health  
30 Choice recipient, and whether recovered by litigation, arbitration, mediation, settlement,  
31 or otherwise. Notwithstanding any other provision of law to the contrary, the recovery  
32 limitation set forth in G.S. 28A-18-2 shall not apply to the Plan's or NC Health Choice's  
33 right of subrogation of Plan members, members or recipients of NC Health Choice.

34 (b) If the Plan is precluded from exercising its right of subrogation, it may  
35 exercise its rights of recovery pursuant to G.S. 135-40.13(g). If the Plan or NC Health  
36 Choice recovers damages from a liable third party in excess of the claims paid, any  
37 excess will be paid to the member, member or NC Health Choice recipient, less a  
38 proportionate share of the costs of collection.

39 (c) In the event a Plan member or a Health Choice recipient recovers any  
40 amounts from a liable third party to which the Plan or NC Health Choice is entitled  
41 under this section, the Plan or NC Health Choice may recover the amounts directly from  
42 the Plan member, Member or NC Health Choice recipient. The Plan or NC Health  
43 Choice has a lien, for not more than the value of claims paid related to the liability of  
44 the third party, on any damages subsequently recovered against the liable third party. If  
45 the Plan member or NC Health Choice recipient fails to pursue the remedy against a  
46 liable third party, the Plan or NC Health Choice is subrogated to the rights of the Plan  
47 member or NC Health Choice recipient and is entitled to enforce liability in the Plan's or  
48 NC Health Choice's own name or in the name of the Plan member or NC Health Choice  
49 recipient for the amount paid by the Plan, Plan or NC Health Choice.

50 (d) In no event shall the Plan's lien exceed fifty percent (50%) of the total  
51 damages recovered by the Plan member, exclusive of the Plan member's reasonable  
52 costs of collection as determined by the Plan in the Plan's sole discretion. The decision  
53 by the Plan as to the reasonable cost of collection is conclusive and is not a "final  
54 agency decision" for purposes of a contested case under Chapter 150B of the General  
55 Statutes. Notice of the Plan's lien or right to recovery shall be presumed when a Plan



1 member is represented by an attorney, and the attorney shall disburse proceeds pursuant  
2 to this section.

3 (e) Any proceeds obtained by an NC Health Choice recipient not represented by  
4 an attorney by settlement, release, or otherwise from a third party by reason of injury or  
5 death, shall be designated as medical damages payable to the Division of Medical  
6 Assistance, Department of Health and Human Services ("Division") up to the full  
7 amount of assistance paid on behalf of the NC Health Choice recipient by the Division,  
8 or shall be designated as medical damages payable to the Division up to two-thirds of  
9 the gross amount of the recovery, whichever is less.

10 Any proceeds obtained by an NC Health Choice recipient who is represented by an  
11 attorney by settlement, release, or otherwise from a third party by reason of injury or  
12 death, shall be designated as medical damages payable to the Division up to the full  
13 amount of assistance paid on behalf of the NC Health Choice recipient by the  
14 Department or up to one-third of the gross amount of the recovery, whichever is less.  
15 Any attorney representing an NC Health Choice recipient shall distribute to the  
16 Department the amount owed the Department under this section as prorated with the  
17 claims of all others having medical subrogation rights or medical liens against the  
18 amount received or recovered."

19 **SECTION 10.24.(c)** This section becomes effective July 1, 2007.

## 20 21 SENIOR CENTER OUTREACH

22 **SECTION 10.25.(a)** Funds appropriated to the Department of Health and  
23 Human Services, Division of Aging and Adult Services, for the 2007-2009 fiscal  
24 biennium, shall be used by the Division of Aging and Adult Services to enhance senior  
25 center programs as follows:

- 26 (1) To expand the outreach capacity of senior centers to reach unserved or  
27 underserved areas; or  
28 (2) To provide start-up funds for new senior centers.

29 All of these funds shall be allocated by October 1 of each fiscal year.

30 **SECTION 10.25.(b)** Prior to funds being allocated pursuant to this section  
31 for start-up funds for a new senior center, the county commissioners of the county in  
32 which the new center will be located shall:

- 33 (1) Formally endorse the need for such a center;  
34 (2) Formally agree on the sponsoring agency for the center; and  
35 (3) Make a formal commitment to use local funds to support the ongoing  
36 operation of the center.

37 **SECTION 10.25.(c)** State funding shall not exceed seventy-five percent  
38 (75%) of reimbursable costs.

## 39 40 STATE-COUNTY SPECIAL ASSISTANCE

41 **SECTION 10.26.(a)** The eligibility of Special Assistance recipients residing  
42 in adult care homes on August 1, 1995, shall not be affected by an income reduction in  
43 the Special Assistance eligibility criteria resulting from adoption of the Rate Setting  
44 Methodology Report and Related Services, providing these recipients are otherwise  
45 eligible. The maximum monthly rate for these residents in adult care home facilities  
46 shall be one thousand two hundred thirty-one dollars (\$1,231) per month per resident.

47 **SECTION 10.26.(b)** Effective January 1, 2007, the maximum monthly rate  
48 for residents in adult care home facilities shall be one thousand one hundred forty-eight  
49 dollars (\$1,148) per month per resident unless adjusted by the Department in  
50 accordance with subsection (d) of this section.

51 **SECTION 10.26.(c)** The maximum monthly rate for residents in  
52 Alzheimer/Dementia special care units shall be one thousand five hundred fifteen  
53 dollars (\$1,515) per month per resident unless adjusted by the Department in  
54 accordance with subsection (d) of this section.

1           **SECTION 10.26.(d)** Notwithstanding any other provision of this section, the  
2 Department of Health and Human Services shall review activities and costs related to  
3 the provision of care in adult care homes and shall determine what costs may be  
4 considered to properly maximize allowable reimbursement available through Medicaid  
5 personal care services for adult care homes (ACH-PCS) under federal law. As  
6 determined, and with any necessary approval from the Centers for Medicare and  
7 Medicaid Services (CMS), and the approval of the Office of State Budget and  
8 Management, the Department may transfer necessary funds from the State-County  
9 Special Assistance program within the Division of Social Services to the Division of  
10 Medical Assistance and may use those funds as State match to draw down federal  
11 matching funds to pay for such activities and costs under Medicaid's personal care  
12 services for adult care homes (ACH-PCS), thus maximizing available federal funds. The  
13 established rate for State-County Special Assistance set forth in subsections (b) and (c)  
14 of this section shall be adjusted by the Department to reflect any transfer of funds from  
15 the Division of Social Services to the Division of Medical Assistance and related  
16 transfer costs and responsibilities from State-County Special Assistance to the Medicaid  
17 personal care services for adult care homes (ACH-PCS). Subject to approval by the  
18 Centers for Medicare and Medicaid Service (CMS) and prior to implementing this  
19 section, the Department may disregard a limited amount of income for individuals  
20 whose countable income exceeds the adjusted State-County Special Assistance rate. The  
21 amount of the disregard shall not exceed the difference between the Special Assistance  
22 rate prior to the adjustment and the Special Assistance rate after the adjustment and  
23 shall be used to pay a portion of the cost of the ACH-PCS and reduce the Medicaid  
24 payment for the individual's personal care services provided in an adult care home. In  
25 no event shall the reimbursement for services through the ACH-PCS exceed the average  
26 cost of the services as determined by the Department from review of cost reports as  
27 required and submitted by adult care homes. The Department shall report any transfers  
28 of funds and modifications of rates to the House of Representatives Appropriations  
29 Subcommittee on Health and Human Services, the Senate Appropriations Committee on  
30 Health and Human Services, and the Fiscal Research Division.

31           **SECTION 10.26.(e)** Effective July 1, 2007, the Department of Health and  
32 Human Services shall recommend rates for State-County Special Assistance and for  
33 Adult Care Home Personal Care Services. The Department may recommend separate  
34 rates for residents of special care units. The Department shall recommend rates using  
35 appropriate cost modeling methodology and cost reports submitted by adult care homes  
36 that receive State-County Special Assistance funds and shall ensure that cost reporting  
37 is done for State-County Special Assistance and Adult Care Home Personal Care  
38 Services to the same standards as apply to other residential service providers.  
39

#### 40 **SPECIAL ASSISTANCE IN-HOME**

41           **SECTION 10.27(a)** The Department of Health and Human Services may use  
42 funds from the existing State-County Special Assistance for Adults budget to provide  
43 Special Assistance payments to eligible individuals in in-home living arrangements.  
44 These payments may be made for up to 1,500 individuals during the 2007-2008 fiscal  
45 year and the 2008-2009 fiscal year. The standard monthly payment to individuals  
46 enrolled in the Special Assistance in-home program shall be seventy-five percent (75%)  
47 of the monthly payment the individual would receive if the individual resided in an  
48 adult care home and qualified for Special Assistance, except if a lesser payment amount  
49 is appropriate for the individual as determined by the local case manager. For State  
50 fiscal year 2007-2008, qualified individuals shall not receive payments at rates less than  
51 they would have been eligible to receive in State fiscal year 2006-2007. The Department  
52 shall implement Special Assistance in-home eligibility policies and procedures to assure  
53 that in-home program participants are those individuals who need and, but for the  
54 in-home program, would seek placement in an adult care home facility. The  
55 Department's policies and procedures shall include the use of a functional assessment.

1 The Department shall make this in-home option available to all counties on a voluntary  
2 basis. To the maximum extent possible, the Department shall consider geographic  
3 balance in the dispersion of payments to individuals across the State.

4  
5 **QUALITY IMPROVEMENT CONSULTATION PROGRAM FOR ADULT**  
6 **CARE HOMES**

7 **SECTION 10.28.(a)** The Department's Division of Aging and Adult  
8 Services shall develop a Quality Improvement Consultation Program for Adult Care  
9 Homes. The purpose of the Program is to promote better care and improve quality of  
10 life in a safe environment for residents in adult care homes through consultation and  
11 assistance with adult care home providers. The county departments of social services  
12 shall be responsible for implementation of the Program with all adult care homes  
13 located in the respective county, based on a timetable for statewide implementation.

14 The Division of Aging and Adult Services shall consult with adult care home  
15 providers, county departments of social services, consumer advocates, and other  
16 interested stakeholders and parties in the development of the Quality Improvement  
17 Consultation Program for Adult Care Homes.

18 The Program will address the following topics:

- 19 (1) Principles and philosophies that are resident-centered and promote  
20 independence, dignity, and choice for residents;
- 21 (2) Approaches to develop continuous quality improvement with a focus  
22 on resident satisfaction and optimal outcomes;
- 23 (3) Dissemination of best practice models that have been used successfully  
24 elsewhere;
- 25 (4) A determination of the availability of standardized instruments, and  
26 their use to the extent possible, to assess and measure adult care home  
27 performance according to quality of life indicators;
- 28 (5) Utilization of quality improvement plans for adult care homes that  
29 identify and resolve issues that adversely affect quality of care and  
30 services to residents. The plans include agreed upon time frames for  
31 completion of improvements and identification of needed resources;
- 32 (6) Training required to equip county departments of social services' staff  
33 to implement the Program;
- 34 (7) A distinction of roles between the regulatory role of the Department's  
35 Division of Facility Services and the quality improvement consultation  
36 and monitoring responsibilities of the county departments of social  
37 services; and
- 38 (8) Identification of staffing and other resources needed to implement the  
39 Program.

40 The Division of Aging and Adult Services shall conduct a pilot of the Quality  
41 Improvement Consultation Program for Adult Care Homes. No more than four county  
42 departments of social services shall participate in the pilot. The Division of Aging and  
43 Adult Services shall consider geographic balance and size in carrying out the pilot. At  
44 the conclusion of the pilot, the Division of Aging and Adult Services shall make  
45 recommendations regarding the effectiveness of the Quality Improvement Consultation  
46 Program for Adult Care Homes. If the Division recommends expansion of the pilot to  
47 other counties or statewide implementation of the Program, its report shall include the  
48 cost and a proposed timetable for implementing these recommendations, including the  
49 identification of any necessary statutory and administrative rule changes. The  
50 recommendations shall be made to the Secretary of the Department of Health and  
51 Human Services, the North Carolina Study Commission on Aging, the Senate  
52 Appropriations Committee on Health and Human Services, and the House of  
53 Representatives Subcommittee on Health and Human Services.  
54

**CERTIFICATE OF NEED FEE INCREASES TO MEET STATUTORY OBLIGATIONS**

**SECTION 10.29.** G.S. 131E-177(9) reads as rewritten:

"(9) Establish and collect fees for submitting applications for certificates of need. The fee schedule established ~~should~~ is intended to generate sufficient revenue to offset the entire cost of the certificate of need program. This fee may not exceed seventeen thousand five hundred dollars (\$17,500) and may not be less than two thousand dollars (\$2,000). Fees collected under this subdivision shall be credited to the General Fund as nontax revenue. The fee shall be five thousand dollars (\$5,000) plus .003 of the amount of the proposed capital expenditure that exceeds one million dollars (\$1,000,000) but may not exceed a total of fifty thousand dollars (\$50,000)."

**HEALTH CARE FACILITY CONSTRUCTION PROJECT FEE INCREASES TO MEET STATUTORY OBLIGATIONS**

**SECTION 10.30.** G.S. 131E-267 reads as rewritten:

"§ 131E-267. Fees for departmental review of licensed health care facility or Medical Care Commission bond financed 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 project fee shall be determined by the Division of Facility Services. The fee shall be charged on a one-time, per-project basis, as follows, and shall not exceed ~~twenty five thousand dollars (\$25,000) two hundred thousand dollars (\$200,000)~~ for any single project:project. Fees collected under this provision in excess of seven hundred twelve thousand six hundred twenty-six dollars (\$712,626) shall be credited to the General Fund as nontax revenue and are intended to offset rather than replace appropriation.

<b>Institutional Project</b>	<b>Project Fee</b>
Hospitals	<del>\$300.00 plus \$0.20/square foot of project space</del>
Nursing Homes	<del>\$250.00 plus \$0.16/square foot of project space</del>
Ambulatory Surgical Facility	<del>\$200.00 plus \$0.16/square foot of project space</del>
Psychiatric Hospital	<del>\$200.00 plus \$0.16/square foot of project space</del>
Adult Care Home	
7 or more beds	<del>\$175.00 plus \$0.10/square foot of project space</del>

<b><u>Institutional Project</u></b>	<b><u>Project Fee</u></b>
<b><u>Hospitals</u></b>	
<u>0-5,000 square foot project</u>	<u>\$1,500.00 plus \$0.25/square foot of project space</u>
<u>5001-10,000 square foot project</u>	<u>\$3,000.00 plus \$0.25/square foot of project space</u>
<u>10,001-20,000 square foot project</u>	<u>\$4,500.00 plus \$0.45/square foot of project space</u>
<u>20,001 and greater square foot project</u>	<u>\$6,000.00 plus \$0.45/square foot of project space</u>
<b><u>Nursing Homes</u></b>	
<u>New Facility/Major Renovation</u>	
<u>2,001 square foot and greater project</u>	<u>\$500.00 plus \$0.25/square foot of project space</u>
<u>Small Project/Minor Renovation</u>	
<u>0-2,000 square foot project</u>	<u>\$250.00 plus \$0.15/square foot of project space</u>
<u>Ambulatory Surgical Facility</u>	

1	<u>New Facility/Major Renovation</u>	
2	<u>2,001 square foot and</u>	<u>\$400.00 plus \$0.25/square foot of project space</u>
3	<u>greater project</u>	
4	<u>Small Project/Minor Renovation</u>	
5	<u>0-2,000 square foot project</u>	<u>\$200.00 plus \$0.15/square foot of project space</u>
6		
7	<b>Hospital</b>	
8	<u>0-5,000 square foot project</u>	<u>\$750.00 plus \$0.25/square foot of project space</u>
9	<u>5,001-10,000 square foot project</u>	<u>\$1,500.00 plus \$0.25/square foot of project space</u>
10	<u>10,001-20,000 square foot project</u>	<u>\$2,250.00 plus \$0.45/square foot of project space</u>
11	<u>20,001 and greater square</u>	<u>\$3,000.00 plus \$0.45/square foot of project space</u>
12	<u>foot project</u>	
13		
14	<b>Adult Care Home</b>	
15	<u>7 or more beds</u>	
16	<u>New Facility/Major Renovation</u>	
17	<u>2,001 square foot and</u>	<u>\$350.00 plus \$0.20/square foot of project space</u>
18	<u>greater project</u>	
19	<u>Small Project/Minor Renovation</u>	
20	<u>0-2,000 square foot project</u>	<u>\$175.00 plus \$0.10/square foot of project space</u>
21		
22		
23	<b>Residential Project</b>	<b>Project Fee</b>
24	Family Care Homes	<del>\$175.00</del> \$225.00 flat fee
25	ICF/MR Group Homes	<del>\$275.00</del> \$350.00 flat fee
26	Group Homes: 1-3 beds	<del>\$100.00</del> \$125.00 flat fee
27	Group Homes: 4-6 beds	<del>\$175.00</del> \$225.00 flat fee
28	Group Homes: 7-9 beds	<del>\$225.00</del> \$275.00 flat fee
29	Other residential:	
30	More than 9 beds	<del>\$225.00 plus \$0.075/</del> <u>\$275.00 plus \$0.15/square</u> foot of project space."
31		
32		

**COMMUNITY HEALTH CENTER CHANGES**

**SECTION 10.31.** Of the funds appropriated in this act for Community Health Grants, the sum of five hundred thousand dollars (\$500,000) in 2007-2008 and 2008-2009 fiscal years shall be allocated to federally qualified health centers and those health centers that meet the criteria for federally qualified health centers, State-designated rural health centers, free clinics, public health departments, and other nonprofit organizations that provide primary and preventive medical services to uninsured or medically indigent patients to:

- (1) Increase access to preventative and primary care services by uninsured or medically indigent patients in existing or new health center locations;
- (2) Establish community health center services in counties where no such services exist;
- (3) Create new services or augment existing services provided to uninsured or medically indigent patients, including primary care and preventative medical services, dental services, pharmacy, and behavioral health; and
- (4) Increase capacity necessary to serve the uninsured by enhancing or replacing facilities, equipment, or technologies.

Grant funds may not be used to enhance or increase compensation or other benefits of personnel, administrators, directors, consultants, or any other parties. Grant funds may not be used to supplant federal funds traditionally received by federally qualified community health centers and may not be used to finance or satisfy any

1 existing debt. In distributing funds, the Department of Health and Human Services shall  
2 consider the availability of other funds for the agency, the incidence of poverty or  
3 indigent clients served, arrangements for after-hours care, and collaboration with the  
4 applicant's community hospital and other safety net organizations.

## 5 6 **DIVISION OF INFORMATION RESOURCE MANAGEMENT PROJECT** 7 **MANAGEMENT**

8 **SECTION 10.32.** All project management positions within the Division of  
9 Information Resource Management are exempt positions as that term is defined in  
10 G.S. 126-5.

## 11 12 **HEALTH INFORMATION SYSTEMS (HIS) FUNDS**

13 **SECTION 10.33.** The sum of nine million five hundred eighty-two thousand  
14 one hundred sixteen dollars (\$9,582,116) is appropriated from Budget Code 24430,  
15 Fund Code 2117, to the Department of Health and Human Services, Division of Public  
16 Health, for the 2007-2008 fiscal year. These funds shall be used for the development  
17 and implementation of the Health Information Systems (HIS), an initiative that will  
18 provide an automated means of capturing, monitoring, reporting, and billing services  
19 provided in local health departments, CDSAs, and the State Public Health Laboratory.  
20 The HIS will allow for interfaces to local health departments' own vendor systems and  
21 is intended to replace the outdated Health Services Information System.

## 22 23 **CHILD SUPPORT PROGRAM/ENHANCED STANDARDS**

24 **SECTION 10.34.** The Department of Health and Human Services shall  
25 implement and maintain performance standards developed for each of the State and  
26 county child support enforcement offices across the State. These performance standards  
27 shall include the following:

- 28 (1) Cost per collections.
- 29 (2) Consumer satisfaction.
- 30 (3) Paternity establishments.
- 31 (4) Administrative costs.
- 32 (5) Orders established.
- 33 (6) Collections on arrearages.
- 34 (7) Location of absent parents.
- 35 (8) Other related performance measures.

36 The Department of Health and Human Services shall monitor the  
37 performance of each office and shall implement a system of reporting that allows each  
38 local office to review its performance as well as the performance of other local offices.  
39 The Department of Health and Human Services shall publish an annual performance  
40 report that shall include the statewide and local office performance of each child support  
41 office.

## 42 43 **FOSTER CARE AND ADOPTION ASSISTANCE PAYMENTS**

44 **SECTION 10.35.(a)** The maximum rates for State participation in the foster  
45 care assistance program are established on a graduated scale as follows:

- 46 (1) \$390.00 per child per month for children aged birth through 5;
- 47 (2) \$440.00 per child per month for children aged 6 through 12; and
- 48 (3) \$490.00 per child per month for children aged 13 through 18.

49 Of these amounts, fifteen dollars (\$15.00) is a special needs allowance for the  
50 child.

51 **SECTION 10.35.(b)** The maximum rates for State participation in the  
52 adoption assistance program are established on a graduated scale as follows:

- 53 (1) \$390.00 per child per month for children aged birth through 5;
- 54 (2) \$440.00 per child per month for children aged 6 through 12; and
- 55 (3) \$490.00 per child per month for children aged 13 through 18.

1           **SECTION 10.35.(c)** In addition to providing board payments to foster and  
2 adoptive families of HIV-infected children, as prescribed in Section 23.28 of Chapter  
3 324 of the 1995 Session Laws, any additional funds remaining that were appropriated  
4 for this purpose shall be used to provide medical training in avoiding HIV transmission  
5 in the home.

6           **SECTION 10.35.(d)** The maximum rates for the State participation in HIV  
7 foster care and adoption assistance are established on a graduated scale as follows:

- 8           (1)     \$800.00 per child per month with indeterminate HIV status;
- 9           (2)     \$1,000 per child per month confirmed HIV-infected, asymptomatic;
- 10          (3)     \$1,200 per child per month confirmed HIV-infected, symptomatic; and
- 11          (4)     \$1,600 per child per month terminally ill with complex care needs.

## 12 13 **CHILD CARING INSTITUTIONS**

14           **SECTION 10.36.** Reimbursements to child caring institutions shall not  
15 exceed the reimbursement rate established for the specific child caring institution by the  
16 Department of Health and Human Services, Office of the Controller. In determining the  
17 maximum reimbursement, counties shall include county and IV-E reimbursements.

## 18 19 **SPECIAL CHILDREN ADOPTION FUND**

20           **SECTION 10.37.(a)** Of the funds appropriated to the Department of Health  
21 and Human Services in this act, the sum of one hundred thousand dollars (\$100,000)  
22 shall be used to support the Special Children Adoption Fund for the 2007-2008 and  
23 2008-2009 fiscal years. The Division of Social Services, in consultation with the North  
24 Carolina Association of County Directors of Social Services and representatives of  
25 licensed private adoption agencies, shall develop guidelines for the awarding of funds to  
26 licensed public and private adoption agencies upon the adoption of children described in  
27 G.S. 108A-50 and in foster care. Payments received from the Special Children Adoption  
28 Fund by participating agencies shall be used exclusively to enhance the adoption  
29 services. No local match shall be required as a condition for receipt of these funds. In  
30 accordance with State rules for allowable costs, the Special Children Adoption Fund  
31 may be used for post-adoption services for families whose income exceeds two hundred  
32 percent (200%) of the federal poverty level.

33           **SECTION 10.37.(b)** Of the total funds appropriated for the Special Children  
34 Adoption Fund each year, twenty percent (20%) of the total funds available shall be  
35 reserved for payment to participating private adoption agencies. If the funds reserved in  
36 this subsection for payments to private agencies have not been spent on or before March  
37 31 each fiscal year, the Division of Social Services may reallocate those funds, in  
38 accordance with this section, to other participating adoption agencies.

39           **SECTION 10.37.(c)** The Division of Social Services shall monitor the total  
40 expenditures in the Special Children Adoption Fund and redistribute unspent funds to  
41 ensure that the funds are used according to the guidelines established in subsection (a)  
42 of this section. The Division shall implement strategies to ensure that funds that have  
43 historically reverted for this program are used for the intended purpose.

## 44 45 **TANF BENEFIT IMPLEMENTATION**

46           **SECTION 10.38.(a)** The General Assembly approves the plan titled "North  
47 Carolina Temporary Assistance for Needy Families State Plan FY 2007-2009," prepared  
48 by the Department of Health and Human Services and presented to the General  
49 Assembly. The North Carolina Temporary Assistance for Needy Families State Plan  
50 covers the period October 1, 2007, through September 30, 2009. The Department shall  
51 submit the State Plan, as revised in accordance with subsection (b) of this section, to the  
52 United States Department of Health and Human Services, as amended by this act or any  
53 other act of the 2007 General Assembly.

54           **SECTION 10.38(b)** The counties approved as Electing Counties in North  
55 Carolina's Temporary Assistance for Needy Families State Plan FY 2007-2009 as

1 approved by this section are: Beaufort, Caldwell, Catawba, Iredell, Lenoir, Lincoln,  
2 Macon, McDowell, Sampson, Stokes, and Wilson.

3 **SECTION 10.38(c)** Counties that submitted the letter of intent to remain as  
4 an Electing County or to be redesignated as an Electing County and the accompanying  
5 county plan for fiscal years 2007 through 2009, pursuant to G.S. 108A-27(e), shall  
6 operate under the Electing County budget requirements effective July 1, 2007. For  
7 programmatic purposes, all counties referred to in this subsection shall remain under  
8 their current county designation through September 30, 2007.

## 9 10 **INTENSIVE FAMILY PRESERVATION SERVICES FUNDING AND** 11 **PERFORMANCE ENHANCEMENTS**

12 **SECTION 10.39.(a)** Notwithstanding the provisions of G.S. 143B-150.6,  
13 the Intensive Family Preservation Services (IFPS) Program shall provide intensive  
14 services to children and families in cases of abuse, neglect, and dependency where a  
15 child is at imminent risk of removal from the home and to children and families in cases  
16 of abuse where a child is not at imminent risk of removal. The Program shall be  
17 developed and implemented statewide on a regional basis. The IFPS shall ensure the  
18 application of standardized assessment criteria for determining imminent risk and clear  
19 criteria for determining out-of-home placement.

20 **SECTION 10.39.(b)** The Department of Health and Human Services shall  
21 require that any program or entity that receives State, federal, or other funding for the  
22 purpose of Intensive Family Preservation Services shall provide information and data  
23 that allows for:

- 24 (1) An established follow-up system with a minimum of six months of  
25 follow-up services.
- 26 (2) Detailed information on the specific interventions applied including  
27 utilization indicators and performance measurement.
- 28 (3) Cost-benefit data.
- 29 (4) Data on long-term benefits associated with Intensive Family  
30 Preservation Services. This data shall be obtained by tracking families  
31 through the intervention process.
- 32 (5) The number of families remaining intact and the associated  
33 interventions while in IFPS and 12 months thereafter.
- 34 (6) The number and percentage by race of children who received Intensive  
35 Family Preservation Services compared to the ratio of their distribution  
36 in the general population involved with Child Protective Services.

37 **SECTION 10.39.(c)** The Department shall establish performance-based  
38 funding protocol and shall only provide funding to those programs and entities  
39 providing the required information specified in subsection (b) of this section. The  
40 amount of funding shall be based on the individual performance of each program.

## 41 42 **CHILD CARE ALLOCATION FORMULA**

43 **SECTION 10.40.(a)** The Department of Health and Human Services shall  
44 allocate child care subsidy voucher funds to pay the costs of necessary child care for  
45 minor children of needy families. The mandatory thirty percent (30%) Smart Start  
46 subsidy allocation under G.S. 143B-168.15(g) shall constitute the base amount for each  
47 county's child care subsidy allocation. The Department of Health and Human Services  
48 shall use the following method when allocating federal and State child care funds, not  
49 including the aggregate mandatory thirty percent (30%) Smart Start subsidy allocation:

- 50 (1) Funds shall be allocated based upon the projected cost of serving  
51 children in a county under age 11 in families with all parents working  
52 who earn less than seventy-five percent (75%) of the State median  
53 income.
- 54 (2) No county's allocation shall be less than ninety percent (90%) of its  
55 State fiscal year 2001-2002 initial child care subsidy allocation.



