

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009**

**SENATE BILL 897  
RATIFIED BILL**

AN ACT TO MODIFY THE CURRENT OPERATIONS AND CAPITAL IMPROVEMENTS  
APPROPRIATIONS ACT OF 2009 AND FOR OTHER PURPOSES.

The General Assembly of North Carolina enacts:

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

**TITLE OF ACT**

**SECTION 1.1.** This act shall be known as "The Current Operations and Capital Improvements Appropriations Act of 2010."

**INTRODUCTION**

**SECTION 1.2.** 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 as provided in G.S. 143C-1-2(b).

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

**CURRENT OPERATIONS AND EXPANSION/GENERAL FUND**

**SECTION 2.1.** Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated, are adjusted for the fiscal year ending June 30, 2011, according to the schedule that follows. Amounts set out in brackets are reductions from General Fund appropriations for the 2010-2011 fiscal year.

**Current Operations – General Fund** **2010-2011**

**EDUCATION**

Community Colleges System Office	\$ 42,668,183
Department of Public Instruction	(275,244,311)
University of North Carolina – Board of Governors	
Appalachian State University	1,998,580
East Carolina University	
Academic Affairs	5,851,230
Elizabeth City State University	750,308
Fayetteville State University	1,417,998
North Carolina Agricultural and Technical State University	2,490,531
North Carolina Central University	370,281
North Carolina State University	
Academic Affairs	12,371,317
UNC School of the Arts	466,240
University of North Carolina at Asheville	782,143



University of North Carolina at Chapel Hill	
Academic Affairs	5,269,319
Health Affairs	125,319
Area Health Education Centers	0
University of North Carolina at Charlotte	7,748,950
University of North Carolina at Greensboro	3,362,001
University of North Carolina at Pembroke	768,400
University of North Carolina at Wilmington	3,435,177
Western Carolina University	1,015,952
Winston-Salem State University	798,672
General Administration	(410,863)
University Institutional Programs	(40,303,905)
Related Educational Programs	10,058,332
UNC Financial Aid Private Colleges	(63,635)
North Carolina School of Science and Mathematics	80,851
UNC Hospitals at Chapel Hill	(8,000,000)
Total University of North Carolina – Board of Governors	\$ 10,383,198

### **HEALTH AND HUMAN SERVICES**

Department of Health and Human Services	
Central Management and Support	\$ (3,523,834)
Division of Aging	100,000
Division of Blind Services/Deaf/HH	(632,912)
Division of Child Development	(34,959,584)
Division of Education Services	(4,093,260)
Division of Health Service Regulation	(2,061,346)
Division of Medical Assistance	(351,830,928)
Division of Mental Health	40,780,659
NC Health Choice	6,444,925
Division of Public Health	(3,933,117)
Division of Social Services	(15,859,792)
Division of Vocational Rehabilitation Services	(1,540,982)
Total Health and Human Services	\$ (371,110,171)

### **NATURAL AND ECONOMIC RESOURCES**

Department of Agriculture and Consumer Services	\$ (179,075)
Department of Commerce	
Commerce	22,270,645
Commerce State-Aid	20,580,564
NC Biotechnology Center	5,000,000
Rural Economic Development Center	3,933,378
Department of Environment and Natural Resources	4,225,974
Department of Environment and Natural Resources – Clean Water Management Trust Fund	0
Department of Labor	(1,102,555)

### **JUSTICE AND PUBLIC SAFETY**

Department of Correction	\$ (41,239,247)
Department of Crime Control and Public Safety	(1,656,592)
Judicial Department	(13,434,355)

Judicial Department – Indigent Defense	(4,431,626)
Department of Justice	(3,004,760)
Department of Juvenile Justice and Delinquency Prevention	(903,138)
<b>GENERAL GOVERNMENT</b>	
Department of Administration	\$ (745,126)
Office of Administrative Hearings	(30,000)
Department of State Auditor	(337,033)
Office of State Controller	7,435,411
Department of Cultural Resources	
Cultural Resources	(1,253,146)
Roanoke Island Commission	(115,926)
State Board of Elections	184,869
General Assembly	(2,914,926)
Office of the Governor	
Office of the Governor	(353,359)
Office of State Budget and Management	(373,164)
OSBM – Reserve for Special Appropriations	3,150,693
Housing Finance Agency	(2,500,000)
Department of Insurance	
Insurance	(2,176,454)
Insurance – Volunteer Safety Workers' Compensation	0
Office of Lieutenant Governor	(33,539)
Department of Revenue	(201,183)
Department of Secretary of State	(666,886)
Department of State Treasurer	
State Treasurer	(202,709)
State Treasurer – Retirement for Fire and Rescue Squad Workers	0
<b>RESERVES, ADJUSTMENTS AND DEBT SERVICE</b>	
Job Development Investment Grants (JDIG)	(6,600,000)
Debt Service	
General Debt Service	(1,668,313)
<b>TOTAL CURRENT OPERATIONS – GENERAL FUND</b>	<b>\$ (612,644,679)</b>

**GENERAL FUND AVAILABILITY STATEMENT**

**SECTION 2.2.(a)** Section 2.2(a) of S.L. 2009-451 is repealed. The General Fund availability used in adjusting the 2010-2011 budget is shown below:

**FY 2010-2011**

Unappropriated Balance Remaining from Previous Year	3,702,182
Adjustment from Estimated to Actual FY 2009-2010 Beginning Unreserved Fund Balance	270,080
<b>Beginning Unreserved Fund Balance</b>	<b>3,972,262</b>
<b>Revenues Based on Existing Tax Structure</b>	<b>18,199,339,016</b>
<b>Nontax Revenues</b>	
Investment Income	57,500,000
Judicial Fees	239,100,000
Disproportionate Share	100,000,000
Insurance	67,000,000
Other Nontax Revenues	182,700,000
Highway Trust Fund/Use Tax Reimbursement Transfer	72,800,000
Highway Fund Transfer	17,600,000
<b>Subtotal Nontax Revenues</b>	<b>736,700,000</b>
<b>Total General Fund Availability</b>	<b>18,940,011,278</b>
<b>Adjustments to Availability: Senate Bill 897</b>	
Internal Revenue Code Conformity	(7,700,000)
Unemployment Insurance Refundable Tax Credit	(34,100,000)
Increase Sales Tax Prepayment Threshold	(7,000,000)
Relieve Annual Report Compliance Burden on Small Businesses	(400,000)
Fair Tax Penalties	0
Extend Sunsets on Various Tax Incentives	(3,500,000)
Improve Tax and Debt Collection Process	3,000,000
Modernize Sales Tax on Accommodations	1,700,000
Modernize Admissions Tax and Restore Amenities Exclusion	(700,000)
Reserve for Pending Finance Legislation	(9,800,000)
Reduce Franchise Tax Burden on Construction Companies	(1,500,000)
Department of Revenue Settlement Initiative	110,000,000
Disproportionate Share	35,000,000
Loss of Estate Tax Revenues for FY 2010-2011	(85,000,000)
Increase Justice and Public Safety Fees	13,930,670
Transfer from the Health and Wellness Trust Fund	5,397,000
Transfer Aviation from Department of Commerce to Department of Transportation	(500,000)
Transfer from Wildlife Resources Commission	3,000,000
Divert Funds from Scrap Tire Disposal Account	2,500,000
Divert Funds from White Goods Fund	1,200,000
Transfer from Mercury Pollution Prevention Fund	2,250,000
Transfer from Bladen Lakes Special Fund	150,000
Transfer from DACS – N.C. State Fair	1,000,000
Transfer from ECU Magnetic Resonance Imaging Lease and Equipment Fund	1,000,000
Adjust Transfer from Insurance Regulatory Fund	(2,176,454)
Transfer from Motorfleet Internal Services Fund	14,000,000
<b>Subtotal Adjustments to Availability: Senate Bill 897</b>	<b>41,751,216</b>
<b>Revised General Fund Availability</b>	<b>18,981,762,494</b>
<b>Less General Fund Appropriations</b>	<b>18,958,293,337</b>
<b>Balance Remaining</b>	<b>23,469,157</b>

**SECTION 2.2.(b)** Notwithstanding the provisions of G.S. 143C-4-3, the State Controller shall not transfer funds to the Repairs and Renovations Reserve Account on June 30, 2010. This subsection becomes effective June 30, 2010.

**SECTION 2.2.(c)** Notwithstanding G.S. 143C-4-2, the State Controller shall not transfer funds to the Savings Reserve Account on June 30, 2010. This subsection becomes effective June 30, 2010.

**SECTION 2.2.(d)** Notwithstanding the provisions of G.S. 105-187.19(b), effective for taxes levied during the 2010-2011 fiscal year, the Secretary of Revenue shall credit to the General Fund the net tax proceeds that G.S. 105-187.19(b) directs the Secretary to credit to the Scrap Tire Disposal Account.

**SECTION 2.2.(e)** Notwithstanding the provisions of G.S. 105-187.24, effective for taxes levied during the 2010-2011 fiscal year, the Secretary of Revenue shall credit to the General Fund the net tax proceeds that G.S. 105-187.24 directs the Secretary to credit to the White Goods Management Account.

**SECTION 2.2.(f)** Section 2.2(i) of S.L. 2009-451 reads as rewritten:

**"SECTION 2.2.(i)** Notwithstanding G.S. 143C-9-3, of the funds credited to the Health Trust Account, the sum of ~~five million dollars (\$5,000,000)~~ ten million three hundred ninety-seven thousand dollars (\$10,397,000) that would otherwise be deposited in the Fund Reserve shall be transferred from the Department of State Treasurer, Budget Code 23460 (Health and Wellness Trust Fund), to the State Controller to be deposited in Nontax Budget Code 19978 (Intrastate Transfers) to support General Fund appropriations for the 2009-2010 and 2010-2011 fiscal years. These funds shall be transferred on or after April 30, 2010.

**SECTION 2.2.(g)** Section 2.2(g) of S.L. 2009-451, as amended by Section 2 of S.L. 2009-575, is repealed.

**SECTION 2.2.(h)** Notwithstanding any other provision of law to the contrary, effective July 1, 2010, the following amounts shall be transferred to the State Controller to be deposited in Nontax Budget Code 19978 (Intrastate Transfers) or the appropriate budget code as determined by the State Controller. These funds shall be used to support the General Fund appropriations as specified in this act for the 2010-2011 fiscal year.

**FY 2010-2011**

<b>Budget Code</b>	<b>Fund Code</b>	<b>Description</b>	<b>Amount</b>
24300	2119	Mercury Pollution Prevention	2,250,000
24300	2221	Forestry – Bladen Lakes	150,000
24350		Wildlife Resources – Special	3,000,000
53750		DACS – NC State Fair	1,000,000.

**SECTION 2.2.(i)** Section 2.2(h) of S.L. 2009-451 reads as rewritten:

**"SECTION 2.2.(h)** Notwithstanding G.S. 143C-9-3, of the funds credited to the Tobacco Trust, the sum of five million dollars (\$5,000,000) shall be transferred from the Department of Agriculture and Consumer Services, Budget Code 23703 (Tobacco Trust Fund), to the State Controller to be deposited in Nontax Budget Code 19978 (Intrastate Transfers) to support General Fund appropriations for the ~~2009-2010 and 2010-2011 fiscal years.~~ 2010-2011 fiscal year. These funds shall be transferred on or after April 30, ~~2010, 2011.~~"

**SECTION 2.2.(j)** The Brody School of Medicine (formerly known as the East Carolina University School of Medicine) shall transfer the sum of two million dollars (\$2,000,000) from Budget Code 06067, Fund Code 0142, to the Office of State Controller for deposit to Nontax Budget Code 19978 (Intrastate Transfers) for the 2010-2011 fiscal year.