1           **SECTION 10.40.(b)** The Department of Health and Human Services may  
 2 reallocate unused child care subsidy voucher funds in order to meet the child care needs  
 3 of low-income families. Any reallocation of funds shall be based upon the expenditures  
 4 of all child care subsidy voucher funding, including Smart Start funds, within a county.

5           **SECTION 10.40.(c)** Notwithstanding subsection (a) of this section, the  
 6 Department of Health and Human Services shall allocate up to twelve million dollars  
 7 (\$12,000,000) in federal block grant funds and State funds appropriated for fiscal years  
 8 2007-2008 and 2008-2009 for child care services. These funds shall be allocated to  
 9 prevent termination of child care services or for other specific needs as determined by  
 10 the department.

11  
 12 **CHILD CARE FUNDS MATCHING REQUIREMENT**

13           **SECTION 10.41.** No local matching funds may be required by the  
 14 Department of Health and Human Services as a condition of any locality's receiving its  
 15 initial allocation of child care funds appropriated by this act unless federal law requires  
 16 a match. Additional funds above twenty-five thousand dollars (\$25,000) that are  
 17 reallocated by the department to local purchasing agencies beyond their initial  
 18 allocation shall require a fifteen percent (15%) local match in order to receive these  
 19 reallocated funds. Matching requirements shall not apply when funds are allocated  
 20 because of a disaster as defined in G.S. 166A-4(1).

21  
 22 **CHILD CARE REVOLVING LOAN**

23           **SECTION 10.42.** 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 **CHILD CARE SUBSIDY RATES**

31           **SECTION 10.43.(a)** The maximum gross annual income for initial  
 32 eligibility, adjusted biennially, for subsidized child care services shall be seventy-five  
 33 percent (75%) of the State median income, adjusted for family size.

34           **SECTION 10.43.(b)** Fees for families who are required to share in the cost  
 35 of care shall be established based on a percent of gross family income and adjusted for  
 36 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%.

41           **SECTION 10.43.(c)** Payments for the purchase of child care services for  
 42 low-income children shall be in accordance with the following requirements:

- 43           (1) Religious-sponsored child care facilities operating pursuant to  
 44 G.S. 110-106 and licensed child care centers and homes that meet the  
 45 minimum licensing standards that are participating in the subsidized  
 46 child care program shall be paid the one-star county market rate or the  
 47 rate they charge privately paying parents, whichever is lower.
- 48           (2) Licensed child care centers and homes with two or more stars shall  
 49 receive the market rate for that rated license level for that age group or  
 50 the rate they charge privately paying parents, whichever is lower.
- 51           (3) Nonlicensed homes shall receive fifty percent (50%) of the county  
 52 market rate or the rate they charge privately paying parents, whichever  
 53 is lower.
- 54           (4) Maximum payment rates shall also be calculated periodically by the  
 55 Division of Child Development for transportation to and from child

1 care provided by the child care provider, individual transporter, or  
2 transportation agency, and for fees charged by providers to parents.  
3 These payment rates shall be based upon information collected by  
4 market rate surveys.

5 **SECTION 10.43.(d)** Provisions of payment rates for child care providers in  
6 counties that do not have at least 50 children in each age group for center-based and  
7 home-based care are as follows:

8 (1) Except as applicable in subdivision (2) of this subsection, payment  
9 rates shall be set at the statewide or regional market rate for licensed  
10 child care centers and homes.

11 (2) If it can be demonstrated that the application of the statewide or  
12 regional market rate to a county with fewer than 50 children in each  
13 age group is lower than the county market rate and would inhibit the  
14 ability of the county to purchase child care for low-income children,  
15 then the county market rate may be applied.

16 **SECTION 10.43.(e)** A market rate shall be calculated for child care centers  
17 and homes at each rated license level for each county and for each age group or age  
18 category of enrollees and shall be representative of fees charged to parents for each age  
19 group of enrollees within the county. The Division of Child Development shall also  
20 calculate a statewide rate and regional market rates for each rated license level for each  
21 age category.

22 **SECTION 10.43.(f)** Facilities licensed pursuant to Article 7 of Chapter 110  
23 of the General Statutes and facilities operated pursuant to G.S. 110-106 may participate  
24 in the program that provides for the purchase of care in child care facilities for minor  
25 children of needy families. No separate licensing requirements shall be used to select  
26 facilities to participate. In addition, child care facilities shall be required to meet any  
27 additional applicable requirements of federal law or regulations. Child care  
28 arrangements exempt from State regulation pursuant to Article 7 of Chapter 110 of the  
29 General Statutes shall meet the requirements established by other State law and by the  
30 Social Services Commission.

31 County departments of social services or other local contracting agencies  
32 shall not use a provider's failure to comply with requirements in addition to those  
33 specified in this subsection as a condition for reducing the provider's subsidized child  
34 care rate.

35 **SECTION 10.43.(g)** Payment for subsidized child care services provided  
36 with Work First Block Grant funds shall comply with all regulations and policies issued  
37 by the Division of Child Development for the subsidized child care program.

38 **SECTION 10.43.(h)** Noncitizen families who reside in this State legally  
39 shall be eligible for child care subsidies if all other conditions of eligibility are met. If  
40 all other conditions of eligibility are met, noncitizen families who reside in this State  
41 illegally shall be eligible for child care subsidies only if at least one of the following  
42 conditions is met:

43 (1) The child for whom a child care subsidy is sought is receiving child  
44 protective services or foster care services.

45 (2) The child for whom a child care subsidy is sought is developmentally  
46 delayed or at risk of being developmentally delayed.

47 (3) The child for whom a child care subsidy is sought is a citizen of the  
48 United States.

## 50 EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES 51 ENHANCEMENTS

52 **SECTION 10.44.(a)** Administrative costs shall be equivalent to, on an  
53 average statewide basis for all local partnerships, not more than eight percent (8%) of  
54 the total statewide allocation to all local partnerships. For purposes of this subsection,  
55 administrative costs shall include costs associated with partnership oversight, business

1 and financial management, general accounting, human resources, budgeting,  
2 purchasing, contracting, and information systems management.

3 **SECTION 10.44.(b)** The North Carolina Partnership for Children, Inc., and  
4 all local partnerships shall use competitive bidding practices in contracting for goods  
5 and services on contract amounts as follows:

- 6 (1) For amounts of five thousand dollars (\$5,000) or less, the procedures  
7 specified by a written policy to be developed by the Board of Directors  
8 of the North Carolina Partnership for Children, Inc.
- 9 (2) For amounts greater than five thousand dollars (\$5,000), but less than  
10 fifteen thousand dollars (\$15,000), three written quotes.
- 11 (3) For amounts of fifteen thousand dollars (\$15,000) or more, but less  
12 than forty thousand dollars (\$40,000), a request for proposal process.
- 13 (4) For amounts of forty thousand dollars (\$40,000) or more, a request for  
14 proposal process and advertising in a major newspaper.

15 **SECTION 10.44.(c)** The North Carolina Partnership for Children, Inc., and  
16 all local partnerships shall, in the aggregate, be required to match no less than fifty  
17 percent (50%) of the total amount budgeted for the program in each fiscal year of the  
18 biennium as follows: contributions of cash equal to at least fifteen percent (15%) and  
19 in-kind donated resources equal to no more than five percent (5%) for a total match  
20 requirement of twenty percent (20%) for each fiscal year. The North Carolina  
21 Partnership for Children, Inc., may carry forward any amount in excess of the required  
22 match for a fiscal year in order to meet the match requirement of the succeeding fiscal  
23 year. Only in-kind contributions that are quantifiable shall be applied to the in-kind  
24 match requirement. Volunteer services may be treated as an in-kind contribution for the  
25 purpose of the match requirement of this subsection. Volunteer services that qualify as  
26 professional services shall be valued at the fair market value of those services. All other  
27 volunteer service hours shall be valued at the statewide average wage rate as calculated  
28 from data compiled by the Employment Security Commission in the Employment and  
29 Wages in North Carolina Annual Report for the most recent period for which data are  
30 available. Expenses, including both those paid by cash and in-kind contributions,  
31 incurred by other participating non-State entities contracting with the North Carolina  
32 Partnership for Children, Inc., or the local partnerships, also may be considered  
33 resources available to meet the required private match. In order to qualify to meet the  
34 required private match, the expenses shall:

- 35 (1) Be verifiable from the contractor's records.
- 36 (2) If in-kind, other than volunteer services, be quantifiable in accordance  
37 with generally accepted accounting principles for nonprofit  
38 organizations.
- 39 (3) Not include expenses funded by State funds.
- 40 (4) Be supplemental to and not supplant preexisting resources for related  
41 program activities.
- 42 (5) Be incurred as a direct result of the Early Childhood Initiatives  
43 Program and be necessary and reasonable for the proper and efficient  
44 accomplishment of the Program's objectives.
- 45 (6) Be otherwise allowable under federal or State law.
- 46 (7) Be required and described in the contractual agreements approved by  
47 the North Carolina Partnership for Children, Inc., or the local  
48 partnership.
- 49 (8) Be reported to the North Carolina Partnership for Children, Inc., or the  
50 local partnership by the contractor in the same manner as reimbursable  
51 expenses.

52 Failure to obtain a twenty percent (20%) match by June 30 of each fiscal year  
53 shall result in a dollar-for-dollar reduction in the appropriation for the Program for a  
54 subsequent fiscal year. The North Carolina Partnership for Children, Inc., shall be  
55 responsible for compiling information on the private cash and in-kind contributions into

1 a report that is submitted to the Joint Legislative Commission on Governmental  
2 Operations in a format that allows verification by the Department of Revenue. The same  
3 match requirements shall apply to any expansion funds appropriated by the General  
4 Assembly.

5 **SECTION 10.44.(d)** The Department of Health and Human Services shall  
6 continue to implement the performance-based evaluation system.

7 **SECTION 10.44.(e)** The Department of Health and Human Services and the  
8 North Carolina Partnership for Children, Inc., shall ensure that the allocation of funds  
9 for Early Childhood Education and Development Initiatives for State fiscal years  
10 2007-2008 and 2008-2009 shall be administered and distributed in the following  
11 manner:

- 12 (1) Capital expenditures are prohibited for fiscal years 2007-2008 and  
13 2008-2009. For the purposes of this section, "capital expenditures"  
14 means expenditures for capital improvements as defined in  
15 G.S. 143-34.40.
- 16 (2) Expenditures of State funds for advertising and promotional activities  
17 are prohibited for fiscal years 2007-2008 and 2008-2009.

18 **SECTION 10.44.(f)** A county may use the county's allocation of State and  
19 federal child care funds to subsidize child care according to the county's Early  
20 Childhood Education and Development Initiatives Plan as approved by the North  
21 Carolina Partnership for Children, Inc. The use of federal funds shall be consistent with  
22 the appropriate federal regulations. Child care providers shall, at a minimum, comply  
23 with the applicable requirements for State licensure pursuant to Article 7 of Chapter 110  
24 of the General Statutes.

25 **SECTION 10.44.(g)** For fiscal years 2007-2008 and 2008-2009, the local  
26 partnerships shall spend an amount for child care subsidies that provides at least  
27 fifty-two million dollars (\$52,000,000) for the TANF maintenance of effort requirement  
28 and the Child Care Development Fund and Block Grant match requirement.

## 30 NORTH CAROLINA PARTNERSHIP FOR CHILDREN PERSONNEL 31 RECORD PROTECTION

32 **SECTION 10.45.(a)** G.S. 143B-168.12(a)(2) reads as rewritten:

33 "(2) The North Carolina Partnership and the local partnerships shall agree  
34 to adopt procedures for its operations that are comparable to those of  
35 Article 33C of Chapter 143 of the General Statutes, the Open Meetings  
36 Law, and Chapter 132 of the General Statutes, the Public Records  
37 Law, and provide for enforcement by the Department. Such procedures  
38 may provide for the confidentiality of personnel files that are  
39 comparable to Article 7 of Chapter 126 of the General Statutes."

40 **SECTION 10.45.(b)** G.S. 143B-168.14(a)(2) reads as rewritten:

41 "(2) Each local partnership shall agree to adopt procedures for its  
42 operations that are comparable to those of Article 33C of Chapter 143  
43 of the General Statutes, the Open Meetings Law, and Chapter 132 of  
44 the General Statutes, the Public Records Law, and provide for  
45 enforcement by the Department. Such procedures may provide for the  
46 confidentiality of personnel files that are comparable to Article 7 of  
47 Chapter 126 of the General Statutes."

## 49 PART XI. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

### 51 PLANT INDUSTRY DIVISION-PLANT CONSERVATION PROGRAM

52 **SECTION 11.1.** From funds that are deposited with the State Treasurer  
53 pursuant to G.S. 146-30 to the credit of the Department of Agriculture and Consumer  
54 Services in a capital improvement account, the sum of thirty thousand dollars (\$30,000)  
55 for the 2007-2008 fiscal year shall be transferred to the Department of Agriculture and

Consumer Services to be used, notwithstanding G.S. 146-30, by the Department for its plant conservation program under Article 19B of Chapter 106 of the General Statutes for costs incidental to the acquisition of land, such as land appraisals, land surveys, title searches, environmental studies, and for the management of plant conservation program preserves owned by the Department.

**SALE OF TIMBER**

**SECTION 11.2.** G.S. 143-64.05(a) reads as rewritten:

"(a) The State agency for surplus property may assess and collect a service charge for the acquisition, receipt, warehousing, distribution, or transfer of any State surplus property and for the transfer or sale of recyclable material. The service charge authorized by this subsection does not apply to the transfer or sale of timber on land owned by the Wildlife Resources ~~Commission~~, or the Department of Agriculture and Consumer Services."

**PART XII. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

**MINING PERMIT APPLICATION REVIEW FEE**

**SECTION 12.1.** G.S. 74-54.1 read as rewritten:

"§ 74-54.1. Permit fees.

(a) ~~The Commission may establish a~~ The fee schedule for the processing of permit applications and permit renewals and ~~modifications~~. modifications is as follows:

	<u>0-25 acres</u>	<u>26+ acres</u>
<u>New Permit Applications</u>	<u>\$3,750.00</u>	<u>\$5,000.00</u>
<u>Permit Modifications</u>	<u>\$750.00</u>	<u>\$1,000.00</u>
<u>Permit Renewals</u>	<u>\$750.00</u>	<u>\$1,000.00</u>
<u>Transfers</u>	<u>\$100.00</u>	<u>\$100.00</u>

On January 1 of each year, the fees shall be adjusted for inflation. The inflation adjustment shall be the increase each year by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of such year exceeds the Consumer Price Index for the previous year. The Consumer Price Index for all-urban consumers published by the US Department of Labor, as of the close of the 12-month period ending on August 31 of each calendar year. The resulting fees shall be rounded to the nearest ten-dollar (\$10.00) increment. The fees may vary on the basis of the acreage, size, and nature of the proposed or permitted operations or modifications. In establishing the fee schedule, the Commission shall consider the administrative and personnel costs incurred by the Department for processing applications for permits and permit renewals and modifications and for related compliance activities and safeguards to prevent unusual fee assessments that would impose a serious economic burden on an individual applicant or a class of applicants.

(b) ~~The total amount of permit fees collected for any fiscal year may not exceed one third of the total personnel and administrative costs incurred by the Department for processing applications for permits and permit renewals and modifications and for related compliance costs in the prior fiscal year. A fee for an application for a new permit may not exceed two thousand five hundred dollars (\$2,500), and a fee for an application to renew or modify a permit may not exceed five hundred dollars (\$500.00).~~ The Mining Account is established as a nonreverting account within the Department. Fees collected under this section shall be credited to the Mining Account and shall be applied to the costs of administering this Article.

(c) The Department shall annually report on or before 1 September to the Environmental Review Commission on the cost of implementing this Article. The report

1 shall include the fees established, collected, and disbursed under this section and any  
2 other information requested by the General Assembly or the Commission."  
3

4 **MODIFY THE COMMERCIAL AND NONCOMMERCIAL LEAKING**  
5 **PETROLEUM UNDERGROUND STORAGE TANK FEES AND PROGRAM**

6 **SECTION 12.2.(a)** G.S. 143-215.94C (a) reads as rewritten:

7 "(a) For purposes of this subsection, each compartment of a commercial  
8 underground storage tank that is designed to independently contain a petroleum product  
9 is a separate petroleum commercial underground storage tank. The owner or operator of  
10 a commercial petroleum underground storage tank shall pay to the Secretary for deposit  
11 into the Commercial Fund an annual operating fee ~~according to the following~~  
12 ~~schedule~~ of four hundred fifty dollars (\$450.00).

13 (1) For each petroleum commercial underground storage tank of 3,500  
14 gallons or less capacity – two hundred dollars (\$200.00).

15 (2) For each petroleum commercial underground storage tank of more  
16 than 3,500 gallon capacity – three hundred dollars (\$300.00)."

17 **SECTION 12.2.(b)** G.S. 143-215.94B is amended by adding a new  
18 subsection to read:

19 "(g) The Commercial Fund may be used to support the administrative functions of  
20 the UST program up to the amounts allowed by law, which amounts may be changed  
21 from time to time. In the case of a legislated increase or decrease in salaries and  
22 benefits, the administrative allowance existing at the time of the increase or decrease  
23 shall be correspondingly increased or decreased an amount equal to the legislated  
24 increase or decrease in salaries and benefits."

25 **SECTION 12.2.(c)** G.S. 143-215.94D is amended by adding a new  
26 subsection to read:

27 "(g) The Noncommercial Fund may be used to support the administrative  
28 functions of the UST program up to the amounts allowed by law, which amounts may  
29 be changed from time to time. In the case of a legislated increase or decrease in salaries  
30 and benefits, the administrative allowance existing at the time of the increase or  
31 decrease shall be correspondingly increased or decreased an amount equal to the  
32 legislated increase or decrease in salaries and benefits."

33  
34 **SOLID WASTE MANAGEMENT FACILITY PERMIT FEES AND ANNUAL**  
35 **FEES**

36 **SECTION 12.3.(a)** Article 9 of Chapter 130A of the General Statutes is  
37 amended by adding a new section to read:

38 "**§ 130A-293.1. Fees applicable to permits for solid waste management facilities.**

39 (a) It is the intent of the General Assembly that the fees collected pursuant to this  
40 section shall be used to support the Department's solid waste management program.

41 (b) The Solid Waste Management Account is established as a non-reverting  
42 account within the Department. All fees collected under this section shall be credited to  
43 the Account and shall be used for personnel and other resources necessary to do any one  
44 or more of the following:

45 (1) Provide a high level of professional review of permit applications for  
46 solid waste landfills and other solid waste management facilities;

47 (2) Provide timely review of permit applications;

48 (3) Improve monitoring of solid waste management facilities;

49 (4) Increase compliance activities related to solid waste management  
50 facilities; and

51 (5) Review and update rules governing the construction and operation of  
52 solid waste landfills to recognizing advances in technology and  
53 research to better protect public health and the environment.

54 (c) Applicants for permits shall pay an application fee according to the following  
55 schedule:

- 1           (1)   Municipal Solid Waste Landfill accepting less than 100,000 tons/year  
2           of solid waste – New Permit – \$25,000
- 3           (2)   Municipal Solid Waste Landfill accepting less than 100,000 tons/year  
4           of solid waste – Amendment – \$15,000
- 5           (3)   Municipal Solid Waste Landfill accepting less than 100,000 tons/year  
6           of solid waste – Modification – \$1,500
- 7           (4)   Municipal Solid Waste Landfill accepting 100,000 tons/year or more  
8           of solid waste – New Permit – \$50,000
- 9           (5)   Municipal Solid Waste Landfill accepting 100,000 tons/year or more  
10          of solid waste – Amendment – \$30,000
- 11          (6)   Municipal Solid Waste Landfill accepting 100,000 tons/year or more  
12          of solid waste – Modification – \$3,000
- 13          (7)   Construction and Demolition Landfill accepting less than 100,000  
14          tons/year of solid waste – New Permit – \$15,000
- 15          (8)   Construction and Demolition Landfill accepting less than 100,000  
16          tons/year of solid waste – Amendment – \$9,000
- 17          (9)   Construction and Demolition Landfill accepting less than 100,000  
18          tons/year of solid waste – Modification – \$1,500
- 19          (10)  Construction and Demolition Landfill accepting 100,000 tons/year or  
20          more of solid waste – New Permit – \$30,000
- 21          (11)  Construction and Demolition Landfill accepting 100,000 tons/year or  
22          more of solid waste – Amendment – \$18,500
- 23          (12)  Construction and Demolition Landfill accepting 100,000 tons/year or  
24          more of solid waste – Modification – \$2,500
- 25          (13)  Industrial Landfill accepting less than 100,000 tons/year of solid waste  
26          – New Permit – \$15,000
- 27          (14)  Industrial Landfill accepting less than 100,000 tons/year of solid waste  
28          – Amendment – \$9,000
- 29          (15)  Industrial Landfill accepting less than 100,000 tons/year of solid waste  
30          – Modification – \$1,500
- 31          (16)  Industrial Landfill accepting 100,000 tons/year or more of solid waste  
32          – New Permit – \$30,000
- 33          (17)  Industrial Landfill accepting 100,000 tons/year or more of solid waste  
34          – Amendment – \$18,500
- 35          (18)  Industrial Landfill accepting 100,000 tons/year or more of solid waste  
36          – Modification – \$2,500
- 37          (19)  Tire Monofill – New Permit – \$1,750
- 38          (20)  Tire Monofill – Amendment – \$1,250
- 39          (21)  Tire Monofill – Modification – \$500
- 40          (22)  Treatment and Processing New Permit – \$1,750
- 41          (23)  Treatment and Processing Amendment – \$1,250
- 42          (24)  Treatment and Processing Modification – \$500
- 43          (25)  Transfer Stations New Permit – \$5,000
- 44          (26)  Transfer Stations Amendment – \$3,000
- 45          (27)  Transfer Station Modification – \$500
- 46          (28)  Incinerator New Permit – \$1,750
- 47          (29)  Incinerator Amendment – \$1,250
- 48          (30)  Incinerator Modification – \$500
- 49          (31)  Large Compost Facility New Permit – \$1,750
- 50          (32)  Large Compost Facility Amendment – \$1,250
- 51          (33)  Large Compost Facility Modification – \$500
- 52          (34)  Land Clearing and Inert New Permit – \$1,000
- 53          (35)  Land Clearing and Inert Amendment – \$500
- 54          (36)  Land Clearing and Inert Modification – \$250

1 (d) The application permit fee under this section shall be paid upon submission of  
 2 the permit application.

3 (e) A permitted solid waste management facility shall pay an annual permit fee  
 4 on or before August 1 of each year according to the following schedule:

- 5 1. Municipal Solid Waste Landfill – \$3,500
- 6 2. Post Closure Municipal Solid Waste Landfill – \$1,000
- 7 3. Construction and Demolition Landfill – \$2,750
- 8 4. Post Closure Construction and Demolition Landfill – \$500
- 9 5. Industrial Landfill – \$2750
- 10 6. Post Closure Industrial Landfill – \$500
- 11 7. Transfer Station – \$750
- 12 8. Treatment and Processing Facility – \$500
- 13 9. Tire Monofill – \$500
- 14 10. Incinerators – \$500
- 15 11. Large Compost Facility – \$500
- 16 12. Land Clearing and Inert Debris Landfill – \$500

17 (f) As used in this section, the following definitions apply:

18 (1) 'New permit' means all of the following:

- 19 a. An application for a new solid waste management facility not  
 20 previously permitted by the Department. It includes one site  
 21 suitability review, the initial permit to construct, and one permit  
 22 to operate the constructed portion of a phase included in the  
 23 permit to construct.
- 24 b. An application that proposes to expand the boundary of a  
 25 permitted waste management facility for the purpose of  
 26 expanding the permitted activity.
- 27 c. Any application that includes a proposed expansion to the  
 28 boundary of a waste disposal unit within an existing permitted  
 29 solid waste management facility.
- 30 d. An application for a substantial amendment to a solid waste  
 31 permit, as defined in G.S. 130A- 294(b1).

32 (2) 'Permit amendment' means all of the following:

- 33 a. An application for a permit to construct and one permit to  
 34 operate for the second and subsequent phases of landfill  
 35 development depicted in the approved facility plan for an  
 36 existing solid waste management permit.
- 37 b. An application for a renewal or a permit review every five years  
 38 after issuance of the existing solid waste management facility  
 39 permit, as required by rule.
- 40 c. Any application that proposes a change in ownership or  
 41 corporate structure of a permitted solid waste management  
 42 facility.

43 (3) 'Permit modification' means all of the following:

- 44 a. An application for any change to the plans approved in the  
 45 existing permit for a solid waste management facility that does  
 46 not constitute a 'permit amendment' or a 'new permit'.
- 47 b. A second or subsequent permit to operate for a constructed  
 48 portion of a phase included in the permit to construct."

## 50 WATER QUALITY PERMIT FEES

51 **SECTION 12.4.(a)** G.S. 143-215.3D reads as rewritten:

52 **"§ 143-215.3D. Fee schedule for water quality permits.**

53 (a) Annual fees for discharge and nondischarge permits under G.S. 143-215.1. –

- 54 (1) Major Individual NPDES Permits. – The annual fee for an individual  
 55 permit for a point source discharge of 1,000,000 or more gallons per



- 1 day, a publicly owned treatment works (POTW) that administers a  
2 POTW pretreatment program, as defined in 40 Code of Federal  
3 Regulations § 403.3 (1 July 1996 Edition), or an industrial waste  
4 treatment works that has a high toxic pollutant potential shall be ~~two~~  
5 ~~thousand eight hundred sixty five dollars (\$2,865).~~three thousand four  
6 hundred forty dollars (\$3,440).
- 7 (2) Minor Individual NPDES Permits. – The annual fee for an individual  
8 permit for a point source discharge other than a point source discharge  
9 to which subdivision (1) of this subsection applies shall be ~~seven~~  
10 ~~hundred fifteen dollars (\$715.00).~~eight hundred sixty dollars  
11 (\$860.00).
- 12 (3) Single-Family Residence. – The annual fee for a certificate of  
13 coverage under a general permit for a point source discharge or an  
14 individual nondischarge permit from a single-family residence shall be  
15 ~~fifty dollars (\$50.00).~~sixty dollars (\$60.00).
- 16 (4) Stormwater and Wastewater Discharge General Permits. – The annual  
17 fee for a certificate of coverage under a general permit for a point  
18 source discharge of stormwater or wastewater shall be ~~eighty dollars~~  
19 ~~(\$80.00).~~one hundred dollars (\$100.00).
- 20 (5) Recycle Systems. – The annual fee for an individual permit for a  
21 recycle system nondischarge permit shall be ~~three hundred dollars~~  
22 ~~(\$300.00).~~three hundred sixty dollars (\$360.00).
- 23 (6) Major Nondischarge Permits. – The annual fee for an individual permit  
24 for a nondischarge of 10,000 or more gallons per day or requiring 300  
25 or more acres of land shall be ~~one thousand ninety dollars (\$1,090).~~one  
26 thousand three hundred ten dollars (\$1,310).
- 27 (7) Minor Nondischarge Permits. – The annual fee for an individual  
28 permit for a nondischarge of less than 10,000 gallons per day or  
29 requiring less than 300 acres of land shall be ~~six hundred seventy five~~  
30 ~~dollars (\$675.00).~~eight hundred ten dollars (\$810.00).
- 31 (8) Animal Waste Management Systems. – The annual fee for animal  
32 waste management systems shall be as set out in G.S. 143-215.10G.
- 33 (b) Application fee for new discharge and nondischarge permits. – An  
34 application for a new permit of the type set out in subsection (a) of this section shall be  
35 accompanied by an initial application fee equal to the annual fee for that permit. If a  
36 permit is issued, the application fee will be applied as the annual fee for the first year  
37 that the permit is in effect. If the application is denied, the application fee shall not be  
38 refunded.
- 39 (c) Application and annual fees for consent special orders. –
- 40 (1) Major Consent Special Orders. – If the Commission enters into a  
41 consent special order, assurance of voluntary compliance, or similar  
42 document pursuant to G.S. 143-215.2 for an activity subject to an  
43 annual fee under subdivision (1) or (6) of subsection (a) of this section,  
44 the initial project fee shall be four hundred dollars (\$400.00) and the  
45 annual fee shall be five hundred dollars (\$500.00). These fees shall be  
46 in addition to the annual fee due under subsection (a) of this section.
- 47 (2) Minor Consent Special Orders. – If the Commission enters into a  
48 consent special order, assurance of voluntary compliance, or similar  
49 document pursuant to G.S. 143-215.2 for an activity subject to an  
50 annual fee under subdivision (2) or (7) of subsection (a) of this section,  
51 the initial project fee shall be four hundred dollars (\$400.00) and the  
52 annual fee shall be two hundred fifty dollars (\$250.00). These fees  
53 shall be in addition to the annual fee due under subsection (a) of this  
54 section.