**EXTRAORDINARY MEASURES TO ADDRESS THE POTENTIAL LOSS OF FEDERAL FUNDS**

**SECTION 2.3.(a)** The General Assembly finds that:

- (1) Upon enactment of the State's 2010-2011 fiscal year budget, the Congress of the United States had considered but not authorized the extension of the enhanced federal Medical Assistance Percentage (FMAP), as initially authorized under the American Recovery and Reinvestment Act of 2009 (Public Law 111-5).
- (2) The modifications to the 2010-2011 budget set out in this act include the use of these anticipated federal receipts to offset General Fund appropriations to the Department of Health and Human Services.

- (3) The potential loss of these funds, which may total up to five hundred eighteen million eight hundred ninety-five thousand eight hundred forty-six dollars (\$518,895,846), would create a substantial shortfall in the State's General Fund further straining the General Assembly's efforts to (i) increase economic development activities and job creation, (ii) maintain critical funds for education, and (iii) maintain health care and services for the State's most vulnerable citizens.

**SECTION 2.3.(b)** If the Congress does not act to authorize all or part of these enhanced FMAP funds prior to January 1, 2011, the General Assembly directs the Director of the Budget, in conjunction with the State Treasurer, State Controller, and other State officials, to effectuate the following extraordinary budget adjustments to the extent necessary to backfill the funds, in priority order:

(1) Transfer from the Disaster Relief Reserve Fund established in S.L. 2005-1	\$ (30,000,000)
(2) Transfer of unclaimed lottery prize money and excess receipts	(35,000,000)
(3) Use of interest from all other funds	(50,000,000)
(4) Use of balance in General Fund Availability	(23,469,157)
(5) Reduction of Medicaid Provider rates	(26,618,975)
(6) Use of funds from the Savings Reserve Fund	(37,307,714)
(7) Reduction in Retirement System contributions	(139,000,000)
(8) One percent (1%) Management Flexibility Reduction	(177,500,000)

**TOTAL** **\$ (518,895,846)**

**SECTION 2.3.(c)** If it is necessary to implement the budget adjustment set out in subdivision (b)(2) of this section:

- (1) Notwithstanding G.S. 18C-162(c)(1), the Office of State Budget and Management shall transfer fiscal year 2010-2011 unclaimed lottery prize money which would otherwise enhance prizes to the State Controller to be deposited in Nontax Budget Code 18878 (Intrastate Transfers) or the appropriate budget code as determined by the State Controller.
- (2) Notwithstanding G.S. 18C-164(f) and Section 5.1 of this act, the Office of State Budget and Management shall transfer fiscal year 2009-2010 lottery receipts in excess of four hundred nineteen million four hundred sixty-three thousand two hundred seventy-two dollars (\$419,463,272) to the State Controller to be deposited in Nontax Budget Code 18878 (Intrastate Transfers) or the appropriate budget code as determined by the State Controller.
- (3) The Director of the Budget and the Lottery Commission shall hold in reserve the funds referenced in subdivisions (1) and (2) of this subsection to ensure proper implementation of this section.

**SECTION 2.3.(d)** If it is necessary to implement the budget adjustment set out in subdivision (b)(3) of this section, notwithstanding any other provision of law, and unless it is inconsistent with a federal law, grant agreement, or other federal requirement, or with the terms of a gift or settlement agreement, the State Controller shall credit to the General Fund for the 2010-2011 fiscal year the sum of fifty million dollars (\$50,000,000) from the 2010-2011 interest earnings from all governmental and proprietary funds, except for the Highway Fund and the Highway Trust Fund.

**SECTION 2.3.(e)** If it is necessary to implement the budget adjustment set out in subdivision (b)(4) of this section, the Director of the Budget shall use the unappropriated balance in the General Fund to offset the reduction in federal fund availability, and such funds are hereby appropriated for this purpose. If it is not necessary to expend all of these funds in accordance with subdivision (b)(4) of this section, the State Controller shall transfer the remaining funds to the Savings Reserve Account.

**SECTION 2.3.(f)** If it is necessary to implement the budget adjustment set out in subdivision (b)(5) of this section, notwithstanding Section 10.68A(a)(8) of S.L. 2009-451, as amended by Section 5A of S.L. 2009-575 and Section 10.35 of this act, the Department of

Health and Human Services shall reduce reimbursement rates paid to service providers in the Medicaid program to generate savings of twenty-six million six hundred eighteen thousand nine hundred seventy-five dollars (\$26,618,975).

The rate reduction authorized in this section shall not apply to: federally qualified health clinics, rural health centers, State institutions, hospital inpatient, pharmacies, and the noninflationary components of the case-mix reimbursement system for nursing facilities.

**SECTION 2.3.(g)** If it is necessary to implement the budget adjustment set out in subdivision (b)(6) of this section, the Office of State Budget and Management shall use up to thirty-seven million three hundred seven thousand seven hundred fourteen dollars (\$37,307,714) from the Savings Reserve Fund to offset the reduction in federal fund availability, and such funds are hereby appropriated for this purpose.

**SECTION 2.3.(h)** Section 6(c) of S.L. 2009-16, as amended by Section 26.20(b) of S.L. 2009-451, reads as rewritten:

**"SECTION 6.(c)** Effective July 1, 2010, the State's employer contribution rates budgeted for reserves, retirement and related benefits as percentage of covered salaries for the 2010-2011 fiscal year are: (i) ~~ten and fifty one hundredths percent (10.51%)~~ nine and fifteen hundredths percent (9.15%) – Teachers and State Employees; plus one and thirty-six hundredths percent (1.36%) to a reserve in the Office of State Budget and Management to be transferred to the Retirement System only if not needed as an adjustment as required by Section 2.3(b)(7) of Senate Bill 897, 2009 Regular Session; (ii) ~~fifteen and fifty one hundredths percent (15.51%)~~ fourteen and fifteen hundredths percent (14.15%) – State Law Enforcement Officers; plus one and thirty-six hundredths percent (1.36%) to a reserve in the Office of State Budget and Management to be transferred to the Retirement System only if not needed as an adjustment as required by Section 2.3(b)(7) of Senate Bill 897, 2009 Regular Session; (iii) twelve and twenty-six hundredths percent (12.26%) – University Employees' Optional Retirement System; (iv) twelve and twenty-six hundredths percent (12.26%) – Community College Optional Retirement Program; (v) twenty and one hundredths percent (20.01%) – Consolidated Judicial Retirement System; and (vi) four and ninety hundredths percent (4.90%) – Legislative Retirement System. Each of the foregoing contribution rates includes four and ninety hundredths percent (4.90%) for hospital and medical benefits. The rate for Teachers and State Employees, State Law Enforcement Officers, Community College Optional Retirement Program, and for the University Employees' Optional Retirement Program includes fifty-two hundredths percent (0.52%) for the Disability Income Plan. The rates for Teachers and State Employees and State Law Enforcement Officers include sixteen-hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law Enforcement Officers includes five percent (5%) for Supplemental Retirement Income."

**SECTION 2.3.(i)** If it is necessary to implement the budget adjustment set out in subdivision (b)(8) of this section, the Director of the Budget shall implement a one percent (1%) annualized management flexibility reduction. Notwithstanding any other provision of law, and unless it is inconsistent with a federal law, grant agreement, or other federal requirement, or with the terms of a gift or settlement agreement, the Director of the Budget may use funds appropriated for any purpose or program and from any governmental or proprietary funds for this purpose.

Effective July 1, 2010, agency heads shall immediately take steps in preparation for a potential one percent (1%) reduction.

**SECTION 2.3.(j)** If on or after January 1, 2011, Congress passes legislation that restores any portion of the enhanced FMAP funding, these funds shall be used to reverse any of the actions taken pursuant to this section in reverse of the priority order in which the adjustments were made in subsection (b) of this section.

## **PART III. CURRENT OPERATIONS/HIGHWAY FUND**

### **CURRENT OPERATIONS/HIGHWAY FUND**

**SECTION 3.1.** Appropriations from the State Highway Fund for the maintenance and operation of the Department of Transportation and for other purposes as enumerated are adjusted for the fiscal year ending June 30, 2011, according to the following schedule. Amounts set out in brackets are reductions from Highway Fund Appropriations for the 2010-2011 fiscal year.

	<b>2010-2011</b>
Department of Transportation Administration	\$ (29,344)
Division of Highways Administration	0
Construction	3,840,718
Maintenance	(4,373,213)
Planning and Research	0
OSHA Program	0
Ferry Operations	11,349,869
State Aid Municipalities	(785,319)
Public Transportation	0
Airports	500,000
Railroads	6,325,000
Governor's Highway Safety Program	0
Division of Motor Vehicles	200,325
Transfers to Other State Agencies, and Reserves	35,861,964
<b>TOTAL</b>	<b>\$ 52,890,000</b>

#### **HIGHWAY FUND AVAILABILITY**

**SECTION 3.2.** Section 3.2 of S.L. 2009-451 is repealed. The Highway Fund availability used in adjusting the 2010-2011 fiscal year budget is shown below:

<b>Highway Fund Availability Statement</b>	<b>2010-2011</b>
Unappropriated Balance from Previous Year	\$0
Beginning Fund Balance	\$0
Estimated Revenue	\$1,792,540,000
<b>Total Highway Fund Availability</b>	<b>\$1,792,540,000</b>
<b>Unappropriated Balance</b>	<b>\$0</b>

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

##### **CURRENT OPERATIONS/HIGHWAY TRUST FUND**

**SECTION 4.1.** Appropriations from the State Highway Trust Fund for the maintenance and operation of the Department of Transportation and for other purposes as enumerated are adjusted for the fiscal year ending June 30, 2011, according to the following schedule. Amounts set out in brackets are reductions from Highway Trust Fund Appropriations for the 2010-2011 fiscal year.

<b>Current Operations – Highway Trust Fund</b>	<b>2010-2011</b>
Intrastate System	4,995,162
Urban Loops	2,019,836
Aid to Municipalities	524,109
Secondary Roads	(170,627)
Program Administration	371,520
North Carolina Turnpike Authority	0
Transfer to General Fund	0



Debt Service

0

**TOTAL**

**7,740,000**

**HIGHWAY TRUST FUND AVAILABILITY STATEMENT**

**SECTION 4.2.** Section 4.2 of S.L. 2009-451 is repealed. The Highway Trust Fund availability used in developing the 2010-2011 fiscal year budget is shown below:

**Total Highway Trust Fund Availability**

**\$928,730,000**

**PART V. OTHER APPROPRIATIONS**

**EDUCATION LOTTERY**

**SECTION 5.1.(a)** Pursuant to G.S. 18C-164, the revenue used to support appropriations made in this act is transferred from the State Lottery Fund in the amount of four hundred forty-one million three hundred forty-seven thousand five hundred dollars (\$441,347,500) for the 2010-2011 fiscal year.

**SECTION 5.1.(a1)** Notwithstanding G.S. 18C-164(b), funds in the amount of sixteen million eight hundred eight thousand seventy-six dollars (\$16,808,076) shall be transferred from the Education Lottery Reserve Fund to the Education Lottery Fund to support appropriations made in this act. These funds shall be allocated for class size reduction.

**SECTION 5.1.(b)** Notwithstanding G.S. 18C-164, the appropriations made from the Education Lottery Fund pursuant to G.S. 18C-164(d) for the 2010-2011 fiscal year are as follows:

(1)	Class Size Reduction	\$ 220,643,188
(2)	Prekindergarten Program	79,635,709
(3)	Public School Building Capital Fund	113,741,929
(4)	Scholarships for Needy Students	44,134,750
	Total	\$ 458,155,576

**SECTION 5.1.(c)** Notwithstanding G.S. 18C-164(f) or any other provision of law, excess lottery receipts realized in the 2009-2010 fiscal year in the amount of thirty-one million eight hundred eighty-one thousand forty-six dollars (\$31,881,046) shall be transferred to the Public School Building Capital Fund and allocated on the basis of average daily membership (ADM) to those local school administrative units that did not qualify for funding in the 2009-2010 fiscal year pursuant to G.S. 115C-546.2(d)(2). Notwithstanding G.S. 18C-164(f) or any other provision of law, the balance of the excess lottery revenues realized in the 2009-2010 fiscal year shall be used for scholarships for needy students.

**SECTION 5.1.(d)** Section 5.2(d) of S.L. 2009-451, as enacted by Section 3N of S.L. 2009-575, is repealed.

**SECTION 5.1.(e)** Notwithstanding G.S. 18C-164(c), G.S. 115C-546.2(d), or any other provision of law, funds appropriated in this section to the Public School Building Capital Fund for the 2010-2011 fiscal year shall be allocated to counties on the basis of average daily membership (ADM). Counties may authorize local school administrative units to use funds received from the Public School Building Capital Fund pursuant to subsection (f) of this section for one or more of the following purposes only: (i) for school construction projects in accordance with G.S. 115C-546.2(d), (ii) to retire indebtedness incurred for school construction projects incurred on or after January 1, 2003, in accordance with G.S. 115C-546.2(d), and (iii) for classroom teachers. A county may authorize the use of these funds for classroom teachers only upon the request of the local board of education. Funds used for classroom teachers shall supplement and not supplant existing local current expense funding for the public schools.

These funds shall not be included in the computation of "average per pupil allocation for average daily membership" or "per pupil local current expense appropriation" under G.S. 115C-238.29H.

**SECTION 5.1.(f)** Notwithstanding G.S. 18C-164(c), Article 35A of Chapter 115C of the General Statutes, or any other provision of law, of the funds appropriated in this section for Scholarships for Needy Students, the sum of twenty-six million six hundred sixty-one thousand forty-six dollars (\$26,661,046) shall be administered in accordance with the policy adopted by the Board of Governors of The University of North Carolina.

**SECTION 5.1.(g)** Notwithstanding G.S. 18C-164(f), if the actual net lottery revenues for the 2010-2011 fiscal year exceed the amounts appropriated in subsection (b) of this section, the excess net revenues shall be allocated for school capital on the basis of average daily membership.

**SECTION 5.1.(h)** Subsections (c) and (d) of this section become effective June 30, 2010.

**INFORMATION TECHNOLOGY AVAILABILITY AND APPROPRIATION**

**SECTION 5.2.** Section 5.3(b) of S.L. 2009-451 reads as rewritten:

**"SECTION 5.3.(b)** Appropriations are made from the Information Technology Fund for the 2009-2011 fiscal biennium as follows:

<b>Office of Information Technology Services</b>	<b>FY 2009-2010</b>	<b>FY 2010-2011</b>
Information Technology Operations	\$5,350,000	\$4,990,000
<u>Center for Geographic Information and Analysis</u>		\$740,000
<u>Enterprise Security and Risk Management Office</u>		1,101,296
<u>Enterprise Project Management Office</u>		1,795,000
<u>Architecture and Engineering</u>		648,000
<u>Total Information Technology Operations</u>	<u>\$5,350,000</u>	<u>\$4,284,296</u>
Information Technology Projects	\$4,462,733	\$4,077,467
<u>Enterprise Licensing</u>		\$300,000
<u>State Portal</u>		500,000
<u>Enterprise Identity Management</u>		1,250,000
<u>IT Consolidation</u>		2,079,467
<u>Electronic Forms/Digital Signatures</u>		653,704
<u>Total Information Technology Projects</u>	<u>\$4,462,733</u>	<u>\$4,783,171</u>
Budget and Performance Management System	\$1,021,985	0
Budget/Committee Reporting System	\$500,000	0
<b>Total</b>	<b>\$11,334,718</b>	<b>\$9,067,467"</b>

**APPROPRIATION OF CASH BALANCES**

**SECTION 5.3.** Section 5.4 of S.L. 2009-451 reads as rewritten:

**"SECTION 5.4.(a)** State funds, as defined in G.S. 143C-1-1(d)(25), are appropriated ~~and authorized~~ as provided in G.S. 143C-1-2 for the 2009-2011 fiscal biennium as follows:

- (1) For all budget codes listed in the Base Budget and Performance Management Information sections of "North Carolina State Budget, Recommended Operating Budget 2009-2011, Volumes 1 through 6," and in the Budget Support Document, cash balances and receipts are appropriated up to the amounts specified in Volumes 1 through 6, as adjusted by the General Assembly, for the 2009-2010 fiscal year and the 2010-2011 fiscal year. Funds may be expended only for the programs, purposes, objects, and line items specified in Volumes 1 through 6, or otherwise authorized by the General Assembly. Expansion budget funds listed in those documents are appropriated only as otherwise provided in this act.
- (2) For all budget codes that are not listed in "North Carolina State Budget, Recommended Operating Budget 2009-2011, Volumes 1 through 6," or in the Budget Support Document, cash balances and receipts are appropriated for each year of the 2009-2011 fiscal biennium up to the level of actual expenditures for the ~~2008-2009-2009-2010~~ 2009-2010 fiscal year, unless otherwise provided by law. Funds may be expended only for the programs, purposes, objects, and line items authorized for the ~~2008-2009-2009-2010~~ 2009-2010 fiscal year.
- (3) Notwithstanding subdivisions (1) and (2) of this subsection, any receipts that are required to be used to pay debt service requirements for various outstanding bond issues and certificates of participation are appropriated up

to the actual amounts received for the 2009-2010 fiscal year and the 2010-2011 fiscal year and shall be used only to pay debt service requirements.

- (4) Notwithstanding subdivisions (1) and (2) of this subsection, cash balances and receipts of funds that meet the definition issued by the Governmental Accounting Standards Board of a trust or agency fund are appropriated for and in the amounts required to meet the legal requirements of the trust agreement for the 2009-2010 fiscal year and the 2010-2011 fiscal year.

**"SECTION 5.4.(b)** Receipts collected in a fiscal year in excess of the amounts authorized by this section shall remain unexpended and unencumbered until appropriated by the General Assembly in a subsequent fiscal year, unless the expenditure of overrealized receipts in the fiscal year in which the receipts were collected is authorized by the State Budget Act.

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

In addition to the consultation and reporting requirements set out in G.S. 143C-6-4, the Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division within 30 days after the end of each quarter on any overrealized receipts approved for expenditure under this subsection by the Director of the Budget. The report shall include the source of the receipt, the amount overrealized, the amount authorized for expenditure, and the rationale for expenditure.

**"SECTION 5.4.(c)** Notwithstanding subsections (a) and (b) of this section, there is appropriated from the Reserve for Reimbursements to Local Governments and Shared Tax Revenues for each fiscal year an amount equal to the amount of the distributions required by law to be made from that reserve for that fiscal year."

#### **OTHER RECEIPTS FROM PENDING GRANT AWARDS**

**SECTION 5.4.** Section 5.6 of S.L. 2009-451 reads as rewritten:

**"SECTION 5.6.** Notwithstanding G.S. 143C-6-4, State agencies may, with approval of the Director of the Budget and after consultation with the Joint Legislative Committee on Governmental Operations, spend funds received from grants awarded subsequent to the enactment of this act. The Office of State Budget and Management shall work with the recipient State agencies to budget grant awards according to the annual program needs and within the parameters of the respective granting entities. Depending on the nature of the award, additional State personnel may be employed on a time-limited basis. The Office of State Budget and Management shall consult with the Joint Legislative Commission on Governmental Operations prior to expending any funds received from grant awards. Funds received from such grants are hereby appropriated and shall be incorporated into the ~~certified~~ authorized budget of the recipient State agency."

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

##### **EXPENDITURE OF FUNDS IN RESERVES LIMITED**

**SECTION 6.1.** All funds appropriated by this act into reserves may be expended only for the purposes for which the reserves were established.

##### **BUDGET CODE CONSOLIDATIONS**

**SECTION 6.2.** Notwithstanding G.S. 143C-6-4, the Office of State Budget and Management may adjust the enacted budget by making transfers among purposes or programs for the purpose of consolidating budget and fund codes or eliminating inactive budget and fund codes. The Office of State Budget and Management shall change the authorized budget to reflect these adjustments.

##### **BUDGET REALIGNMENT**

**SECTION 6.3.** Notwithstanding G.S. 143C-6-4(b), the Office of State Budget and Management, in consultation with the Office of the State Controller and the Fiscal Research Division, may adjust the enacted budget by making transfers among purposes or programs for the sole purpose of correctly aligning authorized positions and associated operating costs with the appropriate purposes or programs as defined in G.S. 143C-1-1(d)(23). The Office of State Budget and Management shall change the authorized budget to reflect these adjustments only

after reporting the proposed adjustments to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division. Under no circumstances shall total General Fund expenditures for a State department exceed the amount appropriated to that department from the General Fund for the fiscal year.

### **ESTABLISHING OR INCREASING FEES PURSUANT TO THIS ACT**

**SECTION 6.5.(a)** Notwithstanding G.S. 12-3.1, an agency is not required to consult with the Joint Legislative Commission on Governmental Operations prior to establishing or increasing a fee as authorized or anticipated in this act.

**SECTION 6.5.(b)** Notwithstanding G.S. 150B-21.1A(a), an agency may adopt an emergency rule in accordance with G.S. 150B-21.1A to establish or increase a fee as authorized by this act if the adoption of a rule would otherwise be required under Article 2A of Chapter 150B of the General Statutes.

### **LEGISLATIVE BUDGET PRIORITIES**

**SECTION 6.6.** The General Assembly finds North Carolina's citizens and businesses are suffering from the effects of a significant State, national, and international financial crisis and that this financial crisis has resulted in large reductions in revenues available to fund the State's budget for the upcoming year and in large increases in demand for State services. The General Assembly further finds that, in spite of the reduced revenues, the State must act decisively to create jobs, encourage economic activity to keep our families working, provide job training and higher education opportunities to the citizens of the State, and protect core government services such as health care for the most vulnerable populations and public safety for the citizens of the State; therefore, the General Assembly provides funding for and support of the following initiatives:

- (1) Retention of classroom teachers.
- (2) Tax credits for small businesses.
- (3) Small Business Assistance Fund to make loans available to businesses.
- (4) Preservation of access to health care for vulnerable populations.
- (5) Financial aid to needy college and community college students.
- (6) Full funding for community college enrollment growth to be used to hire additional faculty and student support staff.
- (7) Small Business Centers at community colleges.
- (8) Business Recruitment, Marketing, and Agricultural and Business International Trade funds to create export opportunities and increase investment in North Carolina.
- (9) One North Carolina Small Business matching grants for federal incentives.
- (10) One North Carolina Fund to enhance business recruitment.
- (11) Job Maintenance and Capital Development Fund for employment in Tier 1 counties.
- (12) Wave energy research funding.
- (13) Energy Research Grants that match federal funds for research in energy and green jobs.
- (14) Full funding for the seven Regional Economic Development Commissions.
- (15) Home Grown Jobs to help rural communities compete for businesses.
- (16) Main Street Solutions grants for downtown improvements that support small businesses.
- (17) Biofuels Center working to develop North Carolina's biofuels industry.
- (18) North Carolina Biotechnology Center developing the State's biotechnology industry.
- (19) Indian Economic Development initiatives to assist Indian communities with job creation.
- (20) Family Farm Opportunity and Innovation grants to stimulate jobs and innovation on small farms.
- (21) Got to Be NC Marketing to promote North Carolina agricultural products.
- (22) Agricultural Development and Farmland Preservation funds to sustain working farms and promote agribusiness.
- (23) Natural Gas and Petroleum Exploration to understand the State's natural gas and petroleum potential.