1 (d) Fee for major permit modifications. – An application for a major modification  
2 of a permit of the type set out in subsection (a) of this section shall be accompanied by  
3 an application fee equal to thirty percent (30%) of the annual fee applicable to that  
4 permit. A major modification of a permit is any modification that would allow an  
5 increase in the volume or pollutant load of the discharge or nondischarge or that would  
6 result in a significant relocation of the point of discharge, as determined by the  
7 Commission. This fee shall be in addition to the fees due under subsections (a) and (c)  
8 of this section. If the application is denied, the application fee shall not be refunded.

9 (e) Other fees under this Article. –

10 (1) Sewer System Extension Permits. – The application fee for a permit  
11 for the construction of a new sewer system or for the extension of an  
12 existing sewer system shall be ~~four hundred dollars (\$400.00).~~four  
13 hundred eighty dollars (\$480.00).

14 (2) State Stormwater Permits. – The application fee for a permit regulating  
15 stormwater runoff under G.S. 143-214.7 and G.S. 143-215.1 shall be  
16 ~~four hundred twenty dollars (\$420.00).~~five hundred five dollars  
17 (\$505.00).

18 (3) Major Water Quality Certifications. – The fee for a water quality  
19 certification involving one acre or more of wetland fill or 150 feet or  
20 more of stream impact shall be ~~four hundred seventy five dollars~~  
21 ~~(\$475.00).~~five hundred seventy dollars (\$570.00).

22 (4) Minor Water Quality Certifications. – The fee for a water quality  
23 certification involving less than one acre of wetland fill or less than  
24 150 feet of stream impact shall be ~~two hundred dollars (\$200.00).~~two  
25 hundred forty dollars (\$240.00).

26 (5) Permit for Land Application of Petroleum Contaminated Soils. – The  
27 fee for a permit to apply petroleum contaminated soil to land shall be  
28 ~~four hundred dollars (\$400.00).~~four hundred eighty dollars (\$480.00).

29 (6) Fee Nonrefundable. – If an application for a permit or a certification  
30 described in this subsection is denied, the application or certification  
31 fee shall not be refunded.

32 (7) Limit Water Quality Certification Fee Required for CAMA Permit. –  
33 An applicant for a permit under Article 7 of Chapter 113A of the  
34 General Statutes for which a water quality certification is required  
35 shall pay a fee established by the Secretary. The Secretary shall not  
36 establish a fee that exceeds the greater of the fee for a permit under  
37 Article 7 of Chapter 113A of the General Statutes or the fee for a water  
38 quality certification under subdivision (3) or (4) of this subsection.

39 (f) Local Government Fee Authority Not Impaired. – This section shall not be  
40 construed to limit any authority that a unit of local government may have pursuant to  
41 any other provision of law to assess or collect a fee for the review of an application for a  
42 permit, the review of a mitigation plan, or the inspection of a site or a facility under any  
43 local program that is approved by the Commission under this Article.

44 (g) Other, pertaining to fees under this Article. – The water quality permit fees  
45 shall be increased each calendar year by the percentage, if any, by which the General  
46 Assembly has granted an employee compensation increase for that fiscal year."

47 **SECTION 12.4.(b)** G.S. 143-215.10G reads as rewritten:

48 "**§ 143-215.10G. Fees for animal waste management systems.**

49 (a) The Department shall charge an annual permit fee to an animal operation that  
50 is subject to a permit under G.S. 143-215.10C for an animal waste management system  
51 according to the following schedule:

52 (1) For a system with a design capacity of 38,500 or more and less than  
53 100,000 pounds steady state live weight, ~~fifty dollars (\$50.00).~~sixty  
54 dollars (\$60.00).

1 (2) For a system with a design capacity of 100,000 or more and less than  
2 800,000 pounds steady state live weight, ~~one hundred fifty dollars~~  
3 ~~(\$150.00)~~, one hundred eighty dollars (\$180.00).

4 (3) For a system with a design capacity of 800,000 pounds or more steady  
5 state live weight, ~~three hundred dollars (\$300.00)~~, three hundred sixty  
6 dollars (\$360.00).

7 (a1) The Department shall charge an annual permit fee to a dry litter poultry  
8 facility that is subject to a permit under G.S. 143-215.10C for an animal waste  
9 management system according to the following schedule:

10 (1) For a system with a permitted capacity of less than 25,000 laying  
11 chickens, less than 37,500 nonlaying chickens, or less than 16,500  
12 turkeys, ~~fifty dollars (\$50.00)~~, sixty dollars (\$60.00).

13 (2) For a system with a permitted capacity of 25,000 or more but less than  
14 200,000 laying chickens, 37,500 or more but less than 290,000  
15 nonlaying chickens, 16,500 or more but less than 133,000 turkeys, ~~one~~  
16 ~~hundred fifty dollars (\$150.00)~~, one hundred eighty dollars (\$180.00).

17 (3) For a system with a permitted capacity of more than 200,000 laying  
18 chickens, more than 290,000 nonlaying chickens, or more than  
19 133,000 turkeys, ~~three hundred dollars (\$300.00)~~, three hundred sixty  
20 dollars (\$360.00).

21 (b) An application for a new permit under this section shall be accompanied by  
22 an initial application fee equal to the annual fee for that permit. If a permit is issued, the  
23 application fee will be applied as the annual fee for the first year that the permit is in  
24 effect. If the application is denied, the application fee shall not be refunded.

25 (c) Fees collected under this section shall be credited to the Water and Air  
26 Quality Account. The Department shall use fees collected pursuant to this section to  
27 cover the costs of administering this Part."

28 **SECTION 12.4.(c)** G.S. 90A-42 reads as rewritten:

29 **"§ 90A-42. Fees.**

30 (a) The Commission, in establishing procedures for implementing the  
31 requirements of this Article, shall impose the following schedule of fees:

32 (1) Examination including Certificate, \$85.00;

33 (2) Temporary Certificate, \$200.00;

34 (3) Temporary Certification Renewal, \$300.00;

35 (4) Conditional Certificate, \$75.00;

36 (5) Repealed by Session Laws 1987, c. 582, s. 3.

37 (6) Reciprocity Certificate, \$100.00;

38 (6a) Voluntary Conversion Certificate, \$50.00;

39 (7) Annual Renewal, ~~\$35.00~~, \$50.00;

40 (8) Replacement of Certificate, \$20.00;

41 (9) Late Payment of Annual Renewal, \$50.00 penalty in addition to all  
42 current and past due annual renewal fees plus one hundred dollars  
43 (\$100.00) penalty per year for each year for which annual renewal fees  
44 were not paid prior to the current year; and

45 (10) Mailing List Charges – The Commission may provide mailing lists of  
46 certified water pollution control system operators and of water  
47 pollution control system operators to persons who request such lists.  
48 The charge for such lists shall be twenty-five dollars (\$25.00) for each  
49 such list provided.

50 (b) The Water Pollution Control System Account is established as a nonreverting  
51 account within the Department. Fees collected under this section shall be credited to the  
52 Account and applied to the costs of administering this Article."

53 **STATEWIDE WASTE TIPPING FEE**

1           **SECTION 12.5.** Part 2A of Article 9 of Chapter 130A of the General  
2 Statutes is amended by adding a new section to read:

3 **"§ 130A-309.08A. Solid waste disposal fee; use of proceeds.**

4       (a) Fee Imposed. – A fee of two dollars (\$2.00) per ton of waste is imposed on  
5 the disposal of municipal solid waste or construction or demolition debris in any landfill  
6 permitted pursuant to this Part. A fee of two dollars (\$2.00) per ton of waste is imposed  
7 on the transfer of solid waste to a transfer station permitted pursuant to this Part for  
8 disposal outside the State.

9       (b) Determination and Payment of Fee. – The owner or operator of each landfill  
10 and transfer station permitted pursuant to this Part shall maintain scales, designed to  
11 determine waste tonnage, that are approved by the Department of Agriculture and  
12 Consumer Services. Each owner or operator shall record waste tonnage at the time the  
13 waste is received and calculate and record the fees due under this section for each  
14 quarter of the calendar year on forms approved by the Department. Each owner or  
15 operator shall provide the completed forms, report the total number of tons of waste  
16 received, and pay the fees due for each quarter of the calendar year to the Department  
17 no later than the 15th day of the following calendar month. The Department shall credit  
18 all fees received pursuant to this section to the Inactive Hazardous Sites Cleanup Fund  
19 established by G.S. 130A-310.11.

20       (c) Use of Proceeds. – The Department shall use the proceeds of the fees  
21 imposed by this section for the following purposes:

22           (1) Assessment and remediation of orphan landfills.

23           (2) Assessment and remediation of inactive hazardous substance or waste  
24 disposal sites for which a private party is or may be responsible if the  
25 private party cannot be identified or located or if the private party is  
26 unable or refuses to assume responsibility for the assessment or  
27 remediation.

28           (3) Up to fifteen percent (15%) of the proceeds may be used to fund staff  
29 to administer contracts for the assessment and remediation of orphan  
30 landfills and of inactive hazardous substance or waste disposal sites  
31 pursuant to subdivisions (1) and (2) of this subsection.

32           (4) Up to ten percent (10%) of the proceeds may be used for grants to  
33 units of local government to support redevelopment of brownfields.

34           (5) Up to ten percent (10%) of the proceeds may be used by the  
35 Department to provide the State's share of the cost of assessment and  
36 remediation of sites in the State that are listed on the federal National  
37 Priorities List sites."

38  
39 **SEDIMENTATION AND EROSION CONTROL PLAN REVIEW FEE**

40 **SECTION 12.6.** G.S. 113A-54.2(a) reads as rewritten:

41       "~~(a) The Commission may establish a fee schedule for the review and approval of~~  
42 ~~erosion and sedimentation control plans under this Article. In establishing the fee~~  
43 ~~schedule, the Commission shall consider the administrative and personnel costs incurred~~  
44 ~~by the Department for reviewing the plans and for related compliance activities. An~~  
45 ~~application fee may not exceed fifty dollars (\$50.00) of sixty-five dollars (\$65.00) per~~  
46 ~~acre of disturbed land shown on an erosion and sedimentation control plan or of land~~  
47 ~~actually disturbed during the life of the project. Project shall be charged for the review of~~  
48 ~~an erosion and sedimentation control plans under this Article."~~

49  
50 **MODIFY EXISTING FEE STRUCTURE FOR RADIOACTIVE MATERIAL**  
51 **LICENSEES**

52 **SECTION 12.7.** Pursuant to G.S. 104E-19, the Division of Environmental  
53 Health, Radiation Protection Section, shall increase the fee structure for radioactive  
54 material licensees established in 15A NCAC 11 .1105 to provide sufficient funds to

1 support one additional receipt-supported Health Physicist position and associated  
2 operating costs in order to fulfill statutory requirements.

### 3 4 **PROCEEDS FROM TIME WARNER CABLE LEASE**

5 **SECTION 12.8.** The net proceeds received from Time Warner Cable by the  
6 Department of Environment and Natural Resources, Division of Forest Resources, for  
7 lease of property at 2600 Howard Road shall be transferred to the Department for  
8 deposit into a Capital Improvement account. Funds may be used to construct an  
9 equipment storage building and related improvements.

## 10 11 **PART XIII. DEPARTMENT OF COMMERCE**

### 12 13 **REGULATORY FEE FOR UTILITIES COMMISSION**

14 **SECTION 13.1.(a)** The percentage rate to be used in calculating the public  
15 utility regulatory fee under G.S. 62-302(b)(2) is twelve-hundredths of one percent  
16 (0.12%) for each public utility's North Carolina jurisdictional revenues earned during  
17 each quarter that begins on or after July 1, 2007.

18 **SECTION 13.1.(b)** The electric membership corporation regulatory fee  
19 imposed under G.S. 62-302(b1) for the 2007-2008 fiscal year is two hundred thousand  
20 dollars (\$200,000).

21 **SECTION 13.1.(c)** This section becomes effective July 1, 2007.

### 22 23 **WANCHESE SEAFOOD INDUSTRIAL PARK/OREGON INLET FUNDS**

24 **SECTION 13.2.(a)** Funds appropriated to the Department of Commerce for  
25 the 2006-2007 fiscal year for the Wanchese Seafood Industrial Park that are unexpended  
26 and unencumbered as of June 30, 2007, shall not revert to the General Fund on June 30,  
27 2007, but shall remain available to the Department to be expended by the Wanchese  
28 Seafood Industrial Park for operations, maintenance, repair, and capital improvements  
29 in accordance with Article 23C of Chapter 113 of the General Statutes, in addition to  
30 funds available to the Authority for these purposes. This section becomes effective June  
31 30, 2007.

32 **SECTION 13.2.(b)** Funds appropriated to the Department of Commerce for  
33 the 2006-2007 fiscal year for the Oregon Inlet Project that are unexpended and  
34 unencumbered as of June 30, 2007, shall not revert to the General Fund on June 30,  
35 2007, but shall remain available to the Department to be expended by the Wanchese  
36 Seafood Industrial Park for securing adequate channel maintenance of Oregon Inlet,  
37 operations, maintenance, repair, and capital improvements in accordance with Article  
38 23C of Chapter 113 of the General Statutes, in addition to funds available to the  
39 Authority for these purposes. This section becomes effective June 30, 2007.

### 40 41 **ONE NORTH CAROLINA FUND**

42 **SECTION 13.3.** Of the funds appropriated in this act to the One North  
43 Carolina Fund, the Department of Commerce may use up to three hundred thousand  
44 dollars (\$300,000) to cover its expenses in administering the One North Carolina Fund  
45 and other economic development incentive grant programs in 2007-2008 fiscal year.

### 46 47 **BIOTECHNOLOGY CENTER**

48 **SECTION 13.4.(a)** The North Carolina Biotechnology Center shall  
49 recapture funds spent in support of successful research and development efforts in the  
50 for-profit private sector.

51 **SECTION 13.4.(b)** The North Carolina Biotechnology Center shall provide  
52 funding for biotechnology, biomedical, and related bioscience applications under its  
53 Business and Science Technology Programs.

54 **SECTION 13.4.(c)** The North Carolina Biotechnology Center shall:

- 1 (1) By January 15, 2008, 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 2006-2007 program activities, objectives, and  
5 accomplishments;  
6 b. State fiscal year 2006-2007 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, 2007; 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, 2007.
- 14 (2) By January 15, 2009, 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 2007-2008 program activities, objectives, and  
18 accomplishments;  
19 b. State fiscal year 2007-2008 itemized expenditures and fund  
20 sources;  
21 c. State fiscal year 2007-2008 planned activities, objectives, and  
22 accomplishments, including actual results through December  
23 31, 2008; and  
24 d. State fiscal year 2007-2008 estimated itemized expenditures  
25 and fund sources, including actual expenditures and fund  
26 sources through December 31, 2008.
- 27 (3) Provide to the Fiscal Research Division a copy of the organization's  
28 annual audited financial statement within 30 days of issuance of the  
29 statement.

30 **SECTION 13.4.(d)** The North Carolina Biotechnology Center shall provide  
31 a report containing detailed budget, personnel, and salary information to the Office of  
32 State Budget and Management and to the Fiscal Research Division in the same manner  
33 as State departments and agencies in preparation for biennium budget requests.  
34

35 **ADVANCED VEHICLE RESEARCH CENTER /FUNDS SHALL NOT REVERT**

36 **SECTION 13.5.(a)** Funds appropriated to the Advanced Vehicle Research  
37 Center, Inc., from the 2005-2006 through 2006-2007 fiscal years that are unexpended  
38 and unencumbered as of June 30, 2007, shall not revert to the General Fund on June 30,  
39 2007, but shall remain available at the Department of Commerce.

40 **SECTION 13.5.(b)** Of the funds appropriated to the Advanced Vehicle  
41 Research Center from the last biennium, the Department of Commerce, with approval  
42 from the Office of State Budget and Management, may subject to subsection (b1) of this  
43 section, transfer remaining appropriated funds to the Advanced Vehicle Research  
44 Center of North Carolina, Inc., (Center) when the Office of State Budget and  
45 Management, in consultation with the Department of Commerce, determines the Center  
46 has completed goals and projects consistent with the Center's business plan. The goals  
47 and projects shall include the following:

- 48 (1) The Center has obtained legal title to the property on which the  
49 Advanced Vehicle Research Center will be built.  
50 (2) The Center has determined and provided for the critical infrastructure  
51 needed to support the Advanced Vehicle Research Center.  
52 (3) The Center has entered into a contract for the use and operation of a  
53 testing facility that will create new private sector jobs in Tier 1 or Tier  
54 2 counties.

1           **SECTION 13.5.(c)** No funds shall be released by the Office of State Budget  
2 and Management under subsection (b) of this section until a board of directors of the  
3 Center consisting of no fewer than five members representing five different  
4 organizations is appointed and operating.

5           The Center shall file with the Department of Commerce a copy of the  
6 Center's policy addressing conflicts of interest that may arise involving the Center's  
7 management employees and the members of its board of directors or other governing  
8 body before funds may be allocated to the Center. The policy shall address situations in  
9 which any of these individuals may directly or indirectly benefit, except as the Center's  
10 employees or members of the board or other governing body, from the Center's  
11 disbursing of State funds, and shall include actions to be taken by the entity or the  
12 individual, or both, to avoid conflicts of interest and the appearance of impropriety.

13           By December 31, 2007, and April 30, 2008, the Center shall report to the  
14 Governor, the Joint Legislative Commission on Governmental Operations, and the  
15 Fiscal Research Division the following information: (i) fiscal year 2006-2007 projects,  
16 objectives, and accomplishments; and (ii) fiscal year 2006-2007 itemized expenditures  
17 and fund sources. The April 30, 2008, report shall also contain the following: (i) fiscal  
18 year 2008-2009 planned projects, objectives, and accomplishments; and (ii) fiscal year  
19 2008-2009 estimated expenditures and fund sources.

20           The Center shall provide to the Governor, the Joint Legislative Commission  
21 on Governmental Operations, and the Fiscal Research Division: (i) a copy of the  
22 Center's annual audited financial statement within 30 days of issuance of the statement;  
23 and (ii) a copy of the Center's IRS Form 990.

24           The Center shall provide a report containing detailed budget information to  
25 the Office of State Budget and Management in the same manner as State departments  
26 and agencies in preparation for biennium budget requests. Specific salary information  
27 will be provided upon written request by the Chairmen of the Joint Legislative  
28 Commission on Governmental Operations or the Chairmen of the House Appropriations  
29 Committee on Environment, Health, and Natural Resources and the Chairman of the  
30 Senate Appropriations Committee on Natural and Economic Resources.

## 31 32 **ABC COMMISSION**

33           **SECTION 13.6.** G.S. 18B-208(b) reads as rewritten:

34           "(b) Special Fund. – A special fund in the office of the State Treasurer, the ABC  
35 Commission Fund, is created. On and after November 1, 1982, all moneys derived from  
36 the collection of bailment charges and bailment surcharges shall be deposited in the  
37 ABC Commission Fund for the purpose of carrying out the provisions of this Chapter.  
38 The Commission shall fix the level of the bailment surcharges at an amount calculated  
39 to cover operating expenses of the Commission, capital improvements to the  
40 Commission warehouse and offices, and the retirement of any bonds issued for capital  
41 improvements. The ABC Commission Fund shall be subject to the provisions of the  
42 Executive Budget Act except that no unexpended surplus of this fund shall revert to the  
43 General Fund. ~~Fund, but shall remain available to the ABC Commission to be expended~~  
44 ~~for capital improvements to the Commission warehouse and offices and the retirement~~  
45 ~~of any bonds issued for capital improvements. The Commission shall fix the level of the~~  
46 ~~bailment surcharges at an amount calculated to cover operating expenses of the~~  
47 ~~Commission and the retirement of bonds issued for construction of a Commission~~  
48 ~~warehouse and offices.~~ Upon payment of the bonds issued pursuant to this section, the  
49 Commission shall reduce the bailment surcharge to an amount no greater than necessary  
50 to pay operating expenses of the Commission as authorized by the General Assembly.

51           All moneys credited to the ABC Commission Fund shall be used to carry out the  
52 intent and purposes of the ABC law in accordance with plans approved by the North  
53 Carolina ABC Commission and the Director of the Budget, and all these funds are  
54 appropriated, reserved, set aside, and made available until expended for the  
55 administration of the ABC law."

**PART XIV. ADMINISTRATIVE OFFICE OF THE COURTS****TRANSFER OF EQUIPMENT AND SUPPLY FUNDS**

**SECTION 14.1.** Funds appropriated to the Administrative Office of the Courts in the 2007-2009 biennium for equipment and supplies shall be certified in a reserve account. The Administrative Office of the Courts may transfer these funds to the appropriate programs and between programs as the equipment priorities and supply consumptions occur during the operating year. These funds shall not be expended for any other purpose.

**FEDERAL GRANT FUNDS**

**SECTION 14.2.** The Administrative Office of the Courts may use up to the sum of one million five hundred thousand dollars (\$1,500,000) from funds available to the department to provide the State match needed in order to receive federal grant funds. Prior to using funds for this purpose, the department shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds.

**PART XV. DEPARTMENT OF CORRECTION****FEDERAL GRANT MATCHING FUNDS**

**SECTION 15.1.** Notwithstanding the provisions of G.S. 148-2, the Department of Correction may use up to the sum of one million two hundred thousand dollars (\$1,200,000) in the 2007-2008 fiscal year and up to the sum of one million two hundred thousand dollars (\$1,200,000) in the 2008-2009 fiscal year from funds available to the Department to provide the State match needed in order to receive federal grant funds. Prior to using funds for this purpose, the Department shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds.

**MEDIUM CUSTODY ROAD CREW COMPENSATION**

**SECTION 15.2.(a)** Of funds appropriated to the Department of Transportation by this act, the sum of ten million dollars (\$10,000,000) per year shall be transferred by the Department to the Department of Correction during the 2007-2008 and 2008-2009 fiscal years for the actual costs of highway-related labor performed by medium-custody prisoners, as authorized by G.S. 148-26.5. This transfer shall be made quarterly in the amount of two million five hundred thousand dollars (\$2,500,000). The Department of Transportation may use funds appropriated by this act to pay an additional amount exceeding the ten million dollars (\$10,000,000), but those payments shall be subject to negotiations among the Department of Transportation, the Department of Correction, and the Office of State Budget and Management prior to payment by the Department of Transportation.

**SECTION 15.2.(b)** The Department of Correction may use up to 39 work crews for Department of Transportation litter control projects. The Department of Transportation shall transfer at least one million three hundred thousand dollars (\$1,300,000) per year from the Highway Fund to the Department of Correction during the 2007-2008 and 2008-2009 fiscal years to cover the cost of those work crews. Should the two departments determine that the actual cost of operating 39 work crews exceeds that amount, the Department of Transportation shall transfer an additional amount as agreed upon by the two departments and the Office of State Budget and Management.

**LIMIT USE OF OPERATIONAL FUNDS**



1           **SECTION 15.3.** Funds appropriated in this act to the Department of  
2 Correction for operational costs for additional facilities shall be used for personnel and  
3 operating expenses set forth in the budget approved by the General Assembly in this act.  
4 These funds shall not be expended for any other purpose, except as provided for in this  
5 act, and shall not be expended for additional prison personnel positions until the new  
6 facilities are within 180 days of projected completion, except for certain management,  
7 security, and support positions necessary to prepare the facility for opening, as  
8 authorized in the budget approved by the General Assembly.  
9

#### 10 **USE OF CLOSED PRISON FACILITIES**

11           **SECTION 15.4.** In conjunction with the closing of prison facilities,  
12 including small expensive prison units recommended for consolidation by the  
13 Government Performance Audit Committee, the Department of Correction shall consult  
14 with the county or municipality in which the unit is located, with the elected State and  
15 local officials, and with State agencies about the possibility of converting that unit to  
16 other use. The Department may also consult with any private for-profit or nonprofit firm  
17 about the possibility of converting the unit to other use. In developing a proposal for  
18 future use of each unit, the Department shall give priority to converting the unit to other  
19 criminal justice use. Consistent with existing law and the future needs of the  
20 Department of Correction, the State may provide for the transfer or the lease of any of  
21 these units to counties, municipalities, State agencies, or private firms wishing to  
22 convert them to other use. The Department of Correction may also consider converting  
23 some of the units recommended for closing from one security custody level to another,  
24 where that conversion would be cost-effective. A prison unit under lease to a county  
25 pursuant to the provisions of this section for use as a jail is exempt for the period of the  
26 lease from any of the minimum standards adopted by the Secretary of Health and  
27 Human Services pursuant to G.S. 153A-221 for the housing of adult prisoners that  
28 would subject the unit to greater standards than those required of a unit of the State  
29 prison system.

30           Prior to any transfer or lease of these units, the Department of Correction  
31 shall report on the terms of the proposed transfer or lease to the Joint Legislative  
32 Commission on Governmental Operations and the Joint Legislative Corrections, Crime  
33 Control, and Juvenile Justice Oversight Committee. The Department of Correction shall  
34 also provide annual summary reports to the Joint Legislative Commission on  
35 Governmental Operations and the Joint Legislative Corrections, Crime Control, and  
36 Juvenile Justice Oversight Committee on the conversion of these units to other use and  
37 on all leases or transfers entered into pursuant to this section.  
38

#### 39 **ENERGY COMMITTED TO OFFENDERS/CONTRACT AND REPORT**

40           **SECTION 15.5.** The Department of Correction may continue to contract  
41 with Energy Committed To Offenders, Inc., for the purchase of prison beds for  
42 minimum security female inmates during the 2007-2008 and 2008-2009 fiscal years.  
43 Energy Committed To Offenders, Inc., shall report by February 1 of each year to the  
44 Joint Legislative Commission on Governmental Operations on the annual cost per  
45 inmate and the average daily inmate population compared to bed capacity using the  
46 same methodology as that used by the Department of Correction.  
47

#### 48 **CRIMINAL JUSTICE PARTNERSHIP PROGRAM**

49           **SECTION 15.6.** Notwithstanding the provisions of G.S. 143B-273.15  
50 specifying that grants to participating counties are for the full fiscal year and that  
51 unobligated funds are returned to the State-County Criminal Justice Partnership  
52 Account at the end of the grant period, the Department of Correction may reallocate  
53 unspent or unclaimed funds distributed to counties participating in the State-County  
54 Criminal Justice Partnership Program in an effort to maintain the level of services  
55 realized in previous fiscal years.

**REPORTS ON NONPROFIT PROGRAMS**

**SECTION 15.7.(a)** Funds appropriated in this act to the Department of Correction to support the programs of Harriet's House may be used for program operating costs, the purchase of equipment, and the rental of real property to serve women released from prison with children in their custody. Harriet's House shall report by February 1 of each year to the Joint Legislative Commission on Governmental Operations, Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the expenditure of State appropriations and on the effectiveness of the program, including information on the number of clients served, the number of clients who successfully complete the Harriet's House program, and the number of clients who have been rearrested within three years of successfully completing the program. The report shall provide financial and program data for the complete fiscal year prior to the year in which the report is submitted. The financial report shall identify all funding sources and amounts.

**SECTION 15.7.(b)** Summit House shall report by February 1 of each year to the Joint Legislative Commission on Governmental Operations, Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the expenditure of State appropriations and on the effectiveness of the program, including information on the number of clients served, the number of clients who have had their probation revoked, the number of clients who successfully complete the program while housed at Summit House, Inc., and the number of clients who have been rearrested within three years of successfully completing the program. The report shall provide financial and program data for the complete fiscal year prior to the year in which the report is submitted. The financial report shall identify all funding sources and amounts.

**SECTION 15.7.(c)** Women at Risk shall report by February 1 of each year to the Joint Legislative Commission on Governmental Operations, Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the expenditure of State funds and on the effectiveness of the program, including information on the number of clients served, the number of clients who have had their probation revoked, the number of clients who have successfully completed the program, and the number of clients who have been rearrested within three years of successfully completing the program. The report shall provide financial and program data for the complete fiscal year prior to the year in which the report is submitted. The financial report shall identify all funding sources and amounts.

**SECTION 15.7.(d)** Our Children's Place shall report by February 1, 2008, to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the status of the planning, design, and construction of Our Children's Place, the proposed program components and evaluation measures, and on the projected number of inmates and their children to be served. The report shall also provide financial data, including the expenditure of State funds and all funding sources and amounts.

**PART XVI. DEPARTMENT OF ADMINISTRATION****REDESIGNATION OF THE GOVERNOR'S ADVOCACY COUNCIL FOR PERSONS WITH DISABILITIES**

**SECTION 16.1.** Part 14A of Article 9 of Chapter 143B of the General Statutes is repealed.

1           **SECTION 16.2.** Pursuant to the Developmental Disabilities Assistance and  
2 Bill of Rights Act, the Governor shall redesignate the operation and function of the  
3 Governor's Advocacy Council for Persons with Disabilities from the Department of  
4 Administration to a nongovernmental entity. The Governor shall follow the federal  
5 statutory procedure for redesignation found at 45 C.F.R. § 1386.20, with a target  
6 transfer date of July 1, 2007.

## 7 8 **PART XVII. OFFICE OF STATE BUDGET AND MANAGEMENT**

### 9 10 **MODIFY STATE FIRE PROTECTION GRANT FUND**

11           **SECTION 17.1.** G. S. 58-85A-1(c) reads as rewritten:

12           "(c) It is the intent of the General Assembly to appropriate annually to the State  
13 Fire Protection Grant Fund ~~at least three million eighty thousand dollars (\$3,080,000)~~  
14 up to four million eight hundred thousand dollars (\$4,800,000) from the General Fund,  
15 ~~one hundred fifty thousand dollars (\$150,000)~~ one hundred fifty-eight thousand dollars  
16 (\$158,000) from the Highway Fund, and ~~nine hundred seventy thousand dollars~~  
17 (\$970,000) one million three hundred forty-five thousand dollars (\$1,345,000) from  
18 University of North Carolina receipts. Funds received from the General Fund shall be  
19 allocated only for providing local fire protection for State-owned property supported by  
20 the General Fund; funds received from the Highway Fund shall be allocated only for  
21 providing local fire protection for State-owned property supported by the Highway  
22 Fund; and funds received from University of North Carolina receipts shall be allocated  
23 only for providing local fire protection for State-owned property supported by  
24 University of North Carolina receipts."

### 25 26 **GEOGRAPHICAL INFORMATION SYSTEMS (GIS) STUDY**

27           **SECTION 17.2.(a)** The Office of State Budget and Management (OSBM),  
28 in consultation with the Center for Geographic Information and Analysis (CGIA), the  
29 State Chief Information Officer, and the chair of the Geographic Information  
30 Coordinating Council (GICC), shall conduct a study to identify the development and  
31 use of Geographical Information Systems (GIS) in North Carolina by State agencies.  
32 The study shall identify the purpose of each system; any duplication of effort across  
33 agencies, including local governments and federal agencies; the completeness,  
34 timeliness, and accessibility of the data developed and used by the systems; the cost and  
35 actual staffing for each system; the organizational location of each system; the hardware  
36 and software inventories associated with each system. The study shall also assess the  
37 current and potential benefits that GIS investments provide to the State and identify  
38 opportunities for the State to leverage federal and local support for North Carolina GIS  
39 systems.

40           **SECTION 17.2.(b)** OSBM shall make recommendations on the governance,  
41 organization, and staffing of GIS in and across State agencies and on a coherent and  
42 cost-effective State investment strategy for GIS that appropriately leverages local and  
43 federal support. The findings of this study shall be reported to the North Carolina  
44 General Assembly by January 15, 2008.

45           **SECTION 17.2.(b)** This section does not apply to The North Carolina  
46 University System or to the Judicial Branch.

### 47 48 **MILITARY MORALE, RECREATION, AND WELFARE FUNDS**

49           **SECTION 17.3.(a)** There is appropriated from the General Fund to a  
50 Reserve for the Military Morale, Recreation, and Welfare Fund in the Office of State  
51 Budget and Management the sum of one million dollars (\$1,000,000) in each year of the  
52 2007-2009 biennium.

53           **SECTION 17.3.(b)** The Office of State Budget and Management shall  
54 distribute for the purposes described in this section the amount appropriated by

1 subsection (a) of this section. That amount shall be distributed to each military  
2 installation on a per capita basis.

3 **SECTION 17.3.(c)** Funds distributed to a military installation exchange  
4 under this section must be deposited in the Military Morale, Recreation, and Welfare  
5 Fund for that installation and used only for community services and other expenditures  
6 to improve quality of life programs for military members and their families in North  
7 Carolina.

#### 8 9 **LICENSING BOARD REPORTING REQUIREMENT**

10 **SECTION 17.4.** G.S. 93B-2(b) reads as rewritten:

11 "(b) Each occupational licensing board shall file with the Secretary of State, the  
12 Attorney General, the Office of State Budget and Management, and the Joint Legislative  
13 Administrative Procedure Oversight Committee a financial report that includes the  
14 source and amount of all funds credited to the occupational licensing board and the  
15 purpose and amount of all funds disbursed by the occupational licensing board during  
16 the previous 12-month period."

#### 17 18 **STAFFING ANALYSIS OF STATE AGENCY BUSINESS FUNCTIONS**

19 **SECTION 17.5.(a)** The Office of State Budget and Management, in  
20 consultation with the Office of State Controller and the Office of State Personnel, shall  
21 conduct annual follow-up analyses to the Human Resources/Payroll Function Mapping  
22 Analysis that was completed in January 2007 by the BEACON staff and OSBM. This  
23 initial analysis was conducted to provide not only a preimplementation assessment of  
24 State agency Human Resources/Payroll staffing prior to BEACON HR/Payroll  
25 implementation but also to provide a basis on which new HR/Payroll roles required by  
26 BEACON implementation could be mapped. These follow-up analyses of State agency  
27 HR/Payroll staffing should be completed by January 1 of each year to assure the staffing  
28 levels remain appropriate. The annual staffing analyses shall be conducted throughout  
29 the implementation of the BEACON HR/Payroll System and shall continue for a  
30 reasonable time after the implementation to assure that the staffing levels are adjusted  
31 based on the increased efficiency provided by the implementation.

32 **SECTION 17.5.(b)** The Office of State Budget and Management, in  
33 consultation with the Office of State Controller, shall conduct a staffing analysis of the  
34 business functions of State government to include, but not necessarily be limited to,  
35 agency fiscal offices, budget offices, and procurement offices to be completed by April  
36 30, 2008. This initial analysis will serve as a preimplementation assessment of State  
37 agency business functions staffing prior to the proposed implementation of the  
38 remaining components of the BEACON ERP System. Follow-up analyses should be  
39 conducted annually and completed by January 1 of each year to assure the staffing  
40 levels remain appropriate. The annual staffing analyses shall be conducted throughout  
41 the implementation of future BEACON components and shall continue for a reasonable  
42 time after the implementation to assure that the staffing levels are adjusted based on the  
43 increased efficiency provided by the implementation.

44 **SECTION 17.5.(c)** Staffing metrics developed in association with the  
45 staffing analyses of HR/Payroll and the other business functions should be incorporated  
46 into Results Based Budgeting documents and allow for comparison between State  
47 agencies in these areas.

#### 48 49 **STUDY OF THE WORKERS' COMPENSATION PROGRAM IN STATE** 50 **AGENCIES**

51 **SECTION 17.6.** The Office of State Budget and Management, in  
52 consultation with the Office of State Personnel and the Office of State Controller, shall  
53 conduct a study of the Workers' Compensation Program in State agencies and  
54 institutions to determine if the third-party administration of the program continues to be  
55 the most effective mode of administration; to determine if the current method of funding

1 is still the most effective method; to determine whether excess coverage policies are  
2 needed; and to identify any other operational inefficiencies in program operations that  
3 might exist. The Office of State Budget and Management shall submit a final report  
4 outlining the related findings and recommendations for improvements to the Joint  
5 Legislative Commission on Governmental Operations and the Fiscal Research Division  
6 by April 30, 2008.

7  
8 **STAFFING ANALYSIS OF THE ETHICS COMMISSION AND THE**  
9 **LOBBYIST REGISTRATION SECTION OF THE SECRETARY OF**  
10 **STATE'S OFFICE**

11 **SECTION 17.7.** The Office of State Budget and Management shall conduct  
12 a staffing analysis of the Ethics Commission and the Lobbyist Registration Section of  
13 the Secretary of State's Office to determine if the staffing is appropriate for the  
14 workload volume that has been generated by the enactment of Session Law 2006-221.  
15 The Office of State Budget and Management shall submit a final report outlining its  
16 findings and staffing recommendations to the Joint Legislative Commission on  
17 Governmental Operations and the Fiscal Research Division by April 30, 2008.

18  
19 **PART XVIII. DEPARTMENT OF REVENUE**

20  
21 **TWENTY PERCENT (20%) COLLECTION ASSISTANCE FEE**

22 **SECTION 18.1.** G.S. 105-243.1(e) reads as rewritten:

23 "(e) Use. – The fee is a receipt of the Department and must be applied to the costs  
24 of collecting overdue tax debts. The proceeds of the fee must be credited to a special  
25 account within the Department and may be expended only as provided in this  
26 subsection. The proceeds of the fee may not be used for any purpose that is not directly  
27 and primarily related to collecting overdue tax debts. The Department may apply the  
28 proceeds of the fee for the purposes listed in this subsection. The remaining proceeds of  
29 the fee may be spent only pursuant to appropriation by the General Assembly. The fee  
30 proceeds do not revert but remain in the special account until spent for the costs of  
31 collecting overdue tax debts. The Department and the Office of State Budget and  
32 Management must account for all expenditures using accounting procedures that clearly  
33 distinguish costs allocable to collecting overdue tax debts from costs allocable to other  
34 purposes and must demonstrate that none of the fee proceeds are used for any purpose  
35 other than collecting overdue tax debts.

36 The Department may apply the fee proceeds for the following purposes:

- 37 (1) To pay contractors for collecting overdue tax debts under subsection  
38 (b) of this section.
- 39 (2) To pay the fee the United States Department of the Treasury charges  
40 for setoff to recover tax owed to North Carolina.
- 41 (3) To pay for taxpayer locator services, not to exceed one hundred fifty  
42 thousand dollars (\$150,000) a year.
- 43 (4) To pay for postage or other delivery charges for correspondence  
44 directly and primarily relating to collecting overdue tax debts, not to  
45 exceed three hundred fifty-three thousand dollars (\$353,000) a year.
- 46 (5) To pay for operating expenses for Project Collection Tax and the  
47 Taxpayer Assistance Call Center.
- 48 (6) To pay for expenses of the Examination and Collection Division  
49 directly and primarily relating to collecting overdue tax debts.
- 50 (7) To pay for the replacement of the Integrated Tax Administration  
51 System (ITAS) and related e-Business initiatives, not to exceed forty  
52 million dollars (\$40,000,000)."

53  
54 **WHITE GOODS DISPOSAL TAX PROGRAM**

55 **SECTION 18.2.** G.S. 105-187.24 reads as rewritten:

**"§ 105-187.19 Use of tax proceeds.**

The Secretary shall distribute the taxes collected under this Article, less the Department of Revenue's allowance for administrative expenses, in accordance with this section. The Secretary may retain the Department's cost of collection, not to exceed ~~two hundred twenty five thousand dollars (\$225,000)~~ four hundred twenty-five thousand dollars (\$425,000) a year, as reimbursement to the Department.

Each quarter, the Secretary shall credit eight percent (8%) of the net tax proceeds to the Solid Waste Management Trust Fund and shall credit twenty percent (20%) of the net tax proceeds to the White Goods Management Account. The Secretary shall distribute the remaining seventy-two percent (72%) of the net tax proceeds among the counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer. The Department shall not distribute the tax proceeds to a county when notified not to do so by the Department of Environment and Natural Resources under G.S. 130A-309.87. If a county is not entitled to a distribution, the proceeds allocated for that county will be credited to the White Goods Management Account.

A county may use funds distributed to it under this section only as provided in G.S. 130A-309.82. A county that receives funds under this section and that has an interlocal agreement with another unit of local government under which the other unit provides for the disposal of solid waste for the county must transfer the amount received under this section to that other unit. A unit to which funds are transferred is subject to the same restrictions on use of the funds as the county."

**SCRAP TIRE DISPOSAL TAX PROGRAM**

**SECTION 18.3.** G.S. 105-187.19(a) reads as rewritten:

"(a) The Secretary shall distribute the taxes collected under this Article, less the allowance to the Department of Revenue for administrative expenses, in accordance with this section. The Secretary may retain the cost of collection by the Department, not to exceed ~~two hundred twenty five thousand dollars (\$225,000)~~ four hundred twenty-five thousand dollars (\$425,000) a year, as reimbursement to the Department."

**PART XIX. SALARIES AND BENEFITS**

**GOVERNOR AND COUNCIL OF STATE**

**SECTION 19.1.(a)** Effective July 1, 2007, G.S. 147-11(a) reads as rewritten:

"(a) The salary of the Governor shall be ~~one hundred thirty thousand six hundred twenty nine dollars (\$130,629)~~ one hundred thirty three thousand eight hundred ninety-five dollars (\$133,895) annually, payable monthly."

**SECTION 19.1.(b)** Effective July 1, 2007, the annual salaries for the members of the Council of State, payable monthly, for the 2007-2008 and 2008-2009 fiscal years are:

<u>Council of State</u>	<u>Annual Salary</u>
Lieutenant Governor	\$ 118,171
Attorney General	118,171
Secretary of State	118,171
State Treasurer	118,171
State Auditor	118,171
Superintendent of Public Instruction	118,171
Agriculture Commissioner	118,171
Insurance Commissioner	118,171
Labor Commissioner	118,171

**NONELECTED DEPARTMENT HEAD/SALARY INCREASES**

1           **SECTION 19.2.** In accordance with G.S. 143B-9, the maximum annual  
2 salaries, payable monthly, for the nonelected heads of the principal State departments  
3 for the 2007-2008 and 2008-2009 fiscal years are:

<u>Nonelected Department Heads</u>	<u>Annual Salary</u>
Secretary of Administration	\$ 115,453
Secretary of Correction	115,453
Secretary of Crime Control and Public Safety	115,453
Secretary of Cultural Resources	115,453
Secretary of Commerce	115,453
Secretary of Environment, Health, and Natural Resources	115,453
Secretary of Human Resources	115,453
Secretary of Revenue	115,453
Secretary of Transportation	115,453

16 **CERTAIN EXECUTIVE BRANCH OFFICIALS/SALARY INCREASES**

17           **SECTION 19.3.** The annual salaries, payable monthly, for the 2007-2008  
18 and 2008-2009 fiscal years for the following executive branch officials are:

<u>Executive Branch Officials</u>	<u>Annual Salary</u>
Chairman, Alcoholic Beverage Control Commission	\$ 105,083
State Controller	147,064
Commissioner of Motor Vehicles	105,083
Commissioner of Banks	118,171
Chairman, Employment Security Commission	136,490
State Personnel Director	115,453
Chairman, Parole Commission	95,953
Members of the Parole Commission	44,293
Chairman, Utilities Commission	131,605
Members of the Utilities Commission	118,171
Executive Director, Agency for Public Telecommunications	88,588
Director, Museum of Art	107,676
Executive Director, North Carolina Agricultural Finance Authority	102,284
State Chief Information Officer	146,975

36 **JUDICIAL BRANCH OFFICIALS/SALARY INCREASES**

37           **SECTION 19.4.(a)** The annual salaries, payable monthly, for specified  
38 judicial branch officials for the 2007-2008 and 2008-2009 fiscal years are:

<u>Judicial Branch Officials</u>	<u>Annual Salary</u>
Chief Justice, Supreme Court	\$ 133,895
Associate Justice, Supreme Court	130,395
Chief Judge, Court of Appeals	127,135
Judge, Court of Appeals	124,963
Judge, Senior Regular Resident Superior Court	121,567
Judge, Superior Court	118,171
Chief Judge, District Court	107,306
Judge, District Court	103,910
Administrative Officer of the Courts	121,567
Assistant Administrative Officer of the Courts	111,040

52           **SECTION 19.4.(b)** The district attorney or public defender of a judicial  
53 district, with the approval of the Administrative Officer of the Courts or the  
54 Commission on Indigent Defense Services, respectively, shall set the salaries of  
55 assistant district attorneys or assistant public defenders, respectively, in that district such

1 that the average salaries of assistant district attorneys or assistant public defenders in  
 2 that district do not exceed sixty-eight thousand fifty-one dollars (\$68,051), and the  
 3 minimum salary of any assistant district attorney or assistant public defender is at least  
 4 thirty-five thousand five hundred sixty-one dollars (\$35,561) effective July 1, 2007.

5  
 6 **CLERK OF SUPERIOR COURT SALARY INCREASES**

7 **SECTION 19.5.** Effective July 1, 2007 G.S. 7A-101(a) reads as rewritten:

8 "(a) The clerk of superior court is a full-time employee of the State and shall  
 9 receive an annual salary, payable in equal monthly installments, based on the population  
 10 of the county as determined in subsection (a1) of this section, according to the following  
 11 schedule:

<u>Population</u>	<u>Population</u>	<u>Annual Salary</u>	<u>Annual Salary</u>
Less than 100,000		\$77,112	79,040
100,000 to 149,999		86,532	88,695
150,000 to 249,999		95,954	98,353
250,000 and above		105,378	108,612.

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 19 The salary schedule in this subsection is intended to represent the following  
 20 approximate percentage of the salary of a chief district court judge:

<u>Population</u>	<u>Population</u>	<u>Annual Salary</u>	<u>Annual Salary</u>
Less than 100,000			73%
100,000 to 149,999			82%
150,000 to 249,999			91%
250,000 and above			100%.

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 28 When a county changes from one population group to another, the salary of the clerk  
 29 shall be changed, on July 1 of the fiscal year for which the change is reported, to the  
 30 salary appropriate for the new population group, except that the salary of the incumbent  
 31 clerk shall not be decreased by any change in population group during his continuance  
 32 in office."  
 33

34 **ASSISTANT AND DEPUTY CLERKS OF COURT/SALARY**  
 35 **INCREASES/ELIMINATE DEPUTY CLERK HIRING RATE**

36 **SECTION 19.6.** Effective July 1, 2007, G.S. 7A-102(c1) reads as rewritten:

37 "(c1) A full-time assistant clerk or a full-time deputy clerk, and up to one full-time  
 38 deputy clerk serving as head bookkeeper per county, shall be paid an annual salary  
 39 subject to the following minimum and maximum rates:

<u>Assistant Clerks and</u>	<u>Assistant Clerks and</u>	<u>Annual Salary</u>	<u>Annual Salary</u>
<u>Head Bookkeeper</u>	<u>Head bookkeeper</u>		
Minimum		\$29,925	30,673
Maximum		51,251	52,532
<u>Deputy Clerks</u>	<u>Deputy Clerks</u>	<u>Annual Salary</u>	<u>Annual Salary</u>
Minimum		\$25,758	26,402
Maximum		39,862	40,859."

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 50 **MAGISTRATES' SALARY INCREASES**

51 **SECTION 19.7.(a)** Effective July 1, 2007, G.S. 7A-171.1(a) reads as  
 52 rewritten:

53 "(a) The Administrative Officer of the Courts, after consultation with the chief  
 54 district judge and pursuant to the following provisions, shall set an annual salary for  
 55 each magistrate.



- 1 (1) A full-time magistrate shall be paid the annual salary indicated in the  
 2 table set out in this subdivision. A full-time magistrate is a magistrate  
 3 who is assigned to work an average of not less than 40 hours a week  
 4 during the term of office. The Administrative Officer of the Courts  
 5 shall designate whether a magistrate is full-time. Initial appointment  
 6 shall be at the entry rate. A magistrate's salary shall increase to the  
 7 next step every two years on the anniversary of the date the magistrate  
 8 was originally appointed for increases to Steps 1 through 3, and every  
 9 four years on the anniversary of the date the magistrate was originally  
 10 appointed for increases to Steps 4 through 6.

Table of Salaries of Full-Time Magistrates

<del>Step Level</del>	<u>Step Level</u>	<del>Annual Salary</del>	<u>Annual Salary</u>
	Entry Rate	\$30,320	\$31,078
	Step 1	33,101	33,929
	Step 2	36,126	37,029
	Step 3	39,429	40,415
	Step 4	43,046	44,122
	Step 5	47,122	48,300
	Step 6	51,692	52,984

- 21 (2) A part-time magistrate is a magistrate who is assigned to work an  
 22 average of less than 40 hours of work a week during the term, except  
 23 that no magistrate shall be assigned an average of less than 10 hours of  
 24 work a week during the term. A part-time magistrate is included, in  
 25 accordance with G.S. 7A-170, under the provisions of G.S. 135-1 (10)  
 26 and G.S. 135-40.2 (a). The Administrative Officer of the Courts  
 27 designates whether a magistrate is a part-time magistrate. A part-time  
 28 magistrate shall receive an annual salary based on the following  
 29 formula: The average number of hours a week that a part-time  
 30 magistrate is assigned work during the term shall be multiplied by the  
 31 annual salary payable to a full-time magistrate who has the same  
 32 number of years of service prior to the beginning of that term as does  
 33 the part-time magistrate and the product of that multiplication shall be  
 34 divided by the number 40. The quotient shall be the annual salary  
 35 payable to that part-time magistrate.

- 36 (3) Notwithstanding any other provision of this subsection, an individual  
 37 who, when initially appointed as a full-time magistrate, is licensed to  
 38 practice law in North Carolina, shall receive the annual salary provided  
 39 in the Table in subdivision (1) of this subsection for Step 4. This  
 40 magistrate's salary shall increase to the next step every four years on  
 41 the anniversary of the date the magistrate was originally appointed. An  
 42 individual who, when initially appointed as a part-time magistrate, is  
 43 licensed to practice law in North Carolina, shall be paid an annual  
 44 salary based on that for Step 4 and determined according to the  
 45 formula in subdivision (2) of this subsection. This magistrate's salary  
 46 shall increase to the next step every four years on the anniversary of  
 47 the date the magistrate was originally appointed. The salary of a  
 48 full-time magistrate who acquires a license to practice law in North  
 49 Carolina while holding the office of magistrate and who at the time of  
 50 acquiring the license is receiving a salary at a level lower than Step 4  
 51 shall be adjusted to Step 4 and, thereafter, shall advance in accordance  
 52 with the Table's schedule. The salary of a part-time magistrate who  
 53 acquires a license to practice law in North Carolina while holding the  
 54 office of magistrate and who at the time acquiring the license is  
 55 receiving an annual salary as determined by subdivision (2) of this

1 subsection based on a salary level lower than Step 4 shall be adjusted  
 2 to a salary based on Step 4 in the Table, and, thereafter, shall advance  
 3 in accordance with the provision in subdivision (2) of this subsection."

4 **SECTION 19.7.(b)** Effective July 1, 2007, G.S. 7A-171.1(a1)(1) reads as  
 5 rewritten:

6 "(1) The salaries of magistrates who on June 30, 1994, were paid at a salary  
 7 level of less than five years of service under the table in effect that date  
 8 shall be as follows:

9	Less than 1 year of service	\$24,450 <u>25,061</u>
10	1 or more but less than 3 years of service	<u>25,572</u> 26,211
11	3 or more but less than 5 years of service	<u>27,831</u> -28,527."
12		
13		

#### 14 GENERAL ASSEMBLY PRINCIPAL CLERKS

15 **SECTION 19.8.** Effective July 1, 2007, G.S. 120-37(c) reads as rewritten:

16 "(c) The principal clerks shall be full-time officers. Each principal clerk shall be  
 17 entitled to other benefits available to permanent legislative employees and shall be paid  
 18 an annual salary of ~~ninety seven thousand four hundred two dollars (\$97,402)~~ ninety-  
 19 nine thousand eight hundred thirty-seven dollars (\$99,837) payable monthly. Each  
 20 principal clerk shall also receive such additional compensation as approved by the  
 21 Speaker of the House of Representatives or the President Pro Tempore of the Senate,  
 22 respectively, for additional employment duties beyond those provided by the rules of  
 23 their House. The Legislative Services Commission shall review the salary of the  
 24 principal clerks prior to submission of the proposed operating budget of the General  
 25 Assembly to the Governor and shall make appropriate recommendations for changes in  
 26 those salaries. Any changes enacted by the General Assembly shall be by amendment to  
 27 this paragraph."  
 28

#### 29 SERGEANT-AT-ARMS AND READING CLERKS

30 **SECTION 19.9.** Effective July 1, 2007, G.S. 120-37(b) reads as rewritten:

31 "(b) The sergeant-at-arms and the reading clerk in each house shall be paid a  
 32 salary of ~~three hundred forty five dollars (\$345.00)~~ three hundred fifty-four dollars  
 33 (\$354.00) per week plus subsistence at the same daily rate provided for members of the  
 34 General Assembly, plus mileage at the rate provided for members of the General  
 35 Assembly for one round trip only from their homes to Raleigh and return. The  
 36 sergeants-at-arms shall serve during sessions of the General Assembly and at such time  
 37 prior to the convening of, and subsequent to adjournment or recess of, sessions as may  
 38 be authorized by the Legislative Services Commission. The reading clerks shall serve  
 39 during sessions only."  
 40

#### 41 LEGISLATIVE EMPLOYEES

42 **SECTION 19.10.** The Legislative Services Officer shall increase the salaries  
 43 of nonelected employees of the General Assembly in effect for fiscal year 2006-2007 by  
 44 two and one-half percent (2.5%). Nothing in this act limits any of the provisions of  
 45 G.S. 120-32.  
 46

#### 47 COMMUNITY COLLEGES PERSONNEL/SALARY INCREASES

48 **SECTION 19.11.(a)** The Director of the Budget shall transfer from the  
 49 Reserve for Compensation Increases, created in this act for fiscal years 2007-2008 and  
 50 2008-2009, funds to the North Carolina Community Colleges System Office necessary  
 51 to provide an annual salary increase of two and one-half percent (2.5%) including funds  
 52 for the employer's retirement and social security contributions, commencing July 1,  
 53 2007, for all permanent full-time community college institutional personnel supported  
 54 by State funds.

1           **SECTION 19.11.(b)** The Director of the Budget shall transfer from the  
2 Reserve for Compensation Increases, created in this act for fiscal years 2007-2008 and  
3 2008-2009, funds to the North Carolina Community Colleges System Office necessary  
4 to provide an additional annual salary increase of two and one-half percent (2.5%), for  
5 Community College faculty and professional staff, including funds for the employer's  
6 retirement and social security contributions, supported by State funds. The additional  
7 two and one-half percent (2.5%) salary increase authorized by this section shall be made  
8 in accordance with rules adopted by the State Board of Community Colleges.  
9

#### 10 **UNIVERSITY OF NORTH CAROLINA SYSTEM/EPA SALARY INCREASES**

11           **SECTION 19.12.(a)** The Director of the Budget shall transfer to the Board  
12 of Governors of The University of North Carolina sufficient funds from the Reserve for  
13 Compensation Increases, created in this act for fiscal years 2007-2008 and 2008-2009,  
14 to provide an annual salary increase of two and one-half percent (2.5%), including funds  
15 for the employer's retirement and social security contributions, commencing July 1,  
16 2007, for all employees of The University of North Carolina, as well as employees other  
17 than teachers of the North Carolina School of Science and Mathematics, supported by  
18 State funds and whose salaries are exempt from the State Personnel Act (EPA).