- (24) Restored funding for mental health programs.
- (25) Tar Heel Works Program providing work-based training.
- (26) UNCC Energy Production Infrastructure Center (EPIC).
- (27) ECU Dental School Operations.
- (28) NC A&T/UNC-G Joint School of Nanoscience and Nanoengineering.
- (29) Full funding for Clean Water State Revolving Fund.
- (30) Full funding for Drinking Water State Revolving Fund.
- (31) Minority Support Center funds for loans to small businesses with limited access to credit.
- (32) Tourism Marketing funds to promote North Carolina as a tourist destination.
- (33) In-Source NC creating buyer-supplier networks among businesses in North Carolina.
- (34) Repair and Renovations projects.
- (35) Basic Skills Plus providing accelerated job training for people seeking their high school diploma or its equivalent.
- (36) Minority Male Mentoring Program.

### AMEND ARRA FUNDS

**SECTION 6.7.** Section 6.6C(b) of S.L. 2009-451 reads as rewritten:

**"SECTION 6.6C.(b)** Appropriation of ARRA Funds. – Funds received from ARRA grants and receipts not specified in this act are hereby appropriated in the amounts provided in the notification of award from the federal government or any entity acting on behalf of the federal government to administer federal ARRA funds. ~~Prior to allocation of funds not expressly delineated in this act, the~~ Within 30 days after notification of the allocation of federal funds, OSBM and affected state State agencies shall consult with report to the Joint Legislative Commission on Governmental Operations. Operations on ARRA grants received that are not expressly delineated in this act."

### INFORMATION TECHNOLOGY OPERATIONS

**SECTION 6.8.** Section 6.7 of S.L. 2009-451 reads as rewritten:

**"SECTION 6.7.(a)** Office of Information Technology Services Budget. – Notwithstanding G.S. 147-33.88, the Office of Information Technology Services shall develop an annual budget for review and approval by the Office of State Budget and Management in accordance with a schedule prescribed by the Director of the Office of State Budget and Management. The approved Office of Information Technology Services budget shall be included in the Governor's budget recommendations to the General Assembly.

The Office of State Budget and Management shall ensure that State agencies have an opportunity to adjust their budgets based on any rate changes proposed by the Office of Information Technology Services.

**"SECTION 6.7.(b)** Enterprise Projects. – The State Chief Information Officer shall consult the respective State agency chief information officers to identify specific State agency requirements prior to the initiation of any enterprise ~~project, project or contract.~~ State agency requirements shall be incorporated into any enterprise agreement signed by the State Chief Information Officer. Enterprise projects shall not exceed the participating State agencies' ability to financially support the contracts.

The State Chief Information Officer shall not enter into any information technology contracts without obtaining written agreements from participating State agencies regarding apportionment of funding. State agencies agreeing to participate in a contract shall:

- (1) Ensure that sufficient funds are budgeted to support their agreed shares of enterprise agreements throughout the life of the contract.
- (2) Transfer the agreed-upon funds to the Office of Information Technology Services in sufficient time for the Office of Information Technology Services to meet contract requirements.
- (3) Ensure that enterprise project costs are allocated to participating agencies in an equitable manner.

**"SECTION 6.7.(c)** Notwithstanding the cash management provisions of G.S. 147-86.11, the Office of Information Technology Services may procure information technology goods and services for periods of up to a total of three years where the terms of the procurement contract require payment of all, or a portion, of the contract purchase price at the beginning of the

agreement. All of the following conditions shall be met before payment for these agreements may be disbursed:

- (1) Any advance payment complies with the Office of Information Technology Services budget.
- (2) The State Controller receives conclusive evidence that the proposed agreement would be more cost-effective than a multiyear agreement that complies with G.S. 147-86.11.
- (3) The procurement complies in all other aspects with applicable statutes and rules.
- (4) The proposed agreement contains contract terms that protect the financial interests of the State against contractor nonperformance or insolvency through the creation of escrow accounts for funds, source codes, or both, or by any other reasonable means that have legally binding effect.

The Office of State Budget and Management shall ensure the savings from any authorized agreement shall be included in the Office of Information Technology Services calculation of rates before the Office of State Budget and Management annually approves the proposed rates. The Office of Information Technology Services shall report to the Office of State Budget and Management on any State agency budget impacts resulting from multiyear contracts.

The Office of Information Technology Services shall submit a quarterly written report of any authorizations granted under this subsection to the Joint Legislative Oversight Committee on Information Technology and to the Fiscal Research Division.

**"SECTION 6.7.(d)** State agencies developing and implementing information technology projects shall use the State infrastructure to host their projects. The State Chief Information Officer may grant an exception if the State agency can demonstrate any of the following:

- (1) Using an outside contractor would be more cost-effective for the State.
- (2) The Office of Information Technology Services does not have the technical capabilities required to host the application.
- (3) Valid security requirements preclude the use of State infrastructure, and a contractor can provide a more secure environment.

**"SECTION 6.7.(e)** Service level agreements developed with supported State agencies shall include metrics for ITS, as well as the supported agencies. When ITS or an agency fails to meet metrics established by the SLA, a report will be provided to the Office of State Budget and Management and the Fiscal Research Division of the General Assembly within 10 days that details the shortfall and provides a corrective action plan with a time line.

**"SECTION 6.7.(f)** The Office of Information Technology Procurement shall assist State agencies in identifying the least expensive source for the purchase of IT goods and services and shall ensure that agencies receive every available discount when purchasing IT goods and services.

**"SECTION 6.7.(g)** The State CIO shall ensure that the agency bills from ITS for information technology goods and services are easily understood and fully transparent.

**"SECTION 6.7.(h)** If a State agency fails to pay its Information Technology Internal Service Fund bills within 30 days of receipt, the Office of State Budget and Management may transfer funds to cover the cost of the bill from that agency to the IT Internal Service Fund."

## **COORDINATION OF INFORMATION TECHNOLOGY REQUIREMENTS AND GEOGRAPHICAL INFORMATION SYSTEM EFFORTS**

**SECTION 6.9.(a)** The State Chief Information Officer (SCIO), through the Enterprise Program Management Office (EPMO), shall adopt measures to avoid the duplication of information technology capabilities and resources across State agencies. When multiple State agencies require the same or a substantially similar information technology capability, the SCIO shall designate one State agency as the lead to coordinate support and to manage that capability for all State agencies requiring the capability, with the SCIO maintaining oversight of the effort. Further, the EPMO shall:

- (1) Review all ongoing and future information technology projects to determine whether the capabilities required for each project, or the specific requirements comprising a component within a project, already exist in a planned, ongoing, or completed information technology project developed by another State agency.

- (2) When State agencies request approval for new projects determine if the information technology project has transferable applicability to current or future capabilities required by another State agency.
- (3) Upon identifying an existing information technology capability needed by a State agency, assist that agency in determining how best to access existing projects.
- (4) Identify all current instances of duplication and work with the affected State agencies to develop and implement a plan to integrate their efforts. These plans shall be reported to the Joint Legislative Oversight Committee on Information Technology and to the Fiscal Research Division by January 1, 2011.

**SECTION 6.9.(b)** All State agencies shall coordinate any Geographic Information System (GIS) initiatives through the Center for Geographic Information and Analysis (CGIA) to ensure that they are not duplicating an existing function. The CGIA shall monitor and approve all new GIS-related information technology projects and expansion budget requests. By January 1, 2011, the CGIA shall make a written report to the Joint Legislative Oversight Committee on Information Technology and to the Fiscal Research Division on the results of these efforts.

### **CRIMINAL JUSTICE LAW ENFORCEMENT AUTOMATED DATA SERVICES (CJLEADS)**

**SECTION 6.10.(a)** The Department of Justice and the Office of the State Controller, in cooperation with the State Chief Information Officer, shall:

- (1) Continue the implementation of the Criminal Justice Data Integration Pilot Program, which is now known as the Criminal Justice Law Enforcement Automated Data Services (CJLEADS), in Wake County;
- (2) Develop a plan to transition CJLEADS to the Department of Justice beginning July 1, 2011, with all the elements of a Type I transfer as defined in G.S. 143A-6; and
- (3) Provide quarterly reports on the status of the Program and the transition plan to the Joint Legislative Oversight Committee on Information Technology beginning October 1, 2010.

The Office of the State Controller shall not expand CJLEADS beyond Wake County without prior coordination with the Department of Justice.

**SECTION 6.10.(b)** The Department of Justice shall administer CJLEADS with the assistance of a Leadership Council consisting of:

- (1) The Attorney General;
- (2) The Director of Administrative Office of the Courts;
- (3) The Secretary of the Department of Correction;
- (4) The Secretary of Crime Control and Public Safety;
- (5) The Secretary of the Department of Juvenile Justice and Delinquency Prevention;
- (6) The Commissioner of Motor Vehicles, Department of Transportation;
- (7) The President of the North Carolina Association of Chiefs of Police;
- (8) The Executive Vice President of the North Carolina Sheriffs' Association, Inc.;
- (9) A representative of the Federal Bureau of Investigation, who shall be a nonvoting member;
- (10) The State Controller; and
- (11) The State Chief Information Officer.

**SECTION 6.10.(c)** Data that is not classified as a public record under G.S. 132-1 shall not be considered a public record when incorporated into the CJLEADS database.

**SECTION 6.10.(d)** To maintain the confidentiality requirements attached to the information provided to CJLEADS by the various State and local agencies, each source agency providing data for CJLEADS shall be the sole custodian of the data for the purpose of any request for inspection or copies thereof under Chapter 132 of the General Statutes. CJLEADS shall only allow access to data from the source agencies in accordance with rules adopted by the respective source agencies.

**SECTION 6.10.(e)** The transfer of the hosting of CJLEADS to the Department of Justice shall be completed by July 1, 2012.

#### **ITS NETWORK INTEGRATION**

**SECTION 6.11.** Section 6.13(c) of S.L. 2009-451, as amended by Sections 3A(b) and 3A(c) of S.L. 2009-575, reads as rewritten:

**"SECTION 6.13.(c)** Following completion of the feasibility study by the Office of Information and Technology Services and the Office of State Budget and Management, and if the Program Evaluation Division and the Fiscal Research Division can verify that the efficiencies and savings identified in the study are valid, accurate, and substantial enough to justify increased coordination, then the Office of Information Technology Services and MCNC shall develop a plan to identify areas in which it may be feasible to coordinate their operations. The coordination plan shall include at least the following:

- (1) Definition of requirements to achieve statewide integration.
- (2) Detailed information on the allocation of responsibility for each requirement and component.
- (3) An estimate of the associated costs with each requirement or component, including what the costs to each agency would be without coordination.
- (4) Priorities for integration.
- (5) A schedule for implementation.
- (6) Detailed cost information for the development and integration of a single network.
- (7) A governance structure for management and oversight of the network.
- (8) A means for resolution of any issues identified during the feasibility study.

The coordination plan shall be completed by ~~May 1, 2010~~, December 1, 2010, and shall be presented to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Oversight Committee on Information Technology."