19           **SECTION 19.12.(b)** The Director of the Budget shall transfer to the Board  
20 of Governors of The University of North Carolina sufficient funds from the Reserve for  
21 Compensation Increases, created in this act for fiscal years 2007-2008 and 2008-2009,  
22 to provide an average annual salary increase of five percent (5%) or at least an annual  
23 increase of one thousand two hundred forty dollars (\$1,240), including funds for the  
24 employer's retirement and social security contributions, commencing July 1, 2007, for  
25 all teaching employees of the North Carolina School of Science and Mathematics,  
26 supported by State funds and whose salaries are exempt from the State Personnel Act  
27 (EPA). These funds shall be allocated to individuals according to the rules adopted by  
28 the Board of Trustees of the North Carolina School of Science and Mathematics and  
29 may not be used for any purpose other than for salary increases and necessary employer  
30 contributions provided by this section.  
31

#### 32 **MOST STATE EMPLOYEES**

33           **SECTION 19.13.(a)** The salaries in effect June 30, 2007, of all permanent  
34 full-time State employees whose salaries are set in accordance with the State Personnel  
35 Act, and who are paid from the General Fund or the Highway Fund, shall be increased,  
36 on or after July 1, 2007, unless otherwise provided by this act, by two and one-half  
37 percent (2.5%).

38           **SECTION 19.13.(b)** Except as otherwise provided in this act, the fiscal year  
39 2007-2008 salaries for permanent full-time State officials and persons in exempt  
40 positions that are recommended by the Governor or the Governor and the Advisory  
41 Budget Commission and set by the General Assembly shall be increased by two and  
42 one-half percent (2.5%), commencing July 1, 2007.

43           **SECTION 19.13.(c)** The salaries in effect for fiscal year 2007-2008 for all  
44 permanent part-time State employees shall be increased on and after July 1, 2007, by  
45 pro rata amounts of the two and one-half percent (2.5%) salary increase provided for  
46 permanent full-time employees covered under this part.

47           **SECTION 19.13.(d)** The Director of the Budget may allocate out of special  
48 operating funds or from other sources of the employing agency, except tax revenues,  
49 sufficient funds to allow a salary increase, on and after July 1, 2007, in accordance with  
50 subsection (a), (b), or (c) of this section including funds for the employer's retirement  
51 and social security contributions, for the permanent full-time and part-time employees  
52 of the agency, provided the employing agency elects to make available the necessary  
53 funds.

54           **SECTION 19.13.(e)** Within regular Executive Budget Act procedures as  
55 limited by this act, all State agencies and departments may increase on an equitable

1 basis the rate of pay of temporary and permanent hourly State employees, subject to  
2 availability of funds in the particular agency or department, by pro rata amounts of the  
3 two and one-half percent (2.5%) salary increase provided for permanent full-time  
4 employees covered by the provisions of subsection (a), commencing July 1, 2007.  
5

#### 6 **ALL STATE-SUPPORTED PERSONNEL**

7 **SECTION 19.14.(a)** Salaries and related benefits for positions that are  
8 funded partially from the General Fund or Highway Fund and partially from sources  
9 other than the General Fund or Highway Fund shall be increased from the General Fund  
10 or Highway Fund appropriation only to the extent of the proportionate part of the  
11 salaries paid from the General Fund or Highway Fund.

12 **SECTION 19.14.(b)** The granting of the salary increases under this act does  
13 not affect the status of eligibility for salary increments for which employees may be  
14 eligible unless otherwise required by this act.

15 **SECTION 19.14.(c)** The salary increases provided in this act are to be  
16 effective July 1, 2007, do not apply to persons separated from State service due to  
17 resignation, dismissal, reduction in force, death, or retirement, or whose last workday is  
18 prior to July 1, 2007.

19 Payroll checks issued to employees after July 1, 2007, which represent  
20 payment of services provided prior to July 1, 2007, shall not be eligible for salary  
21 increases provided for in this act. This subsection shall apply to all employees, subject  
22 to or exempt from the State Personnel Act, paid from State funds, including public  
23 schools, community colleges, and The University of North Carolina.

24 **SECTION 19.14.(d)** The Director of the Budget shall transfer from the  
25 Reserve for Compensation Increases in this act for fiscal year 2007-2008 all funds  
26 necessary for the salary increases provided by this act, including funds for the  
27 employer's retirement and social security contributions.

28 **SECTION 19.14.(e)** Nothing in this act authorizes the transfer of funds  
29 between the General Fund and the Highway Fund for salary increases.  
30

#### 31 **TEMPORARY SALES TAX TRANSFER FOR WILDLIFE RESOURCES** 32 **COMMISSION SALARIES**

33 **SECTION 19.15.(a)** For the 2007-2008 and 2008-2009 fiscal years, the  
34 Secretary of Revenue shall transfer at the end of each quarter from the State sales and  
35 use tax net collections received by the Department of Revenue under Article 5 of  
36 Chapter 105 of the General Statutes to the State Treasurer for the Wildlife Resources  
37 Fund to fund the cost of any legislative salary increase for employees of the Wildlife  
38 Resources Commission.  
39

#### 40 **SALARY-RELATED CONTRIBUTIONS/EMPLOYER**

41 **SECTION 19.16.(a)** Required employer salary-related contributions for  
42 employees whose salaries are paid from department, office, institution, or agency  
43 receipts shall be paid from the same source as the source of the employees' salary. If an  
44 employee's salary is paid in part from the General Fund or Highway Fund and in part  
45 from department, office, institution, or agency receipts, required employer salary-related  
46 contributions may be paid from the General Fund or Highway Fund only to the extent of  
47 the proportionate part paid from the General Fund or Highway Fund in support of the  
48 salary of the employee, and the remainder of the employer's requirements shall be paid  
49 from the source that supplies the remainder of the employee's salary. The requirements  
50 of this section as to source of payment are also applicable to payments on behalf of the  
51 employee for hospital-medical benefits, longevity pay, unemployment compensation,  
52 accumulated leave, workers' compensation, severance pay, separation allowances, and  
53 applicable disability income benefits.

54 **SECTION 19.16.(b)** Effective July 1, 2007, the State's employer  
55 contribution rates budgeted for retirement and related benefits as percentage of covered

1 salaries for the 2007-2008 fiscal year are (i) seven and fourteen hundredths percent  
2 (7.14%) – Teachers and State Employees; (ii) twelve and fourteen hundredths percent  
3 (12.14%) – State Law Enforcement Officers; (iii) eleven and sixteen hundredths percent  
4 (11.16%) – University Employees' Optional Retirement System; (iv) eleven and sixteen  
5 hundredths percent (11.16%) – Community College Optional Retirement Program; (v)  
6 sixteen and thirty-nine hundredths percent (16.39%) Consolidated Judicial Retirement  
7 System, and (vi) three and eight tenths percent (3.8%) – Legislative Retirement System.  
8 Each of the foregoing contribution rates includes three and eight tenths percent (3.8%)  
9 for hospital and medical benefits. The rate for Teachers and State Employees, State  
10 Law Enforcement Officers, Community College Optional Retirement Program, and for  
11 the University Employees' Optional Retirement Program includes fifty-two hundredths  
12 percent (0.52%) for the Disability Income Plan. The rates for Teachers and State  
13 Employees and State Law Enforcement Officers include sixteen-hundredths percent  
14 (0.16%) for the Death Benefits Plan. The rate for State Law Enforcement Officers  
15 includes five percent (5%) for Supplemental Retirement Income.

16 **SECTION 19.16.(c)** The maximum annual employer contributions, payable  
17 monthly, by the State for each covered employee or retiree for the 2007-2008 fiscal year  
18 to the Indemnity Plan of the Teachers' and State Employees' Comprehensive Major  
19 Medical Plan are as follows: (i) Medicare-eligible employees and retirees – July 2007  
20 to September 2007: seven hundred thirty-three dollars (\$733.00); (ii) Medicare-eligible  
21 employees and retirees – October 2007 to June 2008: two thousand four hundred  
22 seventy-one dollars (\$2,471); (iii) non-Medicare-eligible employees and retirees – July  
23 2007 to September 2007: nine hundred sixty-three dollars (\$963.00); and (iv)  
24 non-Medicare-eligible employees and retirees – October 2007 to June 2008: three  
25 thousand two hundred forty-six dollars (\$3,246).

26 **SECTION 19.16.(d)** The maximum annual employer contributions, payable  
27 monthly, by the State for each covered employee or retiree for the 2007-2008 fiscal year  
28 to the Preferred Provider Organization (PPO) Teachers' and State Employees'  
29 Comprehensive Major Medical Plan are as follows: (i) Medicare-eligible employees  
30 and retirees – July 2007 to September 2007: seven hundred eleven dollars (\$711.00); (ii)  
31 Medicare-eligible employees and retirees – October 2007 to June 2008: two thousand  
32 three hundred ninety-seven dollars (\$2,397); (iii) non-Medicare-eligible employees and  
33 retirees – July 2007 to September 2007: nine hundred thirty-five dollars (\$935.00); and  
34 (iv) non-Medicare-eligible employees and retirees – October 2007 to June 2008: three  
35 thousand one hundred forty-nine dollars (\$3,149).

36 **SECTION 19.16.(e)** The maximum annual employer contributions, payable  
37 monthly, by the State for each covered employee or retiree for the 2008-2009 fiscal year  
38 to the Indemnity Plan of the Teachers' and State Employees' Comprehensive Major  
39 Medical Plan are: (i) Medicare-eligible employees and retirees – July 2008 to June  
40 2009: three thousand two hundred ninety-five dollars (\$3,295) and (ii)  
41 non-Medicare-eligible employees and retirees – July 2008 to June 2009: four thousand  
42 three hundred twenty-eight dollars (\$4,328).

43 **SECTION 19.16.(f)** The maximum annual employer contributions, payable  
44 monthly, by the State for each covered employee or retiree for the 2008-2009 fiscal year  
45 to the Preferred Provider Organization (PPO) of the Teachers' and State Employees'  
46 Comprehensive Major Medical Plan are: (i) Medicare-eligible employees and retirees –  
47 July 2008 to June 2009: three thousand one hundred ninety-six dollars (\$3,196) and (ii)  
48 non-Medicare-eligible employees and retirees – July 2008 to June 2009: four thousand  
49 one hundred ninety-eight dollars (\$4,198).

## 50 STATE HEALTH PLAN BENEFIT CHANGES

51 **SECTION 19.17.(a)** G.S. 135-40.5 reads as rewritten:

52 "(g) Prescription Drugs. – The Plan's allowable charges for prescription legend  
53 drugs to be used outside of a hospital or skilled nursing facility are to be determined by  
54 the Plan's Executive Administrator and Board of Trustees. ~~The~~ For both Indemnity Plan  
55

1 and Preferred Provider Option (PPO) members, the Plan will pay allowable charges for  
2 each outpatient prescription drug less a copayment to be paid by each covered  
3 individual equal to the following amounts: pharmacy charges up to ~~ten dollars (\$10.00)~~  
4 ~~fifteen dollars (\$15.00)~~ for each generic prescription, ~~twenty five dollars (\$25.00)~~ ~~thirty~~  
5 ~~dollars (\$30.00)~~ for each preferred branded prescription, and forty dollars (\$40.00) for  
6 each preferred branded prescription with a generic equivalent drug, and fifty dollars  
7 (\$50.00) for each nonpreferred branded or generic ~~prescription.~~ prescription not on a  
8 formulary used by the Plan.

9 Allowable charges shall not be greater than a pharmacy's usual and customary  
10 charge to the general public for a particular prescription. Prescriptions shall be for no  
11 more than a 34-day supply for the purposes of the copayments paid by each covered  
12 individual. By accepting the copayments and any remaining allowable charges provided  
13 by this subsection, pharmacies shall not balance bill an individual covered by the Plan.  
14 A prescription legend drug is defined as an article the label of which, under the Federal  
15 Food, Drug, and Cosmetic Act, is required to bear the legend: "Caution: Federal Law  
16 Prohibits Dispensing Without Prescription." Such articles may not be sold to or  
17 purchased by the public without a prescription order. Benefits are provided for insulin  
18 even though a prescription is not required. The Plan may use a pharmacy benefit  
19 manager to help manage the Plan's outpatient prescription drug coverage. In managing  
20 the Plan's outpatient prescription drug benefits, the Plan and its pharmacy benefit  
21 manager shall not provide coverage for erectile dysfunction, growth hormone,  
22 antiwrinkle, weight loss, and hair growth drugs unless such coverage is medically  
23 necessary to the health of the member. The Plan and its pharmacy benefit manager shall  
24 not provide coverage for growth hormone and weight loss drugs and antifungal drugs  
25 for the treatment of nail fungus and botulinum toxin without approval in advance by the  
26 pharmacy benefit manager. Any formulary used by the Plan's Executive Administrator  
27 and pharmacy benefit manager shall be an open formulary. Plan members shall not be  
28 assessed more than two thousand five hundred dollars (\$2,500) per person per fiscal  
29 year in copayments required by this subsection."

30 **SECTION 19.17.(b)** The first paragraph of G.S. 135-40.6 reads as rewritten:  
31 "~~The For Indemnity Plan members, the~~ benefits provided in this section are subject  
32 to a deductible of ~~three hundred fifty dollars (\$350.00)~~ four hundred fifty dollars  
33 (\$450.00) per covered individual to an aggregate maximum of one thousand fifty dollars  
34 (\$1,050) per employee and child(ren) or employee and family coverage contract per  
35 fiscal year and are payable on the basis of eighty percent (80%) by the Plan and twenty  
36 percent (20%) by the covered individual up to a maximum of two thousand dollars  
37 (\$2,000) out-of-pocket per fiscal year. The aggregate maximum out-of-pocket required  
38 of individuals covered by this section shall not be more than six thousand dollars  
39 (\$6,000) per employee and child(ren) or employee and family coverage contract per  
40 fiscal year."

41 **SECTION 19.17.(c)** G.S. 135-40.6(7)a. reads as rewritten:

42 "(7) Medical Benefits. –

- 43 a. Services of Doctors. – The Plan pays the usual, reasonable and  
44 customary charges for covered inpatient medical (nonsurgical)  
45 services. Services are covered if the individual is  
46 hospital-confined and is eligible for hospitalization benefits as  
47 described in this section. Benefits are provided for exactly the  
48 same number of days as the individual is entitled to under this  
49 section, except that medical benefits are provided on both the  
50 day of admission and the day of discharge.

51 In the event a covered individual is treated by two or more  
52 co-attending doctors during the same hospital confinement for a  
53 medical (nonsurgical) condition, benefits are limited to payment  
54 for services provided by the primary attending doctor, except

1 where need is established for supplementary skills for treatment  
2 of separate and distinct diagnoses or conditions.

3 Home, office, and skilled nursing facility visits including (i)  
4 charges for injected medications, (ii) inpatient care by attending  
5 medical doctors, radiologists, pathologists, and consultants  
6 during such time as hospital benefits are paid under any section  
7 of this Plan, (iii) care in the outpatient department of a hospital,  
8 and (iv) administration of shock therapy (drug or electric)  
9 including the services of anesthesiologists provided on an office  
10 or hospital outpatient basis for treatment of acute psychotic  
11 reaction or severe depression. For Indemnity Plan members, the  
12 Plan does not cover the first twenty-five dollars (\$25.00) of  
13 allowable charges for each home, office, or skilled nursing  
14 facility visit."

15  
16 **PROVIDE COST-OF-LIVING INCREASES FOR RETIREES OF THE**  
17 **TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE**  
18 **JUDICIAL RETIREMENT SYSTEM, AND THE LEGISLATIVE**  
19 **RETIREMENT SYSTEM**

20 **SECTION 19.18.(a)** G.S. 135-5 is amended by adding a new subsection to  
21 read:

22 "(qqq) From and after July 1, 2007, the retirement allowance to or on account of  
23 beneficiaries whose retirement commenced on or before July 1, 2006, shall be increased  
24 by two percent (2%) of the allowance payable on June 1, 2007, in accordance with  
25 G.S. 135-5(o). Furthermore, from and after July 1, 2007, the retirement allowance to or  
26 on account of beneficiaries whose retirement commenced after July 1, 2006, but before  
27 June 30, 2007, shall be increased by a prorated amount of two percent (2%) of the  
28 allowance payable as determined by the Board of Trustees based upon the number of  
29 months that a retirement allowance was paid between July 1, 2006, and June 30, 2007."

30 **SECTION 19.18.(b)** G.S. 135-65 is amended by adding a new subsection to  
31 read:

32 "(bb) From and after July 1, 2007, the retirement allowance to or on account of  
33 beneficiaries whose retirement commenced on or before July 1, 2006, shall be increased  
34 by two percent (2%) of the allowance payable on June 1, 2007. Furthermore, from and  
35 after July 1, 2007, the retirement allowance to or on account of beneficiaries whose  
36 retirement commenced after July 1, 2006, but before June 30, 2007, shall be increased  
37 by a prorated amount of two percent (2%) of the allowance payable as determined by  
38 the Board of Trustees based upon the number of months that a retirement allowance was  
39 paid between July 1, 2006, and June 30, 2007."

40 **SECTION 19.18.(c)** G.S. 120-4.22A is amended by adding a new subsection  
41 to read:

42 "(v) In accordance with subsection (a) of this section, from and after July 1, 2007,  
43 the retirement allowance to or on account of beneficiaries whose retirement commenced  
44 on or before January 1, 2007, shall be increased by two percent (2%) of the allowance  
45 payable on June 1, 2007. Furthermore, from and after July 1, 2007, the retirement  
46 allowance to or on account of beneficiaries whose retirement commenced after January  
47 1, 2007, but before June 30, 2007, shall be increased by a prorated amount of two  
48 percent (2%) of the allowance payable as determined by the Board of Trustees based  
49 upon the number of months that a retirement allowance was paid between January 1,  
50 2007, and June 30, 2007."

51 **SECTION 19.18.(d)** G.S. 128-27 is amended by adding a new section to  
52 read:

53 "(hhh) From and after July 1, 2007, the retirement allowance to or on account of  
54 beneficiaries whose retirement commenced on or before July 1, 2006, shall be increased  
55 by two percent (2%) of the allowance payable on June 1, 2007, in accordance with

1 subsection (k) of this section. Furthermore, from and after July 1, 2007, the retirement  
2 allowance to or on account of beneficiaries whose retirement commenced after July 1,  
3 2006, but before June 30, 2007, shall be increased by a prorated amount of two percent  
4 (2%) of the allowance payable as determined by the Board of Trustees based upon the  
5 number of months that a retirement allowance was paid between July 1, 2006, and June  
6 30, 2007."

## 7 8 **SALARY ADJUSTMENT FUND**

9 **SECTION 19.19.(a)** Any remaining appropriations in the General Fund  
10 Reserve for Compensation Increases authorized for employee salary increases not  
11 required for that purpose may be used to supplement the General Fund Salary  
12 Adjustment Fund to support salary adjustments for positions supported by the General  
13 Fund. Any remaining appropriations in the Highway Fund Reserves and Transfers  
14 authorized for employee salary increases not required for that purpose may be used to  
15 supplement the Highway Fund Salary Adjustment Fund to support salary adjustments  
16 for positions supported by the Highway Fund.

17 **SECTION 19.19.(b)** Funds appropriated or otherwise transferred to the  
18 General Fund Salary Adjustment Fund or to the Highway Fund Salary Adjustment Fund  
19 by this act or any other provision of law shall be used to fund agency requests for the  
20 following purposes:

- 21 (1) Salary range revisions, special minimum rates, grade to band transfers  
22 and geographic site differential adjustments to provide competitive  
23 salary rates for affected job groups.
- 24 (2) Reallocation of positions to higher-level job groups to compensate  
25 employees for more difficult duties.
- 26 (3) Career progression and in-range adjustments in order to recognize job  
27 change and to respond to market conditions.

28 Funds shall only be used for salary adjustments that are in compliance with State  
29 Personnel Commission policies. Funding shall first be provided to categories outlined in  
30 subdivision (b)(1) and subdivision (b)(2) beginning with the earliest actions approved  
31 by the State Personnel Commission or the Office of State Personnel. Any remaining  
32 funds may be used for adjustments outlined in subdivision (b)(3) in compliance with  
33 State Personnel Commission policies.

34 **SECTION 19.19.(c)** The Director of the Budget shall consult with the Joint  
35 Legislative Commission on Governmental Operations prior to transferring any salary  
36 adjustment funds for any State agency.

37 **SECTION 19.19.(d)** The Director of the Budget may:

- 38 (1) Transfer to General Fund budget codes from the General Fund Salary  
39 Adjustment Fund amounts required to support salary adjustments  
40 authorized by this section with the oldest of the pending adjustments to  
41 be funded first.
- 42 (2) Transfer to Highway Fund budget codes from the Highway Fund  
43 Salary Adjustment Fund amounts required to support salary  
44 adjustments authorized by this section.

45 **SECTION 19.19.(e)** The Judicial Department is eligible for the funding  
46 authorized in subsection (a) of this section.

47 **SECTION 19.19.(f)** Employees subject to the State Personnel Act in The  
48 University of North Carolina System are eligible for funding authorized in subsection  
49 (a) of this section and for the purposes outlined in subsection (b) of this section.

## 50 51 **PART XX. REVENUE LAW CHANGES**

### 52 53 **INTERNAL REVENUE CODE UPDATE**

54 **SECTION 20.1.(a)** G.S. 105-228.90(b)(1b) reads as rewritten:

55 "...



1 (b) Definitions. – The following definitions apply in this Article:

2 (1b) Code. – The Internal Revenue Code as enacted as of ~~January 1, 2006,~~  
3 January 1, 2007, including any provisions enacted as of that date  
4 which become effective either before or after that date."

5 **SECTION 20.1.(b)** Notwithstanding subsection (a) of this section, any  
6 amendments to the Internal Revenue Code enacted after January 1, 2006, that increase  
7 North Carolina taxable income for the 2006 taxable year become effective for taxable  
8 years beginning on or after January 1, 2007.

9 **SECTION 20.1.(c)** Subsections (a) and (b) of this section are effective when  
10 they become law.

## 11 NO-TAX FLOOR

12 **SECTION 20.2.(a)** Article 4 of Chapter 105 of the General Statutes is  
13 amended by adding a new section to read:

### 14 "**§ 105-151.30. No-Tax Floor.**

15 (a) The tax of an individual whose adjusted gross income (AGI) as calculated  
16 under the Code is less than the amount listed below shall be equal to their net tax as  
17 reduced by credits multiplied by the factor in subsection (b):

18 <u>Filing Status</u>	19 <u>AGI</u>
20 <u>Married, filing jointly</u>	20 <u>\$10,000</u>
21 <u>Head of Household</u>	21 <u>\$7,500</u>
22 <u>Single</u>	22 <u>\$5,000</u>
23 <u>Married, filing separately</u>	23 <u>\$5,000</u>

24  
25 (b) The factor for a resident is 0.0. The factor for a nonresident or part-year  
26 resident is one minus the fraction calculated under G.S. 105-134.5(b) or (c), as  
27 appropriate.

28 (c) The tax of an individual whose adjusted gross income (AGI) as calculated  
29 under the Code is greater than the amount indicated in subsection (a) for the relevant  
30 filing status and whose AGI is less than the amount listed below shall be equal to their  
31 net tax as reduced by credits multiplied by the factor in subsection (d):

32 <u>Filing Status</u>	33 <u>AGI</u>
34 <u>Married, filing jointly</u>	34 <u>\$25,000</u>
35 <u>Head of Household</u>	35 <u>\$20,000</u>
36 <u>Single</u>	36 <u>\$12,500</u>
37 <u>Married, filing separately</u>	37 <u>\$12,500</u>

38 (d) The factor for a resident is 0.5. The factor for a nonresident or part-year  
39 resident is one minus the product of 0.5 multiplied by the fraction calculated under  
40 G.S. 105-134.5(b) or (c), as appropriate."

41 **SECTION 20.2.(b)** This section becomes effective January 1, 2008.

## 42 SALES TAX CHANGE

43 **SECTION 20.3.** Section 34.1(c) of S.L. 2001-424, as amended by Section  
44 38.1 of S.L. 2003-284, Section 9.1 of S.L. 2005-144, and Section 33.1 of S.L. 2005-276,  
45 reads as rewritten:

46 "**SECTION 34.13.(c)** This section becomes effective October 16, 2001, and applies  
47 to sales made on or after that date. ~~This section is repealed effective for sales made on~~  
48 ~~or after July 1, 2007.~~ This section does not affect the rights or liabilities of the State, a  
49 taxpayer, or another person arising under a statute amended or repealed by this section  
50 before the effective date of its amendment or repeal; nor does it affect the right to any  
51 refund or credit of a tax that accrued under the amended or repealed statute before the  
52 effective data of its amendment or repeal."  
53

## 54 INCOME TAX CHANGE

1           **SECTION 20.4.(a)** Section 39.1 of S.L. 2003-284, as amended by Section  
2 36.1(a) of S.L. 2005-276, is repealed.

3           **SECTION 20.4.(b)** This section is effective January 1, 2008.

#### 4 5 **ADOPTION TAX CREDIT**

6           **SECTION 20.5.(a)** Article 4 of Chapter 105 of the General Statutes is  
7 amended by adding a new section to read as follows:

##### 8 **"§ 105-151.32. Credit for adoption expenses.**

9           (a) Credit. – An individual who is allowed a federal adoption tax credit under  
10 section 23 of the Code for the taxable year is allowed a credit against the tax imposed  
11 by this Part in an amount equal to fifty percent (50%) of the amount of the federal  
12 adoption tax credit claimed effective as of January 1, 2006.

13           (b) Limitations. – A nonresident or part-year resident who claims the credit  
14 allowed by this section shall reduce the amount of the credit by multiplying it by the  
15 fraction calculated under G.S. 105-134.5(b) or (c), as appropriate. The credit allowed  
16 under this section may not exceed the amount of tax imposed by this Part for the taxable  
17 year reduced by the sum of all credits allowed, except payments of tax made by or on  
18 behalf of the taxpayer."

19           **SECTION 20.5.(b)** This section is effective January 1, 2008.

#### 20 21 **COMBINED INCOME TAX REPORTING**

22           **SECTION 20.6.(a)** G.S. 105-130.2(5c) reads as rewritten:

##### 23 **"§ 105-130.2. Definitions.**

24           The following definitions apply in this Part:

25           ...  
26           (5c) State net income. – The taxpayer's federal taxable income as  
27 determined under the Code, adjusted as provided in G.S. 105-130.5  
28 and, in the case of a corporation that has income from business activity  
29 that is taxable both within and without this State, allocated and  
30 apportioned to this State as provided in G.S. 105-130.4. A  
31 corporation's net income in this State includes all of the following:

- 32           a. Its share of any income apportionable to this State of each of  
33 the combined groups of which it is a member.  
34           b. Its share of any income apportionable to this State of a distinct  
35 business activity conducted within or without the State wholly  
36 by the taxpayer.  
37           c. Its income from a business conducted wholly by the taxpayer  
38 entirely within this State.  
39           d. Its nonapportionable income or loss allocable to this State."

40           **SECTION 20.6.(b)** G.S. 105-130.4(a) reads as rewritten:

41           (a) As used in this section, unless the context otherwise requires:

42           (01) Affiliated group. – A group of two or more corporations in which more  
43 than fifty percent (50%) of the voting stock of each member  
44 corporation is directly or indirectly owned by a common owner or  
45 owners, either corporate or noncorporate, or by one or more of the  
46 member corporations.

47           (1) ~~"Apportionable income" means all income~~ Apportionable income. –  
48 All income that is apportionable under the United States Constitution.

49           (1a) Business activity. – Any activity by a corporation that would establish  
50 nexus under 15 U.S.C. § 381.

51           (1b) Casual sale of property. – The sale of any property which was not  
52 purchased, produced, or acquired primarily for sale in the corporation's  
53 regular trade or business.

54           (1c) Combined group. – The collective members of an affiliated group that  
55 are engaged in a unitary business.