#### **INFORMATION TECHNOLOGY CONTRACTED PERSONNEL**

**SECTION 6.12.** Section 6.18 of S.L. 2009-451 reads as rewritten:

**"SECTION 6.18.(a)** Beginning July 1, 2009, and notwithstanding any provision of law to the contrary:

- (1) No contract for information technology personal services, or providing personnel to perform information technology functions, may be established or renewed ~~for any term longer than 12 months unless otherwise specifically required by a contract in effect on June 30, 2009, without the express written approval of the Statewide Information Technology Procurement Office.~~
- (2) Before any State agency, department, or institution may renew a contract position for information technology personnel the State agency must report to the Statewide Information Technology Procurement Office (SITPO), Office of State Budget and Management (OSBM), to the Office of State Personnel (OSP), to the Office of Information Technology Services (ITS), and to the Fiscal Research Division (FRD) of the Legislative Services Office on the justification for the contract. The report shall explain:
  - a. The proposed duration of the contract position. If the contract term is for more than 12 months, why recruitment for an in-house State employee position is not feasible.
  - b. Whether the contract position requires unique skills for which the State has a short-term need.
  - c. Whether the contract position is required by a specific information technology project and if the position will be terminated upon completion of the project.
  - d. The specific work products and completion time lines for the contract position.
- (3) Contract positions subject to this subsection shall be reviewed and approved by the Statewide Information Technology Procurement Office and shall be entered in the project portfolio management tool.
- (4) Once approved, contract positions will be reviewed by the Office of State Personnel to determine what the market rate is for the type of contractor



- required, as well as to determine the comparable cost for a State employee. Agencies may not exceed the market rate determined by OSP.
- (5) After OSP provides cost data, OSBM must approve funding for the position.
  - (6) Whenever a State agency, department, or institution determines that only a contractor can fill a position and the position is required to perform an ongoing function within the agency, the head of the State agency must develop and implement a plan to hire or train a qualified State employee to fill that position within 12 months. Within 60 days of hiring the contractor, this plan shall be forwarded to the Office of State Budget and Management, to the Office of State Personnel, to the Office of Information Technology Services, to the Joint Legislative Oversight Committee on Information Technology, and to the Fiscal Research Division of the Legislative Services Office.
  - (7) Any contract position requiring information technology skills is subject to this provision. OSBM may immediately terminate the funding for any information technology position that is filled without following defined procedures.
  - (8) All information technology personnel contracts shall be competitive and shall be subject to competition each time they expire. Exceptions must be approved by ITS, OSP, and OSBM and can only be approved once for a particular individual. Approved exceptions must be immediately reported to the Joint Legislative Oversight Committee on Information Technology and to the Fiscal Research Division of the Legislative Services Office.

**"SECTION 6.18.(b)** By October 1, 2009, and monthly thereafter, each State agency, department, and institution employing information technology personal services contractors, or personnel to perform information technology functions, shall provide a detailed report on those contracts to the Office of State Budget and Management, to the Office of State Personnel, to the Office of Information Technology Services, to the Joint Legislative Oversight Committee on Information Technology, and to the Fiscal Research Division of the Legislative Services Office. Each State agency's report shall include at least the following:

- (1) For each contracted information technology position:
  - a. The title of the position, a brief synopsis of the essential functions of the position, and how long the position has existed.
  - b. The name of the individual filling the position and the vendor company, if any, that regularly employs that individual.
  - c. The type, start date, and the termination date of the contract.
  - d. The length of time that the individual filling the contracted position has been employed as a contractor.
  - e. The contracted position salary or hourly rate, the number of hours per year, and the total annualized cost of the contracted position.
  - f. The salary and benefits cost for a State employee performing the same function.
  - g. The purchase order number for the position.
  - h. Whether the position can be converted to a State employee position. This determination shall be made by the SITPO.
  - i. When the agency anticipates converting the position to a State employee.
- (2) The total annual cost for information technology contractors and the total annual salary and benefits cost for filling the contract positions with State employees.
- (3) A determination of whether the information technology functions performed by contractors can be performed by State employees, which shall be validated by the Statewide Information Technology Procurement Office.
- (4) All information required by this subsection related to information technology contractors regardless of the contracting source.
- (5) A detailed explanation for any differences between the agency report and the Information Technology Expenditures Report annually published by the Office of the State Controller.

"SECTION 6.18.(c) This section does not apply to The University of North Carolina and its constituent institutions."

#### **FUNDING FOR DATA INTEGRATION ENTERPRISE LICENSING AGREEMENTS**

**SECTION 6.14.(a)** If the cost of data integration enterprise licensing agreements for the 2010-2011 fiscal year is in excess of two million dollars (\$2,000,000), the Office of Information Technology Services shall recover the excess cost through cost allocation to participating agencies.

**SECTION 6.14.(b)** The State Chief Information Officer shall develop a plan for the equitable distribution of all costs for executive agency data integration enterprise licensing agreements to the participating agencies. By October 1, 2010, the State Chief Information Officer shall present this plan to the Joint Legislative Oversight Committee on Information Technology and shall provide a copy to Fiscal Research Division.

**SECTION 6.14.(c)** Beginning with the 2011-2012 fiscal year, all costs for executive agency data integration enterprise licensing agreements shall be allocated to the participating agencies.

#### **NETWORK SECURITY ASSESSMENTS**

**SECTION 6.15.(a)** G.S. 147-33.111 reads as rewritten:

**"§ 147-33.111. State CIO approval of security standards and security assessments.**

(a) Notwithstanding G.S. 143-48.3 or any other provision of law, and except as otherwise provided by this section, all information technology security purchased using State funds, or for use by a State agency or in a State facility, shall be subject to approval by the State Chief Information Officer in accordance with security standards adopted under this Article.

(a1) The State Chief Information Officer shall conduct assessments of network vulnerability, including network penetration or any similar procedure. The State Chief Information Officer may contract with another party or parties to perform the assessments. Detailed reports of the security issues identified shall be kept confidential as provided in G.S. 132-6.1(c).

(b) If the legislative branch, the judicial branch, The University of North Carolina and its constituent institutions, local school administrative units as defined by G.S. 115C-5, or the North Carolina Community Colleges System develop their own security standards, taking into consideration the mission and functions of that entity, that are comparable to or exceed those set by the State Chief Information Officer under this section, then these entities may elect to be governed by their own respective security standards, and approval of the State Chief Information Officer shall not be required before the purchase of information technology security. The State Chief Information Officer shall consult with the legislative branch, the judicial branch, The University of North Carolina and its constituent institutions, local school administrative units, and the North Carolina Community Colleges System in reviewing the security standards adopted by those entities.

~~(c) Before a State agency may enter into any contract with another party for an assessment of network vulnerability, including network penetration or any similar procedure, vulnerability, the State agency shall notify the State Chief Information Officer and obtain approval of the request. The State Chief Information Officer shall refer the request to the State Auditor for a determination of whether the Auditor's office can perform the assessment and testing. If the State Auditor determines that the Auditor's office can perform the assessment and testing, then the State Chief Information Officer shall authorize the assessment and testing by the Auditor. If the State Auditor determines that the Auditor's office cannot perform the assessment and testing, then with the approval of the State Chief Information Officer and State Auditor, the State agency may enter into a contract with another party for the assessment and testing. If the State agency enters into a contract with another party for assessment and testing, after approval of the State Chief Information Officer, the State agency shall issue public reports on the general results of the reviews. The contractor shall provide the State agency with detailed reports of the security issues identified that shall not be disclosed as provided in G.S. 132-6.1(c). The State agency shall provide the State Chief Information Officer and the State Auditor with copies of the detailed reports that shall not be disclosed as provided in G.S. 132-6.1(c).~~

(d) Nothing in this section shall be construed to preclude the Office of the State Auditor from assessing the security practices of State information technology systems as part of that Office's duties and responsibilities."

**SECTION 6.15.(b)** G.S. 147-64.6(c)(18) is repealed.

### **ENTERPRISE ELECTRONIC FORMS AND DIGITAL SIGNATURES**

**SECTION 6.17.(a)** Under the direction of the State Chief Information Officer (SCIO), the State shall plan, develop, and implement a coordinated enterprise electronic forms and digital signatures capability. In developing this capability, the SCIO shall complete an inventory of paper and electronic forms currently in use by executive branch agencies within the State, determine the cost of converting forms to an electronic format, determine priorities for converting forms, and establish milestones for completing this conversion.

The SCIO's effort shall include integrating executive branch agencies already in the process of developing electronic forms and digital signatures projects. Before beginning this effort, the SCIO shall determine specific agency requirements and incorporate their requirements into its planning efforts.

**SECTION 6.17.(b)** Beginning October 1, 2010, the SCIO shall present quarterly reports on the status of the project to the Joint Legislative Oversight Committee on Information Technology.

### **ADDRESS NEEDS FOR BROADBAND FOR EDUCATION AND ECONOMIC DEVELOPMENT/CREATE JOINT BROADBAND TASK FORCE**

**SECTION 6.18.(a)** There is created the Joint Broadband Task Force (Task Force). The purpose of the Task Force is to bring together public and private Internet access providers, legislators, and others to:

- (1) Examine issues related to last mile broadband deployments in the State and to improving the rate at which the general public accesses high-speed broadband.
- (2) Consider incentives and other funding mechanisms to advance last mile deployments.
- (3) Review the best and most cost-effective ways to address the needs of communities and households that lack broadband access.
- (4) Consider any other matters relating to last mile broadband deployment in this State.

**SECTION 6.18.(b)** The Task Force shall consist of 21 voting members appointed as follows:

- (1) Ten members appointed by the Speaker of the House of Representatives, including:
  - a. Five members of the House of Representatives.
  - b. One representative of the North Carolina League of Municipalities.
  - c. One representative of the North Carolina Association of County Commissioners.
  - d. One representative of a large telephone company that provides high-speed Internet service to 200,000 or more access lines.
  - e. One representative of a wireless high-speed Internet access provider.
  - f. One member of the general public.
- (2) Ten members appointed by the President Pro Tempore of the Senate, including:
  - a. Five members of the Senate.
  - b. One representative of the North Carolina League of Municipalities.
  - c. One representative of the North Carolina Association of County Commissioners.
  - d. One representative of a small telephone company that provides high-speed Internet service to less than 200,000 access lines.
  - e. One representative of a cable television company that provides high-speed Internet access.
  - f. One member of the general public.

- (3) One member elected by a vote of the other members of the Task Force from nominees recommended by municipalities providing high-speed Internet access within the State.

**SECTION 6.18.(c)** The State Chief Information Officer, a member of the Utilities Commission, the Secretary of the Department of Transportation (or the Secretary's designee), and a representative of the e-NC Authority shall serve as nonvoting ex officio members of the Task Force.

**SECTION 6.18.(d)** The Speaker of the House of Representatives and the President Pro Tempore of the Senate each shall appoint a cochair for the Task Force. The Task Force may contract for consultant services as provided by G.S. 120-32.02. Upon approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional and clerical staff to assist in the work of the Task Force. Clerical staff shall be furnished through the offices of the House of Representatives' and the Senate's Directors of Legislative Assistants. The Task Force may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission. The appointing authority shall fill vacancies. The Task Force, while in the discharge of its official duties, may exercise all the powers provided under the provisions of G.S. 120-19 through G.S. 120-19.4, including the power to request all officers, agents, agencies, and departments of the State to provide any information, data, or documents within their possession, ascertainable from their records, or otherwise available to them and the power to subpoena witnesses. Members of the Task Force shall receive per diem, subsistence, and travel allowances as follows:

- (1) Members of the General Assembly, at the rate established in G.S. 120-3.1.
- (2) Members who are officials or employees of the State or of local government agencies, at the rate established in G.S. 138-6.
- (3) All other members, at the rate established in G.S. 138-5.

**SECTION 6.18.(e)** Beginning December 1, 2010, the Task Force shall provide quarterly reports to the Joint Legislative Oversight Committee on Information Technology and shall terminate upon filing its final report.

## **SMART CARDS FOR EFFICIENCY, ENHANCED SERVICES, AND REDUCED FRAUD**

**SECTION 6.19.** E-procurement receipts, in excess of required vendor payments, up to the sum of one million dollars (\$1,000,000) for the 2010-2011 fiscal year may be used to develop integrated circuit cards, or "smart cards," that have the capability to support financial and health services transactions, particularly validation of the cardholder through the use of biometrics. Development of any such systems shall be coordinated by the State Chief Information Officer with other State agencies (including the Department of Health and Human Services) that have programs for which the use of the cards are appropriate. Beginning October 1, 2010, the State Chief Information Officer shall submit quarterly progress reports to the Joint Legislative Oversight Committee on Information Technology on the implementation of this section.

## **PART VII. PUBLIC SCHOOLS**

### **FUNDS FOR CHILDREN WITH DISABILITIES**

**SECTION 7.1.** The State Board of Education shall allocate additional funds for children with disabilities on the basis of three thousand five hundred ninety-eight dollars and fifty-five cents (\$3,598.55) per child. Each local school administrative unit shall receive funds for the lesser of (i) all children who are identified as children with disabilities or (ii) twelve and five-tenths percent (12.5%) of the 2010-2011 allocated average daily membership in the local school administrative unit. The dollar amounts allocated under this section for children with disabilities shall also adjust in accordance with legislative salary increments, retirement rate adjustments, and health benefit adjustments for personnel who serve children with disabilities.

### **FUNDS FOR ACADEMICALLY GIFTED CHILDREN**

**SECTION 7.2.** The State Board of Education shall allocate additional funds for academically or intellectually gifted children on the basis of one thousand one hundred ninety-two dollars and ninety cents (\$1,192.90) per child. A local school administrative unit shall receive funds for a maximum of four percent (4%) of its 2010-2011 allocated average

daily membership, regardless of the number of children identified as academically or intellectually gifted in the unit. The dollar amounts allocated under this section for academically or intellectually gifted children shall also adjust in accordance with legislative salary increments, retirement rate adjustments, and health benefit adjustments for personnel who serve academically or intellectually gifted children.

### **STATE FISCAL STABILIZATION FUND APPROPRIATION**

**SECTION 7.3.** In order to ensure compliance with the requirements of Title XIV of the American Recovery and Reinvestment Act of 2009 and notwithstanding any other provision of law, the Office of State Budget and Management shall adjust the State Fiscal Stabilization Fund appropriation amounts, including any associated budget reductions, between the State Public School Fund and The University of North Carolina budget to align with the requirements of the North Carolina State Fiscal Stabilization Fund application as amended for 2010-2011. If associated budget reductions are required within the State Public School Fund, the Office of State Budget and Management shall first adjust the Classroom Materials/Instructional Supplies/Equipment allotment prior to adjusting any other allotments within the State Public School Fund.

### **NORTH CAROLINA VIRTUAL PUBLIC SCHOOLS ALLOTMENT FORMULA**

**SECTION 7.4.(a)** The State Board of Education shall implement an allotment formula for the North Carolina Virtual Public Schools (NCVPS) beginning with the 2010-2011 school year. In accordance with Section 7.16 of S.L. 2006-66, the allotment formula shall create a sustainable source of funding that increases commensurate with student enrollment and recognizes "the extent to which projected enrollment in e-learning courses affects funding required for other allotments that are based on ADM."

**SECTION 7.4.(b)** The State Board shall use only funds provided through the North Carolina Virtual Public Schools Allotment Formula to fund NCVPS.

**SECTION 7.4.(c)** The Department of Public Instruction shall take the following steps to implement the North Carolina Virtual Public Schools Allotment Formula:

- (1) Project the unduplicated NCVPS enrollment for each local school administrative unit and for each grade level.
- (2) Divide the projected unduplicated NCVPS enrollment for each unit by six in order to calculate its ADM-equivalent student enrollment in NCVPS.
- (3) Reduce the unit's ADM allotments by seventy-five percent (75%) of its ADM-equivalent student enrollment in NCVPS.
- (4) Transfer a dollar amount equal to seventy-five percent (75%) of the unit's ADM-equivalent student enrollment to NCVPS.

NCVPS shall use the funds transferred to it to provide the NCVPS program at no cost to all students in North Carolina who are enrolled in North Carolina's public schools, Department of Defense schools, and schools operated by the Bureau of Indian Affairs.

**SECTION 7.4.(d)** NCVPS shall provide only high school courses and shall not provide any courses in physical education.

**SECTION 7.4.(e)** The Director of NCVPS shall continue to ensure that:

- (1) Course quality standards are established and met.
- (2) All e-learning opportunities offered by State-funded entities to public school students are consolidated under the North Carolina Virtual Public School program, eliminating course duplication.
- (3) All courses offered through NCVPS are aligned to the North Carolina Standard Course of Study.

**SECTION 7.4.(f)** Funds for the administration of NCVPS shall be capped at a maximum of fifteen percent (15%) per year of the funds transferred to NCVPS.

### **MORE AT FOUR PROGRAM**

**SECTION 7.5.(a)** The Department of Public Instruction shall continue the implementation of the More at Four prekindergarten program for four-year-olds who are at risk for school failure in all counties. The State prekindergarten program shall serve children who reach the age of four on or before August 31 of that school year and who meet eligibility criteria that indicate a child's risk for school failure. Prekindergarten classrooms shall be operated in public schools, Head Start programs, and licensed child care facilities that choose to

participate under procedures defined by the Office of Early Learning within the Department of Public Instruction. All such classrooms shall be subject to the supervision of the Office of Early Learning and shall be operated in accordance with standards adopted by the State Board of Education.

**SECTION 7.5.(b)** The Office of Early Learning shall specify program standards and requirements addressing:

- (1) Early learning standards and curricula;
- (2) Teacher education and specialized training;
- (3) Teacher in-service training and professional development;
- (4) Maximum class size;
- (5) Staff-child ratio;
- (6) Screenings, referrals, and support services;
- (7) Meals; and
- (8) Monitoring of sites to demonstrate adherence to State programs standards.

**SECTION 7.5.(c)** The State Board of Education shall submit an annual report no later than March 15 of each year to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Education Oversight Committee, the Senate Appropriations Committee on Education, the House of Representatives Appropriations Subcommittee on Education, the Office of State Budget and Management, and the Fiscal Research Division. The report shall include the following:

- (1) The number of children participating in State prekindergarten.
- (2) The number of children participating in State prekindergarten who have never been served in other early education programs, such as child care, public or private preschool, Head Start, Early Head Start, or early intervention programs.
- (3) The expected State prekindergarten expenditures for the programs and the source of the local contributions.
- (4) The results of an annual evaluation of the program.

**SECTION 7.5.(d)** The Office of Early Learning shall establish income eligibility requirements for the program not to exceed seventy-five percent (75%) of the State median income. Up to twenty percent (20%) of children enrolled may have family incomes in excess of seventy-five percent (75%) of median income if they have other designated risk factors. Furthermore, any age-eligible child of (i) an active duty member of the armed forces of the United States, including the North Carolina National Guard, State military forces, or a reserve component of the armed forces, who is ordered to active duty by the proper authority within the last 18 months or expected to be ordered within the next 18 months or (ii) a member of the armed forces of the United States, including the North Carolina National Guard, State military forces, or a reserve component of the armed forces, who was injured or killed while serving on active duty, shall be eligible for the program.

**SECTION 7.5.(e)** The More at Four program funding shall not supplant any funding for classrooms serving four-year-olds as of the 2005-2006 fiscal year. Support of existing four-year-old classrooms with More at Four program funding shall be permitted when current funding is eliminated, reduced, or redirected as required to meet other specified federal or State mandates.

**SECTION 7.5.(f)** The Office of Early Learning shall develop a new More at Four funding model to be implemented in the 2010-2011 fiscal year. The per-child funding rates shall be based on participating provider cost structures and shall require a contribution of local resources to support the full cost of providing high quality prekindergarten. The Office of Early Learning shall implement an administrative cap on More at Four program funding and shall establish parameters for allowable administrative costs.

**SECTION 7.5.(g)** The Office of Early Learning shall contract with an independent research organization not affiliated with the Department of Health and Human Services, the Department of Public Instruction, or the Office of the Governor to produce an annual report to include longitudinal review of the More at Four program and academic, behavioral, and other child-specific outcomes. The review shall include a quasi-experimental research design of a representative sample of children who complete the More at Four program every other year and shall report on their sustained progress until the end of grade 6. The review shall also study a representative sample of children who do not enter the More at Four program but who are of the same grade level and demographic as those who complete the program, and their sustained

progress shall also be reviewed until the end of grade 6. The review shall be presented to the Joint Legislative Education Oversight Committee by January 31 of every year.

**SECTION 7.5.(h)** To consolidate all of the regulatory functions regarding the monitoring of early care and education providers in certain private settings, it is the intent of the General Assembly that the Department of Health and Human Services and the Department of Public Instruction authorize Division of Child Development staff to assume the regulatory functions of the More at Four program in private classroom settings. The Department of Public Instruction shall provide Division of Child Development staff with the training necessary to monitor compliance with the More at Four program. The Division of Child Development shall continue its current licensing functions for those classrooms voluntarily licensed in public settings.

### **LEADERSHIP ACADEMY**

**SECTION 7.6.** Of the funds appropriated in this act to the Department of Public Instruction for the 2010-2011 fiscal year, up to two hundred thousand dollars (\$200,000) may be used to support a Leadership Academy that provides professional development to principals and assistant principals to address critical areas such as student achievement and teacher recruitment and retention. The Leadership Academy is encouraged to utilize webinars and other technologies to reduce travel expenses and to reach additional participants.

### **DEPARTMENT OF PUBLIC INSTRUCTION**

**SECTION 7.7.(a)** The Department of Public Instruction is not required to eliminate receipt-supported positions for the 2010-2011 fiscal year.

**SECTION 7.7.(b)** The Department of Public Instruction shall review expenditures of federal funds for personnel and contracts at the State level. Unless the expenditure is a condition of receiving the funds, the Department shall reallocate the funds to local school administrative units whenever possible.

The Department shall report on the reallocation of these funds to local school administrative units, to the Office of the Governor, the chairs of the House of Representatives Committee on Appropriations and the House of Representatives Appropriations Subcommittee on Education, the chairs of the Senate Committee on Appropriations/Base Budget and the Senate Appropriations Committee on Education/Higher Education, and the Office of State Budget and Management no later than January 15, 2011.

**SECTION 7.7.(c)** Notwithstanding G.S. 143C-6-4 or Section 7.14 of S.L. 2009-451, the Department of Public Instruction may, after consultation with the Office of State Budget and Management and the Fiscal Research Division, reorganize if necessary to implement the budget reductions set out in this act. Consultation shall occur prior to requesting budgetary and personnel changes through the budget revision process. The Department shall provide a current organization chart in the consultation process and shall report to the Joint Legislative Commission on Governmental Operations on any reorganization.

### **CAREER AND COLLEGE – READY, SET, GO!**

**SECTION 7.8.(a)** The State Board of Education shall work with all member institutions of the Education Cabinet and the Joint Governing Boards to focus funding and program priorities to ensure that all North Carolina students graduate prepared to successfully pursue a career or further education. Each Education Cabinet institution shall prioritize the Governor's Ready, Set, Go! initiative and ensure to the extent possible that all students PK-20:

- (1) Are prepared to be successful in school and can successfully progress through PK-20 education. This includes, but is not limited to:
  - a. Establishment of the Governor's Child Advocacy Council to increase ways for all children to come to school healthy and ready to learn;
  - b. Investment in early child development programs like Smart Start and More at Four;
  - c. Investment in smaller class sizes in K-3;
  - d. Implementation of student diagnostics in grades K-3 and 5 to ensure that all students at a minimum possess grade-level reading, writing, and math skills;

- e. Implementation of student diagnostics for career and college readiness in grades 8 and 11 so students graduate prepared for work, college, or technical training; and
  - f. Implementation of the Student Learning Conditions Survey for grades 7, 9, and 11 that is aligned with the Teacher Working Conditions Survey.
- (2) Receive clear standards and high expectations, and benefit from the best teachers and principals that can most effectively help students reach those standards. This includes, but is not limited to:
- a. Adoption of the State-led National Common Standards, including Career and College Ready Skills and assessments that prepare students for the global economy;
  - b. Evaluation of Teacher Preparation programs to identify best practices and programs that produce effective teachers;
  - c. Increased access to virtual learning opportunities for students and teachers like those provided through the NC Virtual Public School;
  - d. Increased access to Science, Technology, Engineering and Mathematics (STEM) opportunities;
  - e. Development of leadership academies that recruit and prepare effective principals;
  - f. Development of a PK-20 data system to provide comprehensive information on students;
  - g. Reduction and eventual elimination of low-performing status in North Carolina schools; and
  - h. Job-imbedded professional development for teachers and principals.
- (3) Fully understand and complete the prerequisites for the career, certification, or degree of choice that promotes workforce success. This includes, but is not limited to:
- a. Development of academic boot camps for high school students who need additional support in reading, composition, and math;
  - b. Consolidation of high school transition courses to provide high school students with more college-level or career and technical courses;
  - c. Increased access to virtual college-level and specific career and technical courses for high school students;
  - d. Alignment between high school and college curricula so that all students are prepared for higher education work; and
  - e. Implementation of NCSuccess, a program designed to increase the number of certificates and associate or bachelor's degrees in higher education.