- 1 (2) ~~"Commercial domicile" means the~~Commercial domicile. – The  
 2 principal place from which the trade or business of the taxpayer is  
 3 directed or managed.
- 4 (3) ~~"Compensation" means wages,~~ Compensation. – Wages, salaries,  
 5 commissions and any other form of remuneration paid to employees  
 6 for personal services.
- 7 (4) ~~"Excluded corporation" means any~~ Excluded corporation. – A  
 8 corporation engaged in business as a building or construction  
 9 contractor, a securities dealer, or a loan company or a corporation that  
 10 receives more than fifty percent (50%) of its ordinary gross income  
 11 from intangible property.
- 12 (5) ~~"Nonapportionable income" means all~~ Nonapportionable income. – All  
 13 income other than apportionable income.
- 14 (6) ~~"Public utility" means any~~ Public utility. – A corporation that is  
 15 subject to control of one or more of the following entities: the North  
 16 Carolina Utilities Commission, the Federal Communications  
 17 Commission, the Interstate Commerce Commission, the Federal  
 18 Energy Regulatory Commission, or the Federal Aviation Agency; and  
 19 that owns or operates for public use any plant, equipment, property,  
 20 franchise, or license for the transmission of communications, the  
 21 transportation of goods or persons, or the production, storage,  
 22 transmission, sale, delivery or furnishing of electricity, water, steam,  
 23 oil, oil products, or gas. The term also includes a motor carrier of  
 24 property whose principal business activity is transporting property by  
 25 motor vehicle for hire over the public highways of this State.
- 26 (7) ~~"Sales" means all~~ Sales. – All gross receipts of the corporation except  
 27 for the following receipts:  
 28 a. Receipts from a casual sale of property.  
 29 b. Receipts allocated under subsections (c) through (h) of this  
 30 section.  
 31 c. Receipts exempt from taxation.  
 32 d. The portion of receipts realized from the sale or maturity of  
 33 securities or other obligations that represents a return of  
 34 principal.
- 35 (8) ~~"Casual sale of property" means the sale of any property which was~~  
 36 ~~not purchased, produced or acquired primarily for sale in the~~  
 37 ~~corporation's regular trade or business.~~
- 38 (9) ~~"State" means any~~ State. – A state of the United States, the District of  
 39 Columbia, the Commonwealth of Puerto Rico, any territory or  
 40 possession of the United States, and any foreign country or political  
 41 subdivision thereof.
- 42 (10) Unitary business. – One or more related business organizations  
 43 engaged in business activity both within and without the State among  
 44 which one or more of the following exist:  
 45 a. A unity of ownership, operation, or use.  
 46 b. An interdependence in their functions."

47 **SECTION 20.6.(c)** G.S. 105-130.4(b) reads as rewritten:

48 "(b) A corporation having income from business activity which is taxable both  
 49 within and without this State shall allocate and apportion its net income or net loss as  
 50 provided in this ~~section~~ section and G.S. 105-130.4A. For purposes of allocation and  
 51 apportionment, a corporation is taxable in another state if (i) the corporation's business  
 52 activity in that state subjects it to a net income tax or a tax measured by net income, or  
 53 (ii) that state has jurisdiction based on the corporation's business activity in that state to  
 54 subject the corporation to a tax measured by net income regardless whether that state  
 55 exercises its jurisdiction. For purposes of this section, "business activity" includes any

1 activity by a corporation that would establish a taxable nexus pursuant to 15 United  
2 States Code section 381."

3 **SECTION 20.6.(d)** G.S. 105-130.4(i) reads as rewritten:

4 "(i) All apportionable income of corporations other than public utilities and  
5 excluded corporations shall be apportioned to this State by multiplying the income by a  
6 fraction, the numerator of which is the property factor plus the payroll factor plus twice  
7 the sales factor, and the denominator of which is four. Provided, that where the sales  
8 factor does not exist, the denominator of the fraction shall be the number of existing  
9 factors and where the sales factor exists but the payroll factor or the property factor does  
10 not exist, the denominator of the fraction shall be the number of existing factors plus  
11 one. The apportionable income of a corporation that is part of a combined group  
12 engaged in a unitary business shall be apportioned to this State as provided in  
13 G.S. 105-130.4A."

14 **SECTION 20.6.(e)** G.S. 105-130.4(l)(2) reads as rewritten:

15 "(2) Sales of tangible personal property are in this State if the property is  
16 received in this State by ~~the purchaser.~~ a purchaser other than the  
17 United States government. In addition, a sale of tangible personal  
18 property is in this State if the property is shipped from a place in this  
19 State and the purchaser is in the United States government or the  
20 taxpayer is not taxable in the state of the purchaser. In the case of  
21 delivery of goods by common carrier or by other means of  
22 transportation, including transportation by the purchaser, the place at  
23 which the goods are ultimately received after all transportation has  
24 been completed shall be considered as the place at which the goods are  
25 received by the purchaser. Direct delivery into this State by the  
26 taxpayer to a person or firm designated by a purchaser from within or  
27 without the State shall constitute delivery to the purchaser in this  
28 State."

29 **SECTION 20.6.(f)** Part 1 of Article 4 of Chapter 105 of the General Statutes  
30 is amended by adding two new sections to read:

31 **"§ 105.130.4A. Apportionment of income of combined group.**

32 (a) Combined Group. – The apportionable income of a combined group's unitary  
33 business is determined by eliminating income, deductions, and losses from all  
34 transactions between the members of the combined group associated with the combined  
35 group's unitary business. The apportionable income of the combined group's unitary  
36 business is apportioned in accordance with G.S. 105-130.4(i) through G.S. 105-130.4(l),  
37 including in the numerator the property, payroll, and sales associated with the combined  
38 group's unitary business in this State of each member of the combined group that has  
39 business activity in this State associated with the combined group's unitary business and  
40 including in the denominator the property, payroll, and sales of all members of the  
41 combined group that are associated with the combined group's unitary business.  
42 Members of a combined group may elect to determine the combined group's  
43 apportionable income pursuant to water's edge election under G.S. 105-130.4B.

44 (b) Member Share. – A member's share of the apportionable income of a  
45 combined group's unitary business apportioned to this State of which it is a member is  
46 the product of the following:

47 (1) The apportionable income of the combined group's unitary business  
48 apportionable to this State.

49 (2) The ratio of the member's State apportionment factors associated with  
50 the combined group's unitary business to the combined group's  
51 aggregate State apportionment factors associated with the combined  
52 group's unitary business.

53 **"§ 105-130.4B. Water's edge election.**

54 (a) Election. – Members of a combined group may elect to disregard the income  
55 and apportionment factors of a member of the combined group that is a foreign

1 corporation that conducts eighty percent (80%) or more of its business activity outside  
 2 the United States and outside of a tax haven country. A water's edge election must be  
 3 filed in writing with the Secretary. It is effective for the taxable year in which it is filed  
 4 and for the following 10 taxable years. The election will be automatically extended at  
 5 the end of the 10-year period unless notice is given in writing to the Secretary of intent  
 6 not to renew. The notice of intent not to renew must be made before the end of the last  
 7 two years of the election period.

8 (b) Withdrawal of Election. – An election may be withdrawn only upon written  
 9 request to the Secretary and only with the written permission of the Secretary. If the  
 10 Secretary grants a withdrawal of election, the Secretary must impose reasonable  
 11 conditions as necessary to prevent the evasion of tax or to clearly reflect income for the  
 12 election period prior to or after the withdrawal. A water's edge election, once terminated  
 13 by either a notice of withdrawal or a failure to renew, may not be renewed for a  
 14 minimum of three years.

15 (c) Definition. – For purposes of this section, the term 'tax haven country' has the  
 16 same meaning as in G.S. 143-59.1."

17 **SECTION 20.6.(g)** G.S. 105-130.14 reads as rewritten:

18 "**§ 105-130.14. Corporations filing consolidated returns for federal income tax**  
 19 **purposes. Combined reporting.**

20 Any corporation electing or required to file a consolidated income tax return with  
 21 the Internal Revenue Service shall not file a consolidated return with the Secretary of  
 22 Revenue, unless specifically directed to do so in writing by the Secretary, and shall  
 23 determine its State net income as if a separate return had been filed for federal purposes.

24 A corporation which is part of an affiliated group engaged in a unitary business must  
 25 file a report for the combined group containing the combined net income of the  
 26 combined group and any other information the Secretary may require. The use of a  
 27 combined report does not disregard the separate identities of the members of the  
 28 combined group. Each member of the combined group is responsible for tax based on  
 29 its taxable income or loss apportioned or allocated to this State."

30 **SECTION 20.7.(h)** This section becomes effective for taxable years  
 31 beginning on or after January 1, 2009.

32  
 33 **PART XXI. GENERAL CAPITAL APPROPRIATIONS/PROVISIONS**

34  
 35 **GENERAL FUND CAPITAL APPROPRIATIONS/INTRODUCTION**

36 **SECTION 21.1.** The appropriations made by the 2007 General Assembly  
 37 for capital improvements are for constructing, repairing, or renovating State buildings,  
 38 utilities, and other capital facilities, for acquiring sites for them where necessary, and  
 39 acquiring buildings and land for State government purposes.

40  
 41 **CAPITAL APPROPRIATIONS/GENERAL FUND**

42 **SECTION 21.2.** There is appropriated from the General Fund for the  
 43 2007-2008 fiscal year the following amount for capital improvements:

44	Capital Improvements – General Fund	2007-2008
45		
46	Department of Administration	
47	Court of Appeals Building Renovation	\$ 10,498,000
48	Deerfield Cottage Renovation	3,556,000
49	Green Square Complex – Planning and Design	2,500,000
50		
51	Department of Agriculture	
52	Study and Design Evaluation of the Veterinary	
53	Diagnostic Laboratory System	1,250,000
54	Alkaline Digester	1,200,000
55		

1		
2	State Ports Authority	
3	Capital Improvements at the Ports of Wilmington	
4	and Morehead City	7,500,000
5		
6	Department of Crime Control and Public Safety	
7	Master Planning Statewide	280,200
8	Camp Butner Training Site Buffer	117,800
9	Gastonia Armory Rehab, Addition, and Alteration	527,100
10		
11	Department of Cultural Resources	
12	Horne Creek Farm Visitors Center and Multipurpose Shelter	442,100
13	Museum of History Chronology Exhibit	6,322,900
14		
15	Department of Environment and Natural Resources	
16	Water Quality – Chemistry Lab Office	252,200
17	Ashe County Forestry Headquarters	708,000
18	North Carolina Zoo- Horticulture Equipment	
19	Storage and Work Facility	450,000
20	North Carolina Zoo- Plains Barns and Paddocks	3,006,000
21	Water Resources Development Projects	19,182,000
22		
23	Department of Justice	
24	Addition to SBI Buildings 17 and 18	1,792,006
25	Western Academy Firearms Range Compound	1,974,103
26		
27	Department of Juvenile Justice and Delinquency Prevention	
28	New Youth Development Centers – Security Equipment	1,750,000
29	CA Dillon Maintenance Building	375,000
30	CA Dillon Administrative Offices (Mobile)	200,000
31		
32	TOTAL CAPITAL IMPROVEMENTS – GENERAL FUND	\$63,883,409

### WATER RESOURCES DEVELOPMENT PROJECT FUNDS

SECTION 21.3.(a) The Department of Environment and Natural Resources shall allocate the funds appropriated in this act for water resources development projects to the following projects whose costs are as indicated:

	Name of Project	2007-2008
39		
40		
41	(1) Wilmington Harbor Deepening	\$ 8,333,000
42	(2) Manteo (Shallowbag Bay) Channel Maintenance	50,000
43	(3) Wilmington Harbor Maintenance	200,000
44	(4) Bogue Banks Beach Protection	84,000
45	(5) B. Everett Jordan Water Supply Storage	100,000
46	(6) Princeville Flood Control	98,000
47	(7) Aquatic Plant Control, Statewide and Lake Gaston	400,000
48	(8) Belhaven Harbor Breakwater Restoration	250,000
49	(9) John H. Kerr Reservoir Operations Evaluation	400,000
50	(10) Currituck Sound Water Management Study	350,000
51	(11) Neuse River Basin Study	150,000
52	(12) Surf City – N. Topsail Beach Protection (Pender County)	114,000
53	(13) West Onslow Beach (Topsail Beach, Pender County)	43,000
54	(14) Dare County Beach Protection	500,000
55	(15) North Carolina Beach and Inlet Management Plan	250,000

1	(16)	Dredging Contingency Fund	2,500,000
2	(17)	State-Local WRD Grants	2,000,000
3	(18)	Planning Assistance to Communities	95,000
4	(19)	North Carolina Oyster Habitat Restoration	300,000
5	(20)	Concord Stream Restoration (Cabarrus Co)	1,130,000
6	(21)	Southern Shores Canal Dredging Phase II	408,000
7	(22)	Ararat River Restoration	852,000
8	(23)	Little Sugar Creek Stream Restoration Phase 7	575,000
9			
10		TOTALS	\$ 19,182,000

11  
 12 **SECTION 21.3.(b)** Where the actual costs are different from the estimated  
 13 costs under subsection (a) of this section, the Department may adjust the allocations  
 14 among projects as needed. If any projects funded under subsection (a) of this section are  
 15 delayed and the budgeted State funds cannot be used during the 2007-2008 fiscal year,  
 16 or if the projects funded under subsection (a) of this section are accomplished at a lower  
 17 cost, the Department may use the resulting fund availability to fund any of the  
 18 following:

- 19 (1) U.S. Army Corps of Engineers project feasibility studies.
- 20 (2) U.S. Army Corps of Engineers projects whose schedules have  
 21 advanced and require State-matching funds in fiscal year 2007-2008.
- 22 (3) State-local water resources development projects.

23 Funds not expended or encumbered for these purposes shall revert to the General Fund  
 24 at the end of the 2008-2009 fiscal year.

25 **SECTION 21.3.(c)** The Department shall make semiannual reports on the  
 26 use of these funds to the Joint Legislative Commission on Governmental Operations,  
 27 the Fiscal Research Division, and the Office of State Budget and Management. Each  
 28 report shall include all of the following:

- 29 (1) All projects listed in this section.
- 30 (2) The estimated cost of each project.
- 31 (3) The date that work on each project began or is expected to begin.
- 32 (4) The date that work on each project was completed or is expected to be  
 33 completed.
- 34 (5) The actual cost of each project.

35 The semiannual reports shall also show those projects advanced in schedule,  
 36 those projects delayed in schedule, and an estimate of the amount of funds expected to  
 37 revert to the General Fund.

38  
 39 **REPAIR AND RENOVATION RESERVE ALLOCATION**

40 **SECTION 21.4.** Of the funds in the Reserve for Repairs and Renovations  
 41 for the 2007-2008 fiscal year, forty-six percent (46%) shall be allocated to the Board of  
 42 Governors of The University of North Carolina for repairs and renovations pursuant to  
 43 G.S. 143-15.3A, in accordance with guidelines developed in The University of North  
 44 Carolina Funding Allocation Model for Reserve for Repairs and Renovations, as  
 45 approved by the Board of Governors of The University of North Carolina, and fifty-four  
 46 percent (54%) shall be allocated to the Office of State Budget and Management for  
 47 repairs and renovations pursuant to G.S. 143-15.3A.

48 The Board of Governors and the Office of State Budget and Management  
 49 shall consult with the Joint Legislative Commission on Governmental Operations prior  
 50 to the allocation or reallocation of these funds.

51  
 52 **PART XXII. BONDS AND OTHER MATTERS**

53  
 54 **AUTHORIZE THE ISSUANCE OF SPECIAL INDEBTEDNESS FOR LAND**  
 55 **ACQUISITION FOR PARKS, RECREATION, AND THE PRESERVATION**

1       **OF NATURAL HERITAGE, AND TO USE FUNDS CURRENTLY**  
 2       **DEDICATED TO THESE PURPOSES TO REPAY THE INDEBTEDNESS;**  
 3       **AUTHORIZE THE ISSUANCE OF SPECIAL INDEBTEDNESS TO**  
 4       **FINANCE VITAL STATE FACILITIES FOR PUBLIC HEALTH AND**  
 5       **SAFETY**

6  
 7       **STATE PARK LAND ACQUISITION**

8       **SECTION 22.(a)** Authorization. – In accordance with G.S. 142-83, this part  
 9 authorizes the issuance or incurrence of special indebtedness in the maximum principal  
 10 amount of fifty million dollars (\$50,000,000) to be used to finance the cost of land  
 11 acquisitions for the expansion of the State Park System and Mountains to Sea Trail.  
 12 Special indebtedness authorized by this section shall be issued or incurred only in  
 13 accordance with Article 9 of Chapter 142 of the General Statutes.

14       **SECTION 22.(b)** Identification of Land Acquisitions. – The specific land  
 15 acquisitions for which the special indebtedness may be used are to be identified by the  
 16 North Carolina Parks and Recreation Authority for the purpose of expanding the State  
 17 Park System and Mountains to Sea Trail pursuant to G.S. 113-44.15 notwithstanding  
 18 subsections (b) and (b2) of that section. Land acquisitions shall support the conservation  
 19 priorities set out by the One North Carolina Naturally Program.

20       **SECTION 22.(c)** Debt. – The Parks and Recreation Trust Fund shall  
 21 reimburse the General Fund for debt service on special indebtedness to be issued or  
 22 incurred under Article 9 of Chapter 142 of the General Statutes for the purposes  
 23 provided in subsection (a) of this section.

24  
 25       **NATURAL HERITAGE LAND ACQUISITION**

26       **SECTION 22.1.(a)** Authorization. – In accordance with G.S. 142-83, this  
 27 part authorizes the issuance or incurrence of special indebtedness in the maximum  
 28 principal amount of fifty million dollars (\$50,000,000) to be used to finance the cost of  
 29 land acquisitions to conserve ecological diversity of the State pursuant to G.S. 113-77.9.  
 30 Special indebtedness authorized by this section shall be issued or incurred only in  
 31 accordance with Article 9 of Chapter 142 of the General Statutes.

32       **SECTION 22.1.(b)** Identification of Game Land Acquisitions. – The  
 33 specific land acquisitions for which the special indebtedness may be used are to be  
 34 identified by the Trustees of the Natural Heritage Trust Fund as provided in  
 35 G.S. 113-77.9. Land acquisitions shall represent the ecological diversity of the State and  
 36 support the conservation priorities set out by the One North Carolina Naturally  
 37 Program.

38       **SECTION 22.1.(c)** Debt. – The Natural Heritage Trust Fund shall reimburse  
 39 the General Fund for debt service on special indebtedness to be issued or incurred under  
 40 Article 9 of Chapter 142 of the General Statutes for the purposes provided in this Part.

41  
 42       **PUBLIC HEALTH AND SAFETY CAPITAL PROJECTS**

43       **SECTION 22.2.(d)** Authorization – In accordance with G.S. 142-83, this  
 44 section authorizes the issuance or incurrence of special indebtedness in the following  
 45 maximum principal amounts to finance the costs of the following projects.

47 Amount	48 Project
49 \$13,191,300	50 Planning, design, and construction of a 252- 51 bed minimum security addition to the 52 Alexander Correctional Institution.
53 \$19,816,500	54 Planning, design, and construction of a 504 55 bed medium security addition to the Scotland Correctional Institution.



1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	\$39,763,100  \$26,580,000  \$10,000,000  \$109,350,900	To the Department of Correction for planning, design, and construction of a women's health and mental health medical facility.  To the Department of Justice for planning, design, and construction of a State Highway Patrol multipurpose building at the Garner Road campus.  To Information Technology Services for servers, routers, and equipment for the Secondary Data Center.  Total
---	---	--

**MAXIMUM AMOUNT**

**SECTION 22.3.** Except as otherwise provided by this act, the aggregate amount of special indebtedness issued pursuant to Sections 22.1 and 22.2 of this act shall not exceed two hundred nine million three hundred fifty thousand nine hundred dollars (\$209,350,900). The maximum aggregate special indebtedness issued pursuant to Parts 1, 2, and 3 shall not exceed the following amounts for each fiscal year:

<u>Fiscal Year</u>	<u>Land Acquisition</u>	<u>Health &amp; Safety</u>	<u>Total Aggregate Amount</u>
2007-2008	\$40,000,000	\$40,000,000	\$80,000,000
2008-2009	\$30,000,000	\$40,000,000	\$70,000,000
2009-2010	\$30,000,000	\$29,350,900	\$59,350,900

If less than the aggregate amount of special indebtedness authorized to be issued in a fiscal year is issued in that fiscal year, the balance for that fiscal year may be issued in any subsequent fiscal year.

**GENERAL PROVISIONS**

**SECTION 22.4.(a)** It is the intent of the General Assembly that the proceeds of special indebtedness issued pursuant to Sections 22.1 and 22.2 of this act shall be applied for the purposes provided in this Part, including the acquisition by conservation easement in Parts 1 and 2.

**SECTION 22.4.(b)** None of the proceeds of special indebtedness authorized by Parts 1 and 2 of this act may be used to acquire any property by eminent domain.

**SECTION 22.4.(c)** The provisions of this act are severable. If any provision of this act is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions of the act that can be given effect without the invalid provision.

**AUTHORIZE THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE STATE TO PROVIDE FOR NECESSARY CAPITAL FACILITIES**

**SECTION 22.5.(a) Purpose.** The General Assembly finds that State government and university facilities are inadequate to serve North Carolina's rapidly growing population. It is the intent of the General Assembly by this act to provide for necessary capital facilities by authorizing the issuance of general obligation bonds of the State.

**SECTION 22.5.(b) Definitions.** As used in this act, unless the context otherwise requires:

- (1) "Bonds" means bonds issued under this act.
- (2) "Capital Facility" means any one or more of the following:
  - a. One or more buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, and

- 1 the acquisition of equipment and furnishings in connection  
2 therewith.
- 3 b. Additions, extensions, enlargements, renovations, and  
4 improvements to existing buildings, utilities, structures, or other  
5 facilities or property developments, including streets and  
6 landscaping.
- 7 c. Land or an interest in land.
- 8 (3) "Cost" means, without intending thereby to limit or restrict any proper  
9 definition of this term in financing the cost of facilities or purposes  
10 authorized by this act:
- 11 a. The cost of constructing, reconstructing, enlarging, acquiring,  
12 and improving facilities, and acquiring equipment and land  
13 therefore,
- 14 b. The cost of engineering, architectural, and other consulting  
15 services as may be required,
- 16 c. Administrative expenses and charges,
- 17 d. Finance charges and interest prior to and during construction  
18 and, if deemed advisable by the State Treasurer, for a period not  
19 exceeding two years after the estimated date of completion of  
20 construction,
- 21 e. The cost of bond insurance, investment contracts, credit  
22 enhancement and liquidity facilities, interest-rate swap  
23 agreements or other derivative products, financial and legal  
24 consultants, and related costs of bond and note issuance, to the  
25 extent and as determined by the State Treasurer,
- 26 f. The cost of reimbursing the State for any payments made for  
27 any cost described above, and
- 28 g. Any other costs and expenses necessary or incidental to the  
29 purposes of this act. Allocations in this act of proceeds of bonds  
30 to the costs of a project or undertaking in each case may include  
31 allocations to pay the costs set forth in items c., d., e., f., and g.  
32 in connection with the issuance of bonds for the project or  
33 undertaking.
- 34 (4) "Credit Facility" means an agreement entered into by the State  
35 Treasurer on behalf of the State with a bank, savings and loan  
36 association, or other banking institution, an insurance company,  
37 reinsurance company, surety company, or other insurance institution, a  
38 corporation, investment banking firm, or other investment institution,  
39 or any financial institution or other similar provider of a credit facility,  
40 which provider may be located within or without the United States of  
41 America, such agreement providing for prompt payment of all or any  
42 part of the principal or purchase price (whether at maturity,  
43 presentment or tender for purchase, redemption, or acceleration),  
44 redemption premium, if any, and interest on any bonds or notes  
45 payable on demand or tender by the owner, in consideration of the  
46 State agreeing to repay the provider of the credit facility in accordance  
47 with the terms and provisions of such agreement.
- 48 (5) "Notes" means notes issued under this act.
- 49 (6) "Par Formula" means any provision or formula adopted by the State to  
50 provide for the adjustment, from time to time, of the interest rate or  
51 rates borne by any bonds or notes, including:
- 52 a. A provision providing for such adjustment so that the purchase  
53 price of such bonds or notes in the open market would be as  
54 close to par as possible,

- b. A provision providing for such adjustment based upon a percentage or percentages of a prime rate or base rate, which percentage or percentages may vary or be applied for different periods of time, or
- c. Such other provision as the State Treasurer may determine to be consistent with this act and will not materially and adversely affect the financial position of the State and the marketing of bonds or notes at a reasonable interest cost to the State.

(7) "State" means State of North Carolina.

**SECTION 22.5.(c) Authorization of bonds and notes.** Subject to a favorable vote of a majority of the qualified voters of the State who vote on the question of issuing general obligation bonds in the election held as provided by law, the State Treasurer may, by and with the consent of the Council of State, issue and sell, at one time or from time to time, general obligation bonds of the State to be designated "State of North Carolina Capital Facilities Bonds," with any additional designations as may be determined to indicate the issuance of bonds from time to time, or notes of the State. Except as otherwise provided by this act, the aggregate amount of bonds and notes issued pursuant to this act shall not exceed one billion one hundred sixty-three million nine hundred sixty-seven thousand dollars (\$1,163,967,000). The bonds and notes may be issued in the following years up to the following amounts:

<u>Fiscal Year</u>	<u>Aggregate Amount</u>
2007-2008	\$200,000,000
2008-2009	\$275,000,000
2009-2010	\$275,000,000
2010-2011	\$250,000,000
2011-2012	\$163,967,000

If less than the aggregate amount of bonds or notes authorized to be issued in a fiscal year is issued in that fiscal year, the balance for that fiscal year may be issued in any subsequent fiscal year. Refunding bonds and notes issued pursuant to this section shall not be included in the limitation on the aggregate amount of bonds and notes that may be issued pursuant to this Part.

**SECTION 22.5.(d) Proceeds of State Capital Facilities General Obligation Bonds.** The proceeds of general obligation bonds and notes, including any premium thereon, except the proceeds of general obligation bonds the issuance of which has been anticipated by bond anticipation notes or the proceeds of refunding bonds or notes, shall be allocated and expended for paying the cost of capital facilities, to the extent and as provided in this section, as enacted by this act and subject to change as provided in this act, as follows:

Name of Project	Amount
Department of Administration	
Capital Area Visitor Center	\$28,000,000
Green Square Complex	\$100,250,000
Department of Cultural Resources	
Tryon Palace History Education and Visitor Center	\$35,000,000
State Records Center and Library for the Blind and Physically Handicapped	\$32,000,000
Department of Correction	
Bertie, Scotland, Tabor Correctional Institution	
Minimum Security Additions	\$40,264,400
Bertie, Lanesboro, Maury Correctional Institution	
Medium Security Additions	\$50,044,900
Alexander, Maury Correctional Institution Medical and Mental Health Additions	\$118,569,600

1	New Adult Male Minimum Security Facility	\$28,199,400
2		
3	Department of Justice	
4	State Bureau of Investigation Operations Building	\$34,169,600
5		
6	Department of Juvenile Justice and Delinquency Prevention	
7	Five New Youth Development Centers	\$37,000,000
8		
9	Department of Health and Human Services	
10	New Office Complex	\$173,200,000
11		
12	University of North Carolina Board of Governors	
13	Appalachian State University – College of Education Building	\$34,001,000
14	East Carolina University – School of Dentistry	\$87,000,000
15	Fayetteville State University – Science and Technology Complex	\$22,587,000
16	North Carolina A&T – General Classroom Instructional Facility	\$25,787,000
17	North Carolina School of the Arts – Library	\$24,920,000
18	North Carolina State University – Companion Animal Hospital	\$38,000,000
19	University of North Carolina at Asheville –	
20	Rhoades Hall and Rhoades Tower Renovation	\$8,687,000
21	University of North Carolina at Chapel Hill –	
22	Genomics Sciences Building	\$119,608,225
23	University of North Carolina at Greensboro –	
24	Academic Classroom and Office Building	\$45,167,000
25	University of North Carolina at Pembroke – Residence Hall	\$19,000,000
26	Western Carolina University – Health and	
27	Gerontological Sciences Building	\$43,805,000
28	Winston-Salem State University – Student Activities Center	\$18,707,775
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**SECTION 22.5.(e) Limitations on Issuance**

- (1) No bonds may be issued for the following projects prior to July 1, 2008:
  - a. Five New Youth Development Centers
  - b. State Records Center and Library for the Blind and Physically Handicapped
- (2) No bonds may be issued for the following projects prior to July 1, 2009.
  - a. DHHS – New Office Complex
  - b. SBI Operations Building
  - c. Alexander and Maury Correctional Institutions Medical and Mental Health Additions
  - d. New Adult Male Minimum Security Facility

**SECTION 22.5.(f) Debt Service for Certain Projects**

- (1) Department of Health and Human Services – New Office Complex  
Recurring savings realized from the closure of existing facilities and current rent budgets for personnel who will be relocated to the new office complex and federal funds earned annually through depreciation and interest write-off shall not revert to the General Fund but shall be used for the payment of debt service for the construction of the new office complex.
- (2) Green Square Complex
  - a. The Friends of the Museum shall reimburse the General Fund for debt service on the bonds issued to construct the Nature Resource Center in the Green Square Complex in amount

1 sufficient to amortize twenty-seven million five hundred  
2 thousand dollars (\$27,500,000).