**SECTION 7.8.(b)** The Education Cabinet shall report by January 15, 2011, to the Office of the Governor, the Joint Governing Boards, and the Joint Education Oversight Committee on its progress toward reaching the Governor's goal that every North Carolina student will graduate ready to be successful in a career, a 2- or 4-year college, or technical training.

#### **SCHOOL CONNECTIVITY INITIATIVE**

**SECTION 7.9.(a)** Section 7.12.(a) of S.L. 2009-451, as rewritten by Section 3E of S.L. 2009-575, is repealed.

**SECTION 7.9.(b)** Up to three hundred fifty thousand dollars (\$350,000) of the funds for the School Connectivity Initiative may be used for this and subsequent fiscal years by the Office of the Governor for education innovation and the education E-learning portal. These funds may be used to provide services to coordinate e-learning activities across all education agencies and to support the operating of the E-learning portal.

#### **SCHOOL CALENDAR PILOT PROGRAM**

**SECTION 7.10.** Section 7.40 of S.L. 2009-451 reads as rewritten:

**"SECTION 7.40.** The State Board of Education shall establish a school calendar pilot program in the Wilkes County Schools. The purpose of the pilot program is to determine



whether and to what extent a local school administrative unit can save money during this extreme fiscal crisis by consolidating the school calendar.

Notwithstanding G.S. 115C-84.2(a)(1), the school calendar for the 2009-2010 ~~calendar year~~ and the 2010-2011 calendar years for the Wilkes County Schools shall include a minimum of 180 days or 1,000 hours of instruction covering at least nine calendar months. Notwithstanding G.S. 115C-84.2(d), the opening date for students shall not be before August 24.

If the Wilkes County Board of Education adds instructional hours to previously scheduled days under this section, the local school administrative unit is deemed to have a minimum of 180 days of instruction and teachers employed for a 10-month term are deemed to have been employed for the days being made up and shall be compensated as if they had worked the days being made up.

The State Board of Education shall report to the Joint Legislative Education Oversight Committee by March 15, ~~2010, 2011~~, on the administration of the pilot program, cost-savings realized by it, and its impact on student achievement."

## **NATIONAL BOARD FOR PROFESSIONAL TEACHING STANDARDS (NBPTS) FUNDS**

**SECTION 7.11.(a)** G.S. 115C-296.2(d1) reads as rewritten:

"(d1) Repayment of the Application Fee. – A teacher shall repay the application fee to the State Education Assistance Authority within three years. The commencement of cash repayment shall begin 12 months following the disbursement of the loan funds. The State Education Assistance Authority may forgive the loan upon the death of the teacher or upon an injury deemed to leave the teacher totally and permanently disabled.

All funds appropriated to, or otherwise received by, the Authority to provide loans to teachers pursuant to this section, all funds received as repayment of loans, and all interest earned on these funds shall be placed in a trust fund. This fund shall be used only for loans made pursuant to this section and administrative costs of the Authority."

**SECTION 7.11.(b)** The State Board of Education shall transfer funds in the amount of three million two hundred seventy-four thousand five hundred dollars (\$3,274,500) from the State Public School Fund to the State Education Assistance Authority for the 2010-2011 fiscal year for NBPTS loans. It is the intent of the General Assembly that these funds are included in the certified budget for the State Education Assistance Authority for the 2011-2012 fiscal year and subsequent fiscal years.

**SECTION 7.11.(c)** The Joint Legislative Education Oversight Committee is directed to study a National Board Certification Program for Principals in conjunction with the pilot program being developed by the National Board for Professional Teaching Standards. The Committee shall report its recommendation to the 2011 General Assembly by March 1, 2011.

## **DRIVER EDUCATION**

**SECTION 7.12.** The Highway Safety Research Center Institute of the University of North Carolina at Chapel Hill shall work in collaboration with the Department of Public Instruction and the Governor's Highway Safety Commission to create a standard curriculum to be used for the Driver Education Program in the Department of Public Instruction. The curriculum shall be ready for use in the school year beginning in the fall of 2011 and shall be used for all driver education programs funded with State funds.

## **PROTECTION OF THE CLASSROOM WHILE MAXIMIZING FLEXIBILITY**

**SECTION 7.13.(a)** Section 7.8 of S.L. 2009-451 reads as rewritten:

"**SECTION 7.8.(a)** The State Board of Education is authorized to adopt emergency rules in accordance with G.S. 150B-21.1A to grant maximum flexibility to local school administrative units regarding the expenditure of State funds. These rules shall not be subject to the limitations on transfers of funds between funding allotment categories set out in G.S. 115C-105.25. These rules:

- (1) Shall authorize the transfer of textbook funds to other allotments to manage funding cuts; and
- (2) Shall not permit the transfer of funds from school-based positions to the central office.

**"SECTION 7.8.(b)** ~~For fiscal years 2009-2010 and 2010-2011,~~ For the 2010-2011 fiscal year, local school administrative units shall ~~make every effort to reduce spending whenever and wherever such budget reductions are appropriate with the goal of to protecting-protect~~ direct classroom ~~services services, and services for students at risk and children with special needs.~~ Local school administrative units shall implement administrative and other operating efficiencies ~~prior to and minimize~~ the dismissal of classroom-based ~~personnel-personnel.~~ Local school administrative units shall maximize federal by maximizing funds received from the including American Recovery and Reinvestment Act of 2009 (ARRA), P.L. 111-5P.L. 111-5; Keep Our Educators Working Act or any other federal act that provides funding that can be expended on positions; Individuals with Disabilities Act (IDEA); Title I; and Title II funds. Local school administrative units are encouraged to designate all Title I-eligible schools and must maximize attrition prior to the dismissal of classroom-based personnel. Notwithstanding G.S. 115C-301 or any other law, local school administrative units shall have the maximum flexibility to use allotted teacher positions to maximize student achievement in grades 4-12. Allocation of teachers and class size requirements in grades K-3 shall remain unchanged.

**"SECTION 7.8.(c)** Within 14 days of the date this act becomes law, the State Board of Education shall notify each local school administrative unit and charter school of the amount the unit must reduce from the State General Fund appropriations. The State Board shall determine the amount of the reduction for each unit on the basis of average daily membership.

**"SECTION 7.8.(d)** Each unit shall report to the State Board of Education, the Office of State Budget and Management, and the Department of Public Instruction on the flexibility budget reductions it has identified for the unit, including an explanation of how administrative efficiencies, federal funds, and attrition have been maximized prior to the dismissal of classroom-based personnel, within 30 days of the date this act becomes law.

**"SECTION 7.8.(e)** For the 2010-2011 fiscal year, to the extent that local school administrative units reduce career and technical education spending in order to meet the LEA Adjustment, local school administrative units shall make every effort to reduce spending from Career Technical Education – State: Program Support Funds before making any reductions to Career Technical Education – State: Months of Employment funds."

**SECTION 7.13.(b)** For the 2010-2011 fiscal year, local boards of education may also implement furloughs in accordance with Section 29.1 of this act to manage funding amounts.

## **PROBATIONARY TEACHERS**

**SECTION 7.14.(a)** G.S. 115C-325(c)(5) reads as rewritten:

"(5) Consecutive Years of Service. –

- a. If a probationary teacher in a full-time permanent position does not work for at least 120 workdays in a school year because the teacher is on sick leave, disability leave, or both, that school year shall not be deemed to constitute (i) a consecutive year of service for the teacher or (ii) a break in the continuity in consecutive years of service for the teacher.
- b. If a probationary teacher in a full-time permanent position is nonrenewed because of a decrease in the number of positions due to decreased funding, decreased enrollment, or a district reorganization, and is subsequently rehired by the same school system within three years, the intervening years when the teacher was not employed by the local school administrative unit shall not be deemed to constitute (i) a consecutive year of service for the teacher or (ii) a break in the continuity of years of service. However, if at the time of the teacher's nonrenewal for the reasons described in this subsection, the teacher was eligible for career status after being employed four consecutive years pursuant to G.S. 115C-325(c)(1), or one year pursuant to G.S. 115C-325(c)(2), and the board subsequently rehires the teacher within three years, the teacher will be eligible for a career status decision after one additional year of employment. Unless the superintendent unilaterally grants a teacher the benefit set forth in this subsection pursuant to a policy adopted by the board of education for this purpose, the teacher is entitled to such benefit only

if the teacher notifies the head of human resources for the local school administrative unit in writing within 60 calendar days after the first day of employment upon being rehired that the teacher was nonrenewed because of a decrease in the number of positions triggered by decreased funding, decreased enrollment, or a district reorganization, and therefore the teacher's nonrenewal did not constitute a break in service for purposes of determining eligibility for career status. The local school administrative unit shall notify the teacher of the 60-day deadline as described herein in the employment application, contract, or in some other method reasonably calculated to provide the teacher actual notice within 30 calendar days after the first day of employment for the rehired teacher. The burden is on the teacher to submit information establishing that the teacher was nonrenewed because of a decrease in the number of positions triggered by decreased funding, decreased enrollment, or a district reorganization. If the local school administrative unit fails to provide notice to the teacher within this 30-day period, then the teacher's obligation to notify the local school administrative unit within 60 days does not commence until such time that the teacher is notified of the 60-day deadline.

The superintendent or designee will inform the teacher on whether the teacher qualifies for the benefit of this subsection within a reasonable period of time after receiving the information submitted by the teacher. This decision is final and the teacher has no right to a hearing or appeal except that the teacher may petition the board in writing within 10 calendar days after receiving the decision of the superintendent or designee, and the board or board panel shall review the matter on the record and provide the teacher a written decision. Notwithstanding any other provision of law, no appeal to court or otherwise is permitted in regard to the benefits provided under this subsection. This subsection creates no private right of action or basis for any liability on the part of the school system, nor does it create any reemployment rights for a nonrenewed probationary teacher.

The provisions of this subsection also shall apply to a probationary teacher in a full-time permanent position who resigns effective the end of the school year in good standing after receiving documentation that the teacher's position may be eliminated because of a decrease in the number of positions triggered by decreased funding, decreased enrollment, or a district reorganization, and is subsequently rehired by the same school system."

**SECTION 7.14.(b)** This section is effective when it becomes law and applies to probationary teachers rehired by the same school district beginning in the 2010-2011 school year.

#### **UNIFORM BUDGET FORMAT**

**SECTION 7.17.(a)** G.S. 115C-426(c) reads as rewritten:

- "(c) The uniform budget format shall require the following funds:
- (1) The State Public School Fund.
  - (2) The local current expense fund.
  - (3) The capital outlay fund.