- 3 b. Recurring savings realized from the closure of existing facilities  
4 and current rent budgets for personnel who will be relocated to  
5 the new Green Square Complex and federal funds earned  
6 annually through depreciation and interest write-off shall not  
7 revert to the General Fund but shall be used for the payment of  
8 debt service for the construction of the new DENR Office  
9 Building.

10 **SECTION 22.5.(g) Election.** – The question of the issuance of the bonds  
11 authorized by this act shall be submitted to the qualified voters of the State at an  
12 election to be held on the first Tuesday after the first Monday of November 2007. Any  
13 other primary, election, or referendum validly called or scheduled by law at the time the  
14 election on the bond question provided for in this section is held may be held as called  
15 or scheduled. Notice of the election shall be given in the manner and at the times  
16 required by G.S. 163-33(8). The election and the registration of voters therefor shall be  
17 held under and in accordance with the general laws of the State. Absentee ballots shall  
18 be authorized in the election.

19 The State Board of Elections shall reimburse the counties of the State for all  
20 necessary expenses incurred in holding the election that are in addition to those that  
21 would have otherwise been incurred, the same to be paid out of the Contingency and  
22 Emergency Fund or other funds available to the State Board of Elections.

23 Ballots, voting systems authorized by Article 14 of Chapter 163 of the  
24 General Statutes, or both may be used in accordance with rules prescribed by the State  
25 Board of Elections. The bond questions to be used in the ballots or voting systems shall  
26 be in substantially the following form:

27 "  FOR  AGAINST

28 the issuance of one billion one hundred sixty-three million nine hundred  
29 sixty-seven thousand nine hundred dollars (\$1,163,967,900) State of North Carolina  
30 2007 Capital Facilities Bonds constituting general obligation bonds of the State secured  
31 by a pledge of the faith and credit and taxing power of the State for the purpose of  
32 providing funds, with any other available funds, to provide necessary capital facilities."

33 If a majority of those voting on the bond question in the election vote in favor  
34 of the issuance of the bonds, those bonds may be issued as provided in this act. If a  
35 majority of those voting on the bond question in the election vote against the issuance of  
36 the bonds, those bonds shall not be issued.

37 The results of the election shall be canvassed and declared as provided by law  
38 for elections for State officers; the results of the election shall be certified by the State  
39 Board of Elections to the Secretary of State, in the manner and at the time provided by  
40 the general election laws of the State.

41 **SECTION 22.5.(h) General provisions.** –

- 42 (1) Any additional moneys which may be received by means of a grant or  
43 grants from the United States or any agency or department thereof or  
44 from any other source to aid in financing the cost of a capital facility  
45 may be disbursed, to the extent permitted by the terms of the grant or  
46 grants, without regard to any limitations imposed by this Article.  
47 (2) Any capital facility and the amount of the allocation for it set forth  
48 above may be changed from time to time as the General Assembly  
49 may decide.

50 **SECTION 22.5.(i) Issuance of bonds and notes.**

- 51 (1) Terms and Conditions. – Bonds or notes may bear such date or dates,  
52 may be serial or term bonds or notes, or any combination thereof, may  
53 mature in such amounts and at such time or times, not exceeding 40  
54 years from their date or dates, may be payable at such place or places,  
55 either within or without the United States of America, in such coin or

1 currency of the United States of America as at the time of payment is  
2 legal tender for payment of public and private debts, may bear interest  
3 at such rate or rates, which may vary from time to time, and may be  
4 made redeemable before maturity, at the option of the State or  
5 otherwise as may be provided by the State, at such price or prices,  
6 including a price less than the face amount of the bonds or notes, and  
7 under such terms and conditions, all as may be determined by the State  
8 Treasurer, by and with the consent of the Council of State.

9 (2) Signatures; Form and Denomination; Registration. – Bonds or notes  
10 may be issued as certificated or uncertificated obligations. If issued as  
11 certificated obligations, bonds or notes shall be signed on behalf of the  
12 State by the Governor or shall bear his or her facsimile signature, shall  
13 be signed by the State Treasurer or shall bear his or her facsimile  
14 signature, and shall bear the Great Seal of the State or a facsimile  
15 thereof shall be impressed or imprinted thereon. If bonds or notes bear  
16 the facsimile signatures of the Governor and the State Treasurer, the  
17 bonds or notes shall also bear a manual signature which may be that of  
18 a bond registrar, trustee, paying agent, or designated assistant of the  
19 State Treasurer. Should any officer whose signature or facsimile  
20 signature appears on bonds or notes cease to be such officer before the  
21 delivery of the bonds or notes, the signature or facsimile signature  
22 shall nevertheless have the same validity for all purposes as if the  
23 officer had remained in office until delivery, and bonds or notes may  
24 bear the facsimile signatures of persons who at the actual time of the  
25 execution of the bonds or notes shall be the proper officers to sign any  
26 bond or note although at the date of the bond or note such persons may  
27 not have been such officers. The form and denomination of bonds or  
28 notes, including the provisions with respect to registration of the bonds  
29 or notes and any system for their registration, shall be as the State  
30 Treasurer may determine in conformity with this act; provided,  
31 however, that nothing in this act shall prohibit the State Treasurer from  
32 proceeding, with respect to the issuance and form of the bonds or  
33 notes, under the provisions of Chapter 159E of the General Statutes,  
34 the Registered Public Obligations Act, as well as under this act.

35 (3) Manner of Sale; Expenses. – Subject to determination by the Council  
36 of State as to the manner in which bonds or notes shall be offered for  
37 sale, whether at public or private sale, whether within or without the  
38 United States of America, and whether by publishing notices in certain  
39 newspapers and financial journals, mailing notices, inviting bids by  
40 correspondence, negotiating contracts of purchase or otherwise, the  
41 State Treasurer is authorized to sell bonds or notes at one time or from  
42 time to time at such rate or rates of interest, which may vary from time  
43 to time, and at such price or prices, including a price less than the face  
44 amount of the bonds or the notes, as the State Treasurer may  
45 determine. All expenses incurred in preparation, sale, and issuance of  
46 bonds or notes shall be paid by the State Treasurer from the proceeds  
47 of bonds or notes or other available moneys.  
48 a. Notes; repayment.  
49 b. By and with the consent of the Council of State, the State  
50 Treasurer is hereby authorized to borrow money and to execute  
51 and issue notes of the State for the same, but only in the  
52 following circumstances and under the following conditions:  
53 1. For anticipating the sale of bonds to the issuance of  
54 which the Council of State shall have given consent, if

- 1 the State Treasurer shall deem it advisable to postpone  
2 the issuance of the bonds;
- 3 2. For the payment of interest on or any installment of  
4 principal of any bonds then outstanding, if there shall not  
5 be sufficient funds in the State treasury with which to  
6 pay the interest or installment of principal as they  
7 respectively become due;
- 8 3. For the renewal of any loan evidenced by notes herein  
9 authorized;
- 10 4. For the purposes authorized in this act; and
- 11 5. For refunding bonds or notes as herein authorized.
- 12 c. Funds derived from the sale of bonds or notes may be used in  
13 the payment of any bond anticipation notes issued under this  
14 act. Funds provided by the General Assembly for the payment  
15 of interest on or principal of bonds shall be used in paying the  
16 interest on or principal of any notes and any renewals thereof,  
17 the proceeds of which shall have been used in paying interest on  
18 or principal of the bonds.
- 19 d. Refunding Bonds and Notes. By and with the consent of the  
20 Council of State, the State Treasurer is authorized to issue and  
21 sell refunding bonds and notes pursuant to the provisions of the  
22 State Refunding Bond Act for the purpose of refunding bonds  
23 or notes issued pursuant to this act. The refunding bonds and  
24 notes may be combined with any other issues of State bonds  
25 and notes similarly secured.
- 26 e. Tax Exemption. Bonds and notes shall be exempt from all  
27 State, county, and municipal taxation or assessment, direct or  
28 indirect, general or special, whether imposed for the purpose of  
29 general revenue or otherwise, excluding inheritance and gift  
30 taxes, income taxes on the gain from the transfer of bonds and  
31 notes, and franchise taxes. The interest on bonds and notes  
32 shall not be subject to taxation as to income.
- 33 f. Investment Eligibility. Bonds and notes are hereby made  
34 securities in which all public officers, agencies, and public  
35 bodies of the State and its political subdivisions, all insurance  
36 companies, trust companies, investment companies, banks,  
37 savings banks, savings and loan associations, credit unions,  
38 pension or retirement funds, other financial institutions engaged  
39 in business in the State, executors, administrators, trustees, and  
40 other fiduciaries may properly and legally invest funds,  
41 including capital in their control or belonging to them. Bonds  
42 and notes are hereby made securities which may properly and  
43 legally be deposited with and received by any officer or agency  
44 of the State or political subdivision of the State for any purpose  
45 for which the deposit of bonds, notes, or obligations of the State  
46 or any political subdivision is now or may hereafter be  
47 authorized by law.
- 48 g. Faith and Credit. The faith and credit and taxing power of the  
49 State are hereby pledged for the payment of the principal of and  
50 the interest on bonds and notes. In addition to the State's right to  
51 amend any provision of this act to the extent it does not impair  
52 any contractual right of a bond owner, the State expressly  
53 reserves the right to amend any provision of this act with  
54 respect to the making and repayment of loans, the disposition of  
55 any repayments of loans, and any intercept provisions relating

1 to the failure of a local government unit to repay a loan, the  
2 bonds not being secured in any respect by loans, any  
3 repayments thereof, or any intercept provisions with respect  
4 thereto.

5 **SECTION 22.5.(j) Minority Business Participation.** – The goals set by  
6 G.S. 143-128 for participation in projects by minority businesses apply to projects  
7 funded by the proceeds of bonds or notes issued under this act. The Department of  
8 Administration shall monitor compliance with regard to projects funded by the proceeds  
9 of bonds and notes and shall report to the General Assembly by January 1 of each year  
10 on the participation by minority businesses in these projects.

11 The State Treasurer shall provide contracting opportunities for historically  
12 underutilized businesses in providing professional services in connection with the  
13 issuance of bonds and notes authorized by this act. As used in this subsection, the term  
14 "historically underutilized business" means a business described in G.S. 143-48. The  
15 State Treasurer shall strive to increase the amount of legal, financial, and other  
16 professional services acquired by it from historically underutilized businesses. With the  
17 assistance of the Office for Historically Underutilized Businesses in the Department of  
18 Administration, the State Treasurer shall set objectives for contracting with these  
19 businesses, identify and eliminate barriers or constraints that may restrict these  
20 businesses from contracting with the State Treasurer, and develop a plan for meeting  
21 these objectives. The State Treasurer shall report quarterly to the Office for Historically  
22 Underutilized Businesses on its progress in carrying out the requirements of this  
23 subsection.

24 **SECTION 22.5.(k) Other Agreements.** – The State Treasurer may  
25 authorize, execute, obtain, or otherwise provide for bond insurance, investment  
26 contracts, credit and liquidity facilities, interest rate swap agreements and other  
27 derivative products, and any other related instruments and matters the State Treasurer  
28 determines are desirable in connection with the issuance, incurrence, carrying, or  
29 securing of bonds or notes. Subject to the provisions of Section 9 of this act, the State  
30 Treasurer is authorized to employ and designate any financial consultants, underwriters,  
31 and bond attorneys to be associated with any bond issue under this act as the State  
32 Treasurer considers necessary.

33 **SECTION 22.5.(l) Variable interest rates.** – In fixing the details of bonds  
34 and notes, the State Treasurer may provide that any of the bonds or notes may:

- 35 (1) Be made payable from time to time on demand or tender for purchase  
36 by the owner thereof provided a credit facility supports the bonds or  
37 notes, unless the State Treasurer specifically determines that a credit  
38 facility is not required upon a finding and determination by the State  
39 Treasurer that the absence of a credit facility will not materially or  
40 adversely affect the financial position of the State and the marketing of  
41 the bonds or notes at a reasonable interest cost to the State;
- 42 (2) Be additionally supported by a credit facility;
- 43 (3) Be made subject to redemption or a mandatory tender for purchase  
44 prior to maturity;
- 45 (4) Bear interest at a rate or rates that may vary for such period or periods  
46 of time, all as may be provided in the proceedings providing for the  
47 issuance of the bonds or notes, including, without limitation, such  
48 variations as may be permitted pursuant to a par formula; and
- 49 (5) Be made the subject of a remarketing agreement whereby an attempt is  
50 made to remarket bonds or notes to new purchasers prior to their  
51 presentment for payment to the provider of the credit facility or to the  
52 State.

53 If the aggregate principal amount repayable by the State under a credit facility  
54 is in excess of the aggregate principal amount of bonds or notes secured by the credit  
55 facility, whether as a result of the inclusion in the credit facility of a provision for the



1 payment of interest for a limited period of time or the payment of a redemption  
2 premium or for any other reason, then the amount of authorized but unissued bonds or  
3 notes during the term of such credit facility shall not be less than the amount of such  
4 excess, unless the payment of such excess is otherwise provided for by agreement of the  
5 State executed by the State Treasurer.  
6

7 **AUTHORIZE THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE**  
8 **STATE TO PROVIDE WATER AND WASTEWATER CAPITAL**  
9 **IMPROVEMENTS**

10 **SECTION 22.6.(a) Purpose.** – It is the intent of the General Assembly by  
11 this act to provide for the issuance of general obligation bonds of the State and to  
12 provide that the proceeds realized from the sale of the bonds shall be allocated as  
13 follows:

- 14 (1) Water System Improvements. – One hundred twenty-five million  
15 dollars (\$125,000,000) to provide grants and zero percent (0%) interest  
16 loans for qualified water systems to increase capacity and reliability  
17 through interconnections and regional linkages and upgrade systems to  
18 maintain service levels. Up to five million dollars (\$5,000,000) may be  
19 used to provide technical assistance to local systems to analyze water  
20 system problems and prepare plans for improvements.  
21 (2) Wastewater System Improvements. – One hundred twenty-five million  
22 dollars (\$125,000,000) to provide grants and zero (0%) interest loans  
23 for qualified systems which are under SOC (consent agreements to  
24 address serious problems), moratorium on new connections, or  
25 substandard collection systems with high infiltration. Up to five  
26 million dollars (\$5,000,000) may be used to provide technical  
27 assistance to local systems to analyze wastewater system problems and  
28 prepare plans for improvements.

29 **SECTION 22.6.(b) Definitions.** – As used in this section, unless the context  
30 otherwise requires:

31 (a) "Bonds" means bonds issued under this act.

32 (b) "Capital improvement plan" means a report that identifies water and  
33 sewer infrastructure and capital needs that address planned and strategic growth. It shall  
34 include an assessment of current water and wastewater systems and a projection of  
35 those infrastructure needs over a 20-year horizon. The report shall take into  
36 consideration government mandates, usefulness of the improvements to the community  
37 and the effect on both short- and long-term operation and maintenance of the scheduled  
38 improvements and identify alternatives for meeting the identified need including  
39 regionalization, consolidation and system mergers, water reuse and conservation.

40 (c) "Clean Water Revolving Loan and Grant Act" means Chapter 796 of  
41 the 1987 Session Laws, as amended from time to time, codified as Chapter 159G of the  
42 General Statutes.

43 (d) "Clean Water Revolving Loan and Grant Fund" means the Clean  
44 Water Revolving Loan and Grant Fund as defined in the Clean Water Revolving Loan  
45 and Grant Act.

46 (e) "Cost" means, without intending thereby to limit or restrict any proper  
47 definition of this term in financing the cost of facilities or purposes authorized by this  
48 act:

- 49 (1) The cost of constructing, reconstructing, enlarging, acquiring, and  
50 improving facilities, and acquiring equipment and land therefor,  
51 (2) The cost of engineering, architectural, and other consulting services as  
52 may be required,  
53 (3) Administrative expenses and charges,

- 1 (4) Finance charges and interest prior to and during construction and, if  
2 deemed advisable by the State Treasurer, for a period not exceeding  
3 two years after the estimated date of completion of construction,  
4 (5) The cost of bond insurance, investment contracts, credit enhancement  
5 and liquidity facilities, interest-rate swap agreements or other  
6 derivative products, financial and legal consultants, and related costs  
7 of bond and note issuance, to the extent and as determined by the State  
8 Treasurer,  
9 (6) The cost of reimbursing the State for any payments made for any cost  
10 described above, and  
11 (7) Any other costs and expenses necessary or incidental to the purposes  
12 of this act.  
13 Allocations in this act of proceeds of bonds to the costs of a project or  
14 undertaking in each case may include allocations to pay the costs set  
15 forth in items (3) through (5) in connection with the issuance of bonds  
16 for the project or undertaking.
- 17 (f) "Credit facility" means an agreement entered into by the State  
18 Treasurer on behalf of the State with a bank, savings and loan association, or other  
19 banking institution, an insurance company, reinsurance company, surety company, or  
20 other insurance institution, a corporation, investment banking firm, or other investment  
21 institution, or any financial institution or other similar provider of a credit facility,  
22 which provider may be located within or without the United States of America, such  
23 agreement providing for prompt payment of all or any part of the principal or purchase  
24 price (whether at maturity, presentment or tender for purchase, redemption, or  
25 acceleration), redemption premium, if any, and interest on any bonds or notes payable  
26 on demand or tender by the owner, in consideration of the State agreeing to repay the  
27 provider of the credit facility in accordance with the terms and provisions of such  
28 agreement.
- 29 (g) "Local government units" means local government units as defined in  
30 the Clean Water Revolving Loan and Grant Act.
- 31 (h) "Notes" means notes issued under this act.
- 32 (i) "Par formula" means any provision or formula adopted by the State to  
33 provide for the adjustment, from time to time, of the interest rate or rates borne by any  
34 bonds or notes, including:
- 35 (1) A provision providing for such adjustment so that the purchase price of  
36 such bonds or notes in the open market would be as close to par as  
37 possible,  
38 (2) A provision providing for such adjustment based upon a percentage or  
39 percentages of a prime rate or base rate, which percentage or  
40 percentages may vary or be applied for different periods of time, or  
41 (3) Such other provision as the State Treasurer may determine to be  
42 consistent with this act and will not materially and adversely affect the  
43 financial position of the State and the marketing of bonds or notes at a  
44 reasonable interest cost to the State.
- 45 (j) "School water or wastewater project" means a project to provide clean  
46 water or wastewater treatment for a school by upgrading, replacing, or constructing  
47 school water or wastewater facilities.
- 48 (k) "State" means the State of North Carolina.
- 49 (l) "Wastewater collection systems" means wastewater collection systems  
50 as defined in the Clean Water Revolving Loan and Grant Act.
- 51 (m) "Wastewater treatment works" means wastewater treatment works as  
52 defined in the Clean Water Revolving Loan and Grant Act.
- 53 (n) "Water conservation projects" include, but are not limited to, any  
54 construction, repair, renovation, expansion, replacement of components, or other capital  
55 improvement, including related equipment and land acquisition, designed to:

(1) Eliminate the wasteful or unnecessary use or loss of water in the operations of a wastewater collection system, wastewater treatment works, or water supply system; or

(2) Enhance the operation of a wastewater collection system, wastewater treatment works, or water supply system to provide a more efficient use of water.

(o) "Water Pollution Control Revolving Fund" means the fund described by G.S. 159G-4(a) and G.S. 159G-5(c).

(p) "Water reuse" means the actual use or application of treated wastewater in or on areas which require water but do not require potable water quality.

(q) "Water supply systems" means water supply systems as defined in the Clean Water Revolving Loan and Grant Act.

**SECTION 22.6.(e) Authorization of bonds and notes.** Subject to a favorable vote of a majority of the qualified voters of the State who vote on the question of issuing Clean Water Bonds in the election called and held as provided in this act, the State Treasurer is hereby authorized, by and with the consent of the Council of State, to issue and sell, at one time or from time to time, general obligation bonds of the State to be designated "State of North Carolina Clean Water Bonds", with any additional designations as may be determined to indicate the issuance of bonds from time to time, or notes of the State as provided in this act, in an aggregate principal amount not exceeding two hundred fifty million dollars (\$250,000,000) for the purpose of providing funds, with any other available funds, for the purposes authorized in this act. The bonds and notes may be issued in the following years up to the following amounts:

<u>Fiscal Year</u>	<u>Aggregate Amount</u>
2007-2008	\$100,000,000
2008-2009	\$ 37,500,000
2009-2010	\$ 37,500,000
2010-2011	\$ 37,500,000
2011-2012	\$ 37,500,000

If less than the aggregate amount of bonds or notes authorized to be issued in a fiscal year is issued in that fiscal year, the balance for that fiscal year may be issued in any subsequent fiscal year. Refunding bonds and notes issued pursuant to Section 12(e) of this act shall not be included in the limitation on the aggregate amount of bonds and notes that may be issued pursuant to this act.

**SECTION 22.6.(f) Use of Clean Water Bond and note proceeds. –**

(a) The funds to be derived from the sale of the Clean Water Bonds authorized by this act are sufficient to meet no more than a fraction of the needs that now exist and will arise in the immediate future. For this reason, the Department of Natural Resources shall use the criteria indicated in G.S. 159G-23 as the primary consideration in granting and loaning funds.

(b) Preference will be given to projects that include consolidation, cooperation, interconnections, and regional linkages among small systems to achieve operational efficiencies, address environmental issues, promote water conservation, and improve water quality.

(c) Only systems with water and sewer rates equal to or greater than one and one-half percent (1.5%) of median household income are eligible for grants.

(d) No more than three million dollars (\$3,000,000) shall be provided as a grant or loan to an individual water or wastewater system. A water system and a wastewater system are considered separate units when applying this maximum.

(e) The proceeds shall be transferred to the Clean Water Revolving Loan and Grant Fund to make grants to the appropriate local government unit qualifying for a grant from the Clean Water Revolving Loan and Grant Fund in accordance with the provisions of this act and the Clean Water Revolving Loan and Grant Act.

1 (f) A county may apply for a grant on behalf of a rural school located in  
2 the county for a school water or wastewater project.

3 **SECTION 22.6.(g) Prohibited Use of Clean Water Bonds Proceeds.** –  
4 Proceeds from the sale of the Clean Water Bonds shall not be used to construct new  
5 water or sewer lines to provide water or sewer connections in any area that has been  
6 designated as WS-I or the critical area of any area that has been designated as WS-II,  
7 WS-III, or WS-IV by the Environmental Management Commission pursuant to  
8 G.S. 143-214.5. The Secretary of Environment and Natural Resources may grant a  
9 waiver to allow construction of new water or sewer lines and to provide water or sewer  
10 connections if the Secretary finds that granting the waiver is necessary to protect public  
11 health or water quality. A waiver granted by the Secretary under this subsection shall  
12 include a requirement that the water or sewer line shall be designed and sized to address  
13 only the public health or water quality concerns on which the waiver is based and shall  
14 not allow for additional connections beyond those necessary to protect public health and  
15 water quality. This subsection does not prohibit the repair or replacement of existing  
16 water or sewer lines. In addition, the proceeds shall not be used for the repair,  
17 installation, or replacement of a low-pressure pipe wastewater system with another  
18 low-pressure pipe wastewater system.

19 **SECTION 22.6.(h) Election.** – The question of the issuance of the bonds  
20 authorized by this act shall be submitted to the qualified voters of the State at an  
21 election to be held on the first Tuesday after the first Monday of November 2007. Any  
22 other primary, election, or referendum validly called or scheduled by law at the time the  
23 election on the bond question provided for in this section is held may be held as called  
24 or scheduled. Notice of the election shall be given in the manner and at the times  
25 required by G.S. 163-33(8). The election and the registration of voters therefor shall be  
26 held under and in accordance with the general laws of the State. Absentee ballots shall  
27 be authorized in the election.

28 The State Board of Elections shall reimburse the counties of the State for all  
29 necessary expenses incurred in holding the election that are in addition to those that  
30 would have otherwise been incurred, the same to be paid out of the Contingency and  
31 Emergency Fund or other funds available to the State Board of Elections.

32 Ballots, voting systems authorized by Article 14 of Chapter 163 of the  
33 General Statutes, or both, may be used in accordance with rules prescribed by the State  
34 Board of Elections. The bond questions to be used in the ballots or voting systems shall  
35 be in substantially the following form:

36  FOR  AGAINST  
37 the issuance of two hundred fifty million dollars (\$250,000,000) State of  
38 North Carolina 2007 Clean Water Bonds constituting general obligation bonds of the  
39 State secured by a pledge of the faith and credit and taxing power of the State for the  
40 purpose of providing funds, with any other available funds, to make loans and grants to  
41 local government units to pay all or a portion of the cost of water and wastewater capital  
42 improvement projects."

43 If a majority of those voting on a bond question in the election vote in favor  
44 of the issuance of the bonds described in the question, those bonds may be issued as  
45 provided in this act. If a majority of those voting on a bond question in the election vote  
46 against the issuance of the bonds described in the question, those bonds shall not be  
47 issued.

48 The results of the election shall be canvassed and declared as provided by law  
49 for elections for State officers; the results of the election shall be certified by the State  
50 Board of Elections to the Secretary of State, in the manner and at the time provided by  
51 the general election laws of the State.

52 **SECTION 22.6.(i) General Provisions.** –

53 (a) The proceeds shall be used to make loans directly to local government  
54 units qualifying for a loan from the Clean Water Revolving Loan and Grant Fund or  
55 loaned in such other manner as shall effectuate the purposes of this act. To qualify for a

1 loan for the purpose of paying the cost of water supply systems, a local government unit  
2 must have a water supply facility plan approved by the Department of Environment and  
3 Natural Resources. A water supply facility plan submitted by a local government unit  
4 to the Department under G.S. 143-355(l) will be sufficient to meet this requirement. To  
5 qualify for a loan for the purpose of paying the cost of wastewater collection systems or  
6 wastewater treatment works, a local government unit must have a wastewater facility  
7 plan approved by the Department of Environment and Natural Resources. A  
8 wastewater facility plan must project future wastewater treatment needs, must present a  
9 long-range plan to meet those needs, and must include plans for system operations and  
10 maintenance of the facilities being built with the bond proceeds.

11 (b) The form of the loans and the details thereof including, without  
12 limitation, the maturity and amortization schedule shall be determined, from time to  
13 time, by the State Treasurer. In making these determinations, the State Treasurer shall  
14 consider the purpose of the loans, the ability of local government units to repay the  
15 loans, and the security for the loans. The interest rates on these loans shall be zero  
16 percent (0%). Payments shall be sufficient to repay the principal portion of the debt  
17 service on the Clean Water Bonds.

18 (c) Repayments of the loans shall be credited to the General Fund and  
19 may be used to pay, directly or indirectly, debt service on the bonds and notes issued.  
20 Repayments may be initially placed into such fund or account as may be determined by  
21 the State Treasurer for the purpose of determining compliance with applicable  
22 requirements of the federal tax law and shall be expended and disbursed therefrom  
23 under the direction and supervision of the Director of the Budget.

24 **SECTION 22.6.(j) Redistribution of the Allocation.** – The General  
25 Assembly may at this session or at any subsequent session increase or decrease the  
26 allocations of the proceeds of the Clean Water Bonds set forth in this Part, so long as the  
27 aggregate amount of the allocations does not exceed two hundred fifty million dollars  
28 (\$250,000,000).

29 **SECTION 22.6.(k) Contracts With Private Entities.** – To the extent  
30 otherwise authorized by law, and to the extent the use otherwise accomplishes the clean  
31 water objectives of the State, this act does not prohibit a local government unit from  
32 using the proceeds of Clean Water Bonds for projects that accomplish the clean water  
33 objectives of this State through contracts or other arrangements with private entities.

34 **SECTION 22.6.(l) Allocation of proceeds.**

35 (a) The proceeds of Clean Water Bonds and notes, including premium  
36 thereon, if any, except the proceeds of bonds the issuance of which has been anticipated  
37 by bond anticipation notes or the proceeds of refunding bonds or notes, shall be placed  
38 by the State Treasurer in a special fund to be designated "Clean Water Bonds Fund",  
39 which may include such appropriate special accounts therein as may be determined by  
40 the State Treasurer and shall be disbursed as provided in this act. Moneys in the Clean  
41 Water Bonds Fund shall be allocated and expended as provided in this act.

42 (b) Any additional moneys which may be received by means of a grant or  
43 grants from the United States of America or any agency or department thereof or from  
44 any other source for deposit to the Clean Water Bonds Fund may be placed in the Clean  
45 Water Bonds Fund or in a separate account or fund and shall be disbursed, to the extent  
46 permitted by the terms of the grant or grants, without regard to any limitations imposed  
47 by this act.

48 (c) Moneys in the Clean Water Bonds Fund or any separate clean water  
49 fund or account established under this act may be invested from time to time by the  
50 State Treasurer in the same manner permitted for investment of moneys belonging to  
51 the State or held in the State treasury, except with respect to grant money to the extent  
52 otherwise directed by the terms of the grant. Investment earnings, except investment  
53 earnings with respect to grant moneys to the extent otherwise directed or restricted by  
54 the terms of the grant, may be (i) credited to the Clean Water Bonds Fund or any  
55 separate clean water fund or account established under this act, (ii) used to pay debt

1 service on the bonds authorized by this act, (iii) used to satisfy compliance with  
2 applicable requirements of the federal tax law, or (iv) transferred to the General Fund of  
3 the State.

4 (d) The proceeds of bonds and notes may be used with any other moneys  
5 made available by the General Assembly for making grants and loans authorized by this  
6 act, including the proceeds of any other State bond issues, whether heretofore made  
7 available or which may be made available at the session of the General Assembly at  
8 which this act is ratified or any subsequent sessions. The proceeds of bonds and notes  
9 shall be expended and disbursed under the direction and supervision of the Director of  
10 the Budget. The funds provided by this act shall be disbursed for the purposes provided  
11 in this act upon warrants drawn on the State Treasurer by the State Controller, which  
12 warrants shall not be drawn until requisition has been approved by the Director of the  
13 Budget and which requisition shall be approved only after full compliance with the  
14 State Budget Act.

15 **SECTION 22.6.(m)** Issuance of bonds and notes. –

16 (a) Terms and Conditions. Bonds or notes may bear such date or dates,  
17 may be serial or term bonds or notes, or any combination thereof, may mature in such  
18 amounts and at such time or times, not exceeding 40 years from their date or dates, may  
19 be payable at such place or places, either within or without the United States of  
20 America, in such coin or currency of the United States of America as at the time of  
21 payment is legal tender for payment of public and private debts, may bear interest at  
22 such rate or rates, which may vary from time to time, and may be made redeemable  
23 before maturity, at the option of the State or otherwise as may be provided by the State,  
24 at such price or prices, including a price less than the face amount of the bonds or notes,  
25 and under such terms and conditions, all as may be determined by the State Treasurer,  
26 by and with the consent of the Council of State.

27 (b) Signatures; Form and Denomination; Registration. Bonds or notes  
28 may be issued as certificated or uncertificated obligations. If issued as certificated  
29 obligations, bonds or notes shall be signed on behalf of the State by the Governor or  
30 shall bear his or her facsimile signature, shall be signed by the State Treasurer or shall  
31 bear his or her facsimile signature, and shall bear the Great Seal of the State or a  
32 facsimile thereof shall be impressed or imprinted thereon. If bonds or notes bear the  
33 facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall  
34 also bear a manual signature which may be that of a bond registrar, trustee, paying  
35 agent, or designated assistant of the State Treasurer. Should any officer whose  
36 signature or facsimile signature appears on bonds or notes cease to be such officer  
37 before the delivery of the bonds or notes, the signature or facsimile signature shall  
38 nevertheless have the same validity for all purposes as if the officer had remained in  
39 office until delivery, and bonds or notes may bear the facsimile signatures of persons  
40 who at the actual time of the execution of the bonds or notes shall be the proper officers  
41 to sign any bond or note although at the date of the bond or note such persons may not  
42 have been such officers. The form and denomination of bonds or notes, including the  
43 provisions with respect to registration of the bonds or notes and any system for their  
44 registration, shall be as the State Treasurer may determine in conformity with this act;  
45 provided, however, that nothing in this act shall prohibit the State Treasurer from  
46 proceeding, with respect to the issuance and form of the bonds or notes, under the  
47 provisions of Chapter 159E of the General Statutes, the Registered Public Obligations  
48 Act, as well as under this act.

49 (c) Manner of Sale; Expenses. Subject to determination by the Council of  
50 State as to the manner in which bonds or notes shall be offered for sale, whether at  
51 public or private sale, whether within or without the United States of America, and  
52 whether by publishing notices in certain newspapers and financial journals, mailing  
53 notices, inviting bids by correspondence, negotiating contracts of purchase or otherwise,  
54 the State Treasurer is authorized to sell bonds or notes at one time or from time to time  
55 at such rate or rates of interest, which may vary from time to time, and at such price or

1 prices, including a price less than the face amount of the bonds or the notes, as the State  
2 Treasurer may determine. All expenses incurred in preparation, sale, and issuance of  
3 bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes  
4 or other available moneys.

5 (d) Notes; Repayment.

6 (1) By and with the consent of the Council of State, the State Treasurer is  
7 hereby authorized to borrow money and to execute and issue notes of  
8 the State for the same, but only in the following circumstances and  
9 under the following conditions:

10 a. For anticipating the sale of bonds to the issuance of which the  
11 Council of State shall have given consent, if the State Treasurer  
12 shall deem it advisable to postpone the issuance of the bonds;

13 b. For the payment of interest on or any installment of principal of  
14 any bonds then outstanding, if there shall not be sufficient funds  
15 in the State treasury with which to pay the interest or  
16 installment of principal as they respectively become due;

17 c. For the renewal of any loan evidenced by notes herein  
18 authorized;

19 d. For the purposes authorized in this act; and

20 e. For refunding bonds or notes as herein authorized.

21 (2) Funds derived from the sale of bonds or notes may be used in the  
22 payment of any bond anticipation notes issued under this act. Funds  
23 provided by the General Assembly for the payment of interest on or  
24 principal of bonds shall be used in paying the interest on or principal  
25 of any notes and any renewals thereof, the proceeds of which shall  
26 have been used in paying interest on or principal of the bonds.

27 (e) Refunding Bonds and Notes. By and with the consent of the Council  
28 of State, the State Treasurer is authorized to issue and sell refunding bonds and notes  
29 pursuant to the provisions of the State Refunding Bond Act for the purpose of refunding  
30 bonds or notes issued pursuant to this act. The refunding bonds and notes may be  
31 combined with any other issues of State bonds and notes similarly secured.

32 (f) Tax Exemption. Bonds and notes shall be exempt from all State,  
33 county, and municipal taxation or assessment, direct or indirect, general or special,  
34 whether imposed for the purpose of general revenue or otherwise, excluding inheritance  
35 and gift taxes, income taxes on the gain from the transfer of bonds and notes, and  
36 franchise taxes. The interest on bonds and notes shall not be subject to taxation as to  
37 income.

38 (g) Investment Eligibility. Bonds and notes are hereby made securities in  
39 which all public officers, agencies, and public bodies of the State and its political  
40 subdivisions, all insurance companies, trust companies, investment companies, banks,  
41 savings banks, savings and loan associations, credit unions, pension or retirement funds,  
42 other financial institutions engaged in business in the State, executors, administrators,  
43 trustees, and other fiduciaries may properly and legally invest funds, including capital in  
44 their control or belonging to them. Bonds and notes are hereby made securities which  
45 may properly and legally be deposited with and received by any officer or agency of the  
46 State or political subdivision of the State for any purpose for which the deposit of  
47 bonds, notes, or obligations of the State or any political subdivision is now or may  
48 hereafter be authorized by law.

49 (h) Faith and Credit. The faith and credit and taxing power of the State are  
50 hereby pledged for the payment of the principal of and the interest on bonds and notes.  
51 In addition to the State's right to amend any provision of this act to the extent it does not  
52 impair any contractual right of a bond owner, the State expressly reserves the right to  
53 amend any provision of this act with respect to the making and repayment of loans, the  
54 disposition of any repayments of loans, and any intercept provisions relating to the  
55 failure of a local government unit to repay a loan, the bonds not being secured in any

1 respect by loans, any repayments thereof, or any intercept provisions with respect  
2 thereto.

3 **SECTION 22.6.(n) Other Agreements.** – The State Treasurer may  
4 authorize, execute, obtain, or otherwise provide for bond insurance, investment  
5 contracts, credit and liquidity facilities, interest rate swap agreements and other  
6 derivative products, and any other related instruments and matters the State Treasurer  
7 determines are desirable in connection with the issuance, incurrence, carrying, or  
8 securing of bonds or notes. Subject to the provisions of Section 17 of this act, the State  
9 Treasurer is authorized to employ and designate any financial consultants, underwriters,  
10 and bond attorneys to be associated with any bond issue under this act as the State  
11 Treasurer considers necessary.

12 **SECTION 22.6.(o) Variable interest rates.** – In fixing the details of bonds  
13 and notes, the State Treasurer may provide that any of the bonds or notes may:

14 (a) Be made payable from time to time on demand or tender for purchase  
15 by the owner thereof provided a credit facility supports the bonds or notes, unless the  
16 State Treasurer specifically determines that a credit facility is not required upon a  
17 finding and determination by the State Treasurer that the absence of a credit facility will  
18 not materially or adversely affect the financial position of the State and the marketing of  
19 the bonds or notes at a reasonable interest cost to the State;

20 (b) Be additionally supported by a credit facility;

21 (c) Be made subject to redemption or a mandatory tender for purchase  
22 prior to maturity;

23 (d) Bear interest at a rate or rates that may vary for such period or periods  
24 of time, all as may be provided in the proceedings providing for the issuance of the  
25 bonds or notes, including, without limitation, such variations as may be permitted  
26 pursuant to a par formula; and

27 (e) Be made the subject of a remarketing agreement whereby an attempt is  
28 made to remarket bonds or notes to new purchasers prior to their presentment for  
29 payment to the provider of the credit facility or to the State.

30 If the aggregate principal amount repayable by the State under a credit facility  
31 is in excess of the aggregate principal amount of bonds or notes secured by the credit  
32 facility, whether as a result of the inclusion in the credit facility of a provision for the  
33 payment of interest for a limited period of time or the payment of a redemption  
34 premium or for any other reason, then the amount of authorized but unissued bonds or  
35 notes during the term of such credit facility shall not be less than the amount of such  
36 excess, unless the payment of such excess is otherwise provided for by agreement of the  
37 State executed by the State Treasurer.

38 **SECTION 22.6.(p) Special provisions governing clean water loans.**

39 (a) Scope. The provisions of this section shall apply to loans being made  
40 from the proceeds of bonds authorized by this act for clean water projects, other than  
41 from funds deposited in the Clean Water Revolving Loan and Grant Fund.

42 (b) Clean Water Bonds Loan Account. There is established in the  
43 Department of State Treasurer a special account to be known as the Clean Water Bonds  
44 Loan Account, which may include any special or segregated accounts the State  
45 Treasurer considers appropriate. There shall be deposited in the Clean Water Bonds  
46 Loan Account proceeds of the Clean Water Bonds and notes to be used to make loans,  
47 other than loans to be made through the Clean Water Revolving Loan and Grant Fund,  
48 to local government units for clean water projects as provided in this act.

49 (c) Except as otherwise permitted by this act with respect to the use of  
50 investment earnings, all moneys accruing to the credit of the Clean Water Bonds Loan  
51 Account other than funds set aside for administrative expenses, including expenses  
52 related to determining compliance with applicable requirements of the federal tax law  
53 and costs of issuance, shall be used to make loans for the purposes provided in this act.  
54 The State Treasurer shall be responsible for making and administering all loans pursuant  
55 to the provisions of this section.



- 1 (d) Application for Loans; Hearings.  
2 (1) Eligibility/Initial Hearing:  
3 a. Prior to filing an application for a loan, a local government unit  
4 shall hold a public hearing. A notice of the public hearing shall  
5 be published once at least 10 days before the date fixed for the  
6 hearing.  
7 b. All applications for loans shall be filed with the Department of  
8 Environment and Natural Resources. The form of the  
9 application shall be prescribed by the Department and shall  
10 require any information necessary to determine the eligibility  
11 for a loan under the provisions of this section. All applications  
12 approved by the Department of Environment and Natural  
13 Resources shall be filed with the Local Government  
14 Commission. Each applicant shall furnish to the Department of  
15 Environment and Natural Resources and the Local Government  
16 Commission information in addition or supplemental to the  
17 information contained in its application, upon request.  
18 c. A local government unit shall not be eligible for a loan unless it  
19 demonstrates to the satisfaction of the Department of  
20 Environment and Natural Resources and the Local Government  
21 Commission that:  
22 1. The applicant is a local government unit;  
23 2. The applicant has the financial capacity to pay the  
24 principal of and interest on its proposed loan as  
25 evidenced by the approval of the Local Government  
26 Commission;  
27 3. The applicant has substantially complied or will  
28 substantially comply with all applicable laws, rules,  
29 regulations, and ordinances, whether federal, State, or  
30 local; and  
31 4. The applicant has agreed by official resolution to adopt  
32 and place into effect a schedule of fees and charges or  
33 the application of other sources of revenue which will  
34 provide adequate funds for proper operation,  
35 maintenance, and administration of the project and  
36 repayment of all principal and interest on the loan.  
37 (2) Assessment. The Department of Environment and Natural Resources  
38 may require any applicant to file with its application an assessment of  
39 the impact the project for which the funds are sought will have upon  
40 meeting the facility needs of the area within which the project is to be  
41 located.  
42 (3) Hearing by the Department of Environment and Natural Resources or  
43 the Local Government Commission. A public hearing may be held by  
44 the Department of Environment and Natural Resources or the Local  
45 Government Commission at any time on any application. Public  
46 hearings may also be held by the Department of Environment and  
47 Natural Resources in its discretion upon written request from any  
48 citizen or taxpayer who is a resident of the county or counties in which  
49 the project is to be located or a resident of the local government unit  
50 that proposes to borrow moneys under this act, if it appears that the  
51 public interest will be served by the hearing. The written request shall  
52 set forth each objection to the proposed project or other reason for  
53 requesting a hearing on the application and shall contain the name and  
54 address of the persons submitting it. In deciding whether to grant a  
55 request for a hearing on an application, the Department of

1 Environment and Natural Resources may consider the application, the  
2 written objections to the proposed project, and the facility needs and  
3 shall determine if the public interest will be served by a hearing. The  
4 determination by the Department of Environment and Natural  
5 Resources shall be conclusive, and all written requests for a hearing  
6 shall be retained as a permanent part of the records pertaining to the  
7 application.

8 (4) Petition for Vote. A petition, demanding that the question of whether  
9 to enter into a loan agreement with the State under this act be  
10 submitted to voters, may be filed with the clerk of the local  
11 government unit applying for the loan within 15 days after the public  
12 hearing required by this section. The petition's sufficiency shall be  
13 determined and a referendum, if any, shall be conducted according to  
14 the standards, procedures, and limitations set out in G.S. 159-60  
15 through G.S. 159-62.

16 (e) Priorities.

17 (1) Determination. Determination of priorities to be assigned each eligible  
18 project shall be made semiannually by the Department of Environment  
19 and Natural Resources during each fiscal year. Every eligible project  
20 shall be considered by the Department of Environment and Natural  
21 Resources with every other project eligible during this same priority  
22 period.

23 (2) Priority Factors. All applications for loans under this act shall be  
24 assigned a priority by the Department of Environment and Natural  
25 Resources. The Department of Environment and Natural Resources  
26 shall establish other priority factors criteria by rule.

27 (3) Assignment of Priority. A written statement relative to each priority  
28 assigned shall be prepared by the Department of Environment and  
29 Natural Resources and shall be attached to the application. The  
30 priority assigned shall be conclusive.

31 (4) Failure to Qualify. If an application does not qualify for a loan as of  
32 the prior period in which the application was eligible for consideration  
33 by reason of the priority assigned, the application shall be considered  
34 during the next succeeding priority period upon request of the  
35 applicant. If the application again fails to qualify for a loan during the  
36 second priority period by reason of the priority assigned, the  
37 application shall receive no further consideration. An applicant may  
38 file a new application at any time and may amend any pending  
39 application to include additional data or information.

40 (5) Withdrawal of Commitment. Failure of an applicant within one year  
41 after the date of acceptance of the loan to arrange for necessary  
42 financing of the proposed project or award of the contract of the  
43 construction of the proposed project shall constitute sufficient cause  
44 for withdrawal of the commitment. Prior to withdrawal of a  
45 commitment, the Department of Environment and Natural Resources  
46 shall give due consideration to any extenuating circumstances  
47 presented by the applicant as reasons for failure to arrange necessary  
48 financing or to award a contract, and the commitment may be extended  
49 for an additional period of time if, in the judgment of the Department  
50 of Environment and Natural Resources, the extension is justified.

51 (f) Disbursement. To be eligible to receive the loans provided for in this  
52 section, a local government unit must arrange to borrow the amounts necessary pursuant  
53 to rules adopted by the Local Government Commission. No funds shall be disbursed  
54 until the Department of Environment and Natural Resources gives a certificate of  
55 eligibility to the effect that the applicant meets all eligibility criteria and that all

1 procedural requirements of this act have been met. The maximum principal amount of a  
2 loan shall be one hundred percent (100%) of the cost of any eligible project.

3 (g) Intercept. The governing body of a local government unit shall by  
4 resolution authorize to be included in its loan agreement a provision authorizing the  
5 State Treasurer, upon failure of the local government unit to make a scheduled  
6 repayment of the loan, to withhold from the local government unit any State funds that  
7 would otherwise be distributed to the local government unit in an amount sufficient to  
8 pay all sums then due and payable to the State as a repayment of the loan. In such  
9 event, notwithstanding any other provision of law, the State Treasurer is authorized to  
10 withhold and apply such funds to the repayment of the loan, except that such funds shall  
11 not be withheld if (i) before the execution of the loan agreement, such funds have been  
12 legally pledged to secure special obligation bonds or other obligations of the local  
13 government unit, or (ii) after the execution of the loan agreement, such funds are legally  
14 pledged to secure special obligation bonds or other obligations of the local government  
15 unit as authorized in this subsection. After the execution of a loan agreement, all or any  
16 portion of the State funds specified in the loan agreement to be so withheld may be  
17 pledged to secure special obligation bonds or other obligations of the local government  
18 unit only with the prior written consent of the State Treasurer.

19 The State Treasurer shall notify the Secretary of Revenue and the State  
20 Controller of the amount to be withheld from the local government unit, and the  
21 Secretary of Revenue and the State Controller shall transfer to the State Treasurer the  
22 amount so requested to be applied by the State Treasurer to the repayment of the loan.

23 (h) Inspection. Inspection of a project for which a loan has been made  
24 under this act may be performed by qualified personnel of the Department of  
25 Environment and Natural Resources or may be performed by qualified engineers  
26 registered in this State approved by the Department of Environment and Natural  
27 Resources. No person shall be approved to perform inspections who is an officer  
28 employed by the local government unit to which the loan was made or who is an owner,  
29 officer, employer, or agent of a contractor or subcontractor engaged in the construction  
30 of the project for which the loan was made. For the purpose of payment of inspection  
31 fees, inspection services shall be included in the term "cost" as used in this act.

32 (i) Rules. The State Treasurer, the Local Government Commission, and  
33 the Department of Environment and Natural Resources may adopt, modify, and repeal  
34 rules necessary for the administration of their respective duties under this act. Uniform  
35 rules may be jointly adopted where feasible and desirable, and no rule, jointly adopted,  
36 may be modified or revoked except upon concurrence of all agencies involved.

37 (j) Federal Grants and Loans. In order to carry out the purposes of this act  
38 to secure the greatest possible benefits to the citizens of this State of the funds  
39 appropriated, the State Treasurer, the Local Government Commission, and the  
40 Department of Environment and Natural Resources shall adopt rules and criteria, not  
41 inconsistent with provisions of this act, as are necessary and appropriate to conform to  
42 regulations for federal grants and loans for any of the purposes set forth in this act.

43 (k) Report by Department of Environment and Natural Resources. The  
44 Department of Environment and Natural Resources shall prepare and file each year on  
45 or before July 31 with the Joint Legislative Commission on Governmental Operations  
46 and the Fiscal Research Division a report for the preceding fiscal year concerning the  
47 allocation and making of loans authorized by this act. The report shall set forth for the  
48 preceding fiscal year:

- 49 (1) Itemized and total allocations of loans authorized and unallocated  
50 funds for the loan program as of the end of the preceding fiscal year;
- 51 (2) Identification of each loan agreement entered into by the State during  
52 the preceding fiscal year and the total amount of loans authorized by  
53 such loan agreements;

- 1 (3) The amount disbursed to each local government unit pursuant to such  
2 loan agreements during the preceding fiscal year and the total amount  
3 of such disbursements;
- 4 (4) The loan repayments made by each local government unit pursuant to  
5 such loan agreements and the total amount of such loan repayments  
6 during the preceding fiscal year; and
- 7 (5) A summary for the five preceding years of the information required by  
8 subdivisions (1) through (4) of this subsection.  
9 The report shall be signed by the Secretary of Environment and  
10 Natural Resources.
- 11 (l) Local Government Commission.
- 12 (1) Local government units may execute debt instruments payable to the  
13 State in order to obtain loans provided for in this act. Local  
14 government units shall pledge or agree to apply as security for such  
15 obligations:
- 16 a. Any available source of revenues of the local government unit,  
17 including revenues from benefited facilities or systems,  
18 provided that (i) the local government unit has not otherwise  
19 pledged the revenues as security for, or contractually agreed to  
20 apply the revenues to, the payment of any other obligations of  
21 the local government unit, (ii) the use of the revenues is not  
22 otherwise restricted by law, or (iii) the revenues are not derived  
23 from the exercise of the local government unit's taxing power;  
24 or
- 25 b. Their faith and credit; or
- 26 c. Any combination of a. or b. above.  
27 The faith and credit of a local government unit shall not be pledged or  
28 be deemed to have been pledged unless the requirements of Article 4  
29 of Chapter 159 of the General Statutes have been met. The State  
30 Treasurer, with the assistance of the Local Government Commission,  
31 shall develop and adopt appropriate debt instruments for use under this  
32 act.
- 33 (2) Nothing contained in this act shall prohibit any local government unit  
34 from applying any funds of the local government unit not otherwise  
35 restricted as to use by law to the payment of any debt instrument  
36 payable to the State incurred pursuant to the provisions of this act.
- 37 (3) The Local Government Commission shall review and approve  
38 proposed loans to local government units under this act under the  
39 provisions of Articles 4 and 5 of Chapter 159 of the General Statutes.  
40 The Local Government Commission in considering the ability of a  
41 local government unit to repay a loan may regard as a source of  
42 revenue for repayment of a loan revenue sources that may not be  
43 available other than on an annual discretionary basis and that may not  
44 be subject to a pledge or agreement to apply. Loans under this act  
45 shall be outstanding debts for the purposes of Article 10 of Chapter  
46 159 of the General Statutes.

#### 47 CLEAN WATER GRANT

48 **SECTION 22.7.** The Department of Environment and Natural Resources  
49 shall prepare and file each year on or before July 31 with the Joint Legislative  
50 Commission on Governmental Operations and the Fiscal Research Division a report for  
51 the preceding fiscal year concerning the allocation and making of grants authorized by  
52 this act. The report shall be signed by the Secretary of the Department of Natural  
53 Resources. The report shall set forth for the preceding fiscal year:

- 54 (a) Itemized and total allocations of grants authorized and unallocated  
55 funds for the grant program as of the end of the preceding fiscal year;

1 (b) Identification of each grant agreement entered into by the Department  
2 of Natural Resources during the preceding fiscal year and the total amount of grants  
3 authorized by the grant agreements;

4 (c) The amount disbursed to each local government unit pursuant to the  
5 grant agreements during the preceding fiscal year and the total amount of the  
6 disbursements; and

7 (d) A summary for the five preceding years of the information required by  
8 subsections (a) through (c) of this section.  
9

## 10 **MINORITY BUSINESS PARTICIPATION**

11 **SECTION 22.8.** The goals set by G.S. 143-128 for participation in projects  
12 by minority businesses apply to projects funded by the proceeds of bonds or notes  
13 issued under this act. The Department of Environment and Natural Resources shall  
14 monitor compliance with this requirement and shall report to the General Assembly by  
15 January 1 of each year on the participation by minority businesses in these projects.

16 The State Treasurer shall provide contracting opportunities for historically  
17 underutilized businesses in providing professional services in connection with the  
18 issuance of bonds and notes authorized by this act. As used in this section, the term  
19 "historically underutilized business" means a business described in G.S. 143-48. The  
20 State Treasurer shall strive to increase the amount of legal, financial, and other  
21 professional services acquired by it from historically underutilized businesses. With the  
22 assistance of the Office for Historically Underutilized Businesses in the Department of  
23 Administration, the State Treasurer shall set objectives for contracting with these  
24 businesses, identify, and eliminate barriers or constraints that may restrict these  
25 businesses from contracting with the State Treasurer, and develop a plan for meeting  
26 these objectives. The State Treasurer shall report quarterly to the Office for Historically  
27 Underutilized Businesses on its progress in carrying out the requirements of this section.  
28

## 29 **INTERPRETATION OF PART**

30 **SECTION 22.9.(a)** Additional Method. The foregoing sections of this Part  
31 shall be deemed to provide an additional and alternative method for the doing of the  
32 things authorized thereby and shall be regarded as supplemental and additional to  
33 powers conferred by other laws, and shall not be regarded as in derogation of any  
34 powers now existing.

35 (b) Statutory References. References in this Part to specific sections or  
36 Chapters of the General Statutes or to specific acts are intended to be references to these  
37 sections, Chapters, or acts as they may be amended from time to time by the General  
38 Assembly.

39 (c) Broad Construction. This Part, being necessary for the health and  
40 welfare of the people of the State, shall be broadly construed to effect the purposes  
41 thereof.

42 (d) Inconsistent Provisions. Insofar as the provisions of this Part are  
43 inconsistent with the provisions of any general laws, or parts thereof, the provisions of  
44 this act shall be controlling.  
45

## 46 **PART XXIII. MISCELLANEOUS PROVISIONS**

### 47 **STATE BUDGET ACT APPLIES**

48 **SECTION 23.1.** The provisions of the State Budget Act, Chapter 143C of  
49 the General Statutes, are reenacted and shall remain in full force and effect and are  
50 incorporated in this act by reference.  
51

### 52 **MOST TEXT APPLIES ONLY TO THE 2007-2009 FISCAL BIENNIUM**

53 **SECTION 23.2.** Except for statutory changes or other provisions that clearly  
54 indicate an intention to have effects beyond the 2007-2009 fiscal biennium, the textual  
55

1 provisions of this act apply only to funds appropriated for, and activities occurring  
2 during, the 2007-2009 fiscal biennium.  
3

4 **EFFECT OF HEADINGS**

5 **SECTION 23.3.** The headings to the parts and sections of this act are a  
6 convenience to the reader and are for reference only. The headings do not expand,  
7 limit, or define the text of this act, except for effective dates referring to a Part.  
8

9 **SEVERABILITY CLAUSE**

10 **SECTION 23.4.** If any section or provision of this act is declared  
11 unconstitutional or invalid by the courts, it does not affect the validity of this act as a  
12 whole or any part other than the part so declared to be unconstitutional or invalid.  
13

14 **EFFECTIVE DATE**

15 **SECTION 23.5.** Except as otherwise provided, this act becomes effective  
16 July 1, 2007.