In addition, other funds may be ~~required~~ used to account for reimbursements, including indirect costs, fees for actual costs, tuition, sales tax revenues distributed using the ad valorem method pursuant to G.S. 105-472(b)(2), sales tax refunds, gifts and grants restricted as to use, trust funds, ~~federal grants restricted as to use, federal appropriations made directly to local school administrative units, funds received for prekindergarten programs, and special programs. In addition, the appropriation or use of fund balance or interest income by a local school administrative unit shall not be construed as a local current expense appropriation.~~

Each local school administrative unit shall maintain those funds shown in the uniform budget format that are applicable to its operations."

**SECTION 7.17.(b)** Any local school administrative unit (i) that did not fully comply with the provisions of G.S. 115C-238.29H(b) prior to the effective date of this section and (ii) that is subject to a judgment, court order, or binding settlement agreement arising from that noncompliance may make payments required thereunder over a period not to exceed three years.

**SECTION 7.17.(c)** Subsection (a) of this section applies beginning with the 2010-2011 school year.

#### **DROPOUT PREVENTION GRANTS**

**SECTION 7.19.(a)** Notwithstanding Section 7.13 of S.L. 2009-451, the Department of Public Instruction shall provide grants of five hundred thousand dollars (\$500,000) each to the following three evidence-based operators of dropout prevention initiatives:

- (1) Communities in Schools of North Carolina, Inc., to expand service to existing local programs, enable establishment of new local CIS programs, and, as matching or sustaining funds become available, support the placement of graduation coaches or creation of new Performance Learning Centers (PLCs).
- (2) North Carolina Congress of Parents and Teachers, Incorporated, to implement the PTA Parental Involvement Initiative at additional school sites.
- (3) The Greater Winston-Salem Chamber of Commerce Foundation, Inc., for the implementation of the Community Education Collaborative program.

These grant recipients shall be subject to the oversight, reporting, and evaluation requirements applicable to all other grantees.

**SECTION 7.19.(b)** The Committee on Dropout Prevention shall identify a minimum of three additional recipients of Dropout Prevention Grants that the Committee feels show promise as statewide models for dropout prevention interventions. The Committee on Dropout Prevention shall report its selected grantees and the reasons why they were chosen to the Joint Legislative Education Oversight Committee and the Joint Legislative Commission on Dropout Prevention and High School Graduation by March 15, 2011.

**SECTION 7.19.(c)** Section 7.13(b) of S.L. 2009-451 reads as rewritten:

**"SECTION 7.13.(b)** Criteria for Dropout Prevention Grants. – The following criteria apply to all types of dropout prevention grants approved by the Committee:

- ...
- (13) Grants shall be made no later than ~~November 1, 2009~~ November 1, 2010 and subsequent years.

The Committee shall report to the Joint Legislative Commission on Dropout Prevention and High School Graduation and the Joint Legislative Education Oversight Committee on the grants awarded under this section by ~~March 1, 2010~~ March 1, 2010 and annually thereafter."

**SECTION 7.19.(d)** Section 7.13(c) of S.L. 2009-451 reads as rewritten:

**"SECTION 7.13.(c)** Evaluation. – The Committee shall evaluate the impact of the dropout prevention grants awarded under this section. In evaluating the impact of the grants, the Committee shall consider:

- (1) How grant funds were used, including the services provided for teen pregnancy prevention and for pregnant and parenting teens;
- (2) The success of the program or initiative, as indicated by the evaluation process stated in its grant application;
- (3) The extent to which the program or initiative has improved students' attendance, test scores, persistence, and graduation rates;
- (4) How the program or initiative was coordinated to enhance the effectiveness of existing programs, initiatives, or services in the community;
- (5) What, if any, other resources were used in conjunction with the grant funds;
- (6) The sustainability of the program;
- (7) The number, gender, ethnicity, and grade level of students being served as well as whether the students left school due to pregnancy or parenting responsibilities;
- (8) The potential for the program to serve as a model for achieving successful academic progress for at-risk students; and

(9) Other indicators of the impact of the grant on dropout prevention.

The recipients of the dropout prevention grants awarded under this section shall report to the Committee on Dropout Prevention by January 31, 2011, ~~and by September 30, 2011, and annually thereafter.~~ The reports shall provide information to assist the Committee in conducting its evaluation. The reports shall include a statement that the recipients used grant funds for the purposes appropriated by the General Assembly and complied with applicable laws, regulations, and terms and conditions of the grant documents. The Committee shall make an interim report of the results of its evaluation of the grants awarded under this section by March 31, 2011, to the Joint Legislative Commission on Dropout Prevention and High School Graduation and to the Joint Legislative Education Oversight Committee. The Committee shall make a final report of the results of its evaluation of the grants awarded under subsection (c) of this section by November 15, 2011, to the Joint Legislative Commission on Dropout Prevention and High School Graduation and to the Joint Legislative Education Oversight Committee."

**SECTION 7.19.(e)** Section 7.32(e) of S.L. 2007-323, as rewritten by Section 7.14(a) of S.L. 2008-107, reads as rewritten:

**"SECTION 7.32.(e)** Report. – The Committee shall report to the Joint Legislative Commission on Dropout Prevention and High School Graduation created in subsection (f) of this section by December 1, 2007, on the grants awarded under subsection (d) of this section. ~~The Committee shall terminate on December 31, 2010."~~

**SECTION 7.19.(f)** Section 7.32(f)(8) of S.L. 2007-323, as rewritten by Section 35.1 of S.L. 2008-181, reads as rewritten:

~~"(8) The Commission shall submit an interim written may report of its findings and recommendations on or before the convening of the 2009 Session of the General Assembly. The Commission may submit an interim report, including any recommendations and recommendations, including any proposed legislation, to the Joint Legislative Education Oversight Committee and the General Assembly by May 1, 2010, and shall submit a final written report of its findings and recommendations on or before the convening of the 2011 Session of the General Assembly. Assembly. All reports shall be filed with the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Legislative Librarian. Upon filing its final report, the Commission shall terminate."~~

**SECTION 7.19.(g)** Section 7.32(c) of S.L. 2007-323, as rewritten by S.L. 2008-107, reads as rewritten:

**"SECTION 7.32.(c)** Committee. – There is established the Committee on Dropout Prevention. The Committee shall be located administratively in the Department of Public Instruction but shall exercise its powers and duties independently of the Department of Public Instruction. The Department of Public Instruction shall provide for the administrative costs of the Committee and shall provide staff to the Committee.

The Committee shall determine which local school administrative units, schools, agencies, and nonprofits shall receive dropout prevention grants under subsection (d) of this section, the amount of each grant, and eligible uses of the grant funding. The Committee shall consist of the following 15 members:

- (1) The Governor shall appoint five members, of whom one is a superintendent of schools, one is a representative of a nonprofit, and one is a school social worker;
- (2) The General Assembly upon the recommendation of the President Pro Tempore of the Senate shall appoint five members, of whom one is a principal, one is a representative of a school of education, and one is a school counselor; and
- (3) The General Assembly upon the recommendation of the Speaker of the House of Representatives shall appoint five members, of whom one is a teacher, one is a member of the business community, and one is a representative of the juvenile justice system.

The terms of the initial appointees expire December 1, 2010. Subsequent appointees shall serve for four-year terms.

The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair of the Committee. The members of the Committee shall assure they are in compliance with laws and rules governing conflicts of interest."

## UNIFORM EDUCATION REPORTING SYSTEM (UERS) FUNDS

**SECTION 7.20.(a)** Funds appropriated for the Uniform Education Reporting System shall not revert at the end of the 2009-2010 fiscal year.

**SECTION 7.20.(b)** This section becomes effective June 30, 2010.

## COOPERATIVE AND INNOVATIVE HIGH SCHOOLS

**SECTION 7.21.(a)** G.S. 115C-238.50(e) reads as rewritten:

"(e) Cooperative innovative high school programs may include the creation of a school within a school, a technical high school, ~~or~~ a high school or technical center located on the campus of a college or ~~university~~, university, or a five-year career academy operating as part of an existing high school."

**SECTION 7.21.(b)** G.S. 115C-238.54 reads as rewritten:

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

(a) The Department of Public Instruction shall assign a school code for each program that is approved under this ~~Part~~ Part, with the exception of a five-year career academy operating as part of an existing high school, which shall continue to use the existing school code. All positions and other State and federal allotments that are generated for this program shall be assigned to that school code. Notwithstanding G.S. 115C-105.25, once funds are assigned to that school code, the local board of education may use these funds for the program and may transfer these funds between funding allotment categories.

(a1) A five-year career academy operating as part of an existing high school shall maintain records to identify and evaluate students enrolled in the five-year career academy program distinct from the general school population.

...."

**SECTION 7.21.(c)** G.S. 115C-238.50A(3) reads as rewritten:

"(3) Governing board. – ~~The~~ The State Board of Education, the State Board of Community Colleges, the Board of Governors of The University of North Carolina, or the Board of the North Carolina Independent Colleges and Universities."

**SECTION 7.21.(d)** The Department of Public Instruction shall study the fiscal impacts of the Cooperative and Innovative High School Act (Part 9 of Article 16 of Chapter 115C of the General Statutes). The Department shall report the results of its study to the Joint Legislative Education Oversight Committee and the Fiscal Research Division by March 15, 2011. The report shall include historical data on the number of new schools created each fiscal year attributable to the Cooperative and Innovative High School Act (Part 9 of Article 16 of Chapter 115C of the General Statutes).

**SECTION 7.21.(e)** The State Board of Education shall not approve any additional schools under the Cooperative and Innovative High School Act (Part 9 of Article 16 of Chapter 115C of the General Statutes) after July 1, 2010, unless the school has received an explicit appropriation from the General Assembly.

**SECTION 7.21.(f)** Subsections (a) through (c) of this section are effective when this act becomes law and apply beginning with the 2010-2011 school year.

## ELIMINATION OF CERTAIN REPORTS

**SECTION 7.22.(a)** G.S. 115C-301(g) reads as rewritten:

"(g) Waivers and Allotment Adjustments. – Local boards of education shall report exceptions to the State Board of Education as provided in G.S. 115C-47(10), and shall request allotment adjustments or waivers from the standards set out above. Within 45 days of receipt of reports, the State Board of Education, within funds available, may allot additional positions or grant waivers for the excess class size or daily load.

(1) If the exception resulted from (i) exceptional circumstances, emergencies, or acts of God, (ii) large changes in student population, (iii) organizational problems caused by remote geographic location, or (iv) classes organized for a solitary curricular area, and

(2) If the local board cannot organizationally correct the exception.

~~All allotment adjustments and waivers submitted under this provision shall be reported to the Director of the Budget and to the General Assembly by May 15 of each year."~~

**SECTION 7.22.(b)** Sections 4 through 6 of S.L. 2007-453 are repealed.

**SECTION 7.22.(c)** Section 7.60 of S.L. 2005-276 is repealed.

**SECTION 7.22.(d)** Section 7.61(b) of S.L. 2005-276 reads as rewritten:

**"SECTION 7.61.(b)** To remain eligible for funds appropriated for the At-Risk/Alternative Schools allotment and the Improving Student Accountability allotment, local school administrative units must submit a report to the State Board of Education by October 31 of each year detailing the expenditure of the funds and the impact of these funds on student achievement. ~~The State Board of Education shall report this information annually by October 31 to the Office of State Budget and Management, the Joint Legislative Education Oversight Committee, and the Fiscal Research Division."~~

## **DISADVANTAGED STUDENTS SUPPLEMENTAL FUNDING**

**SECTION 7.23.** In determining whether to approve a local school administrative unit's plan for the expenditure of funds allocated to it for disadvantaged student supplemental funding, the State Board of Education shall take into consideration the extent to which the local school administrative unit's policies or expenditures have contributed to or is contributing to increased segregation of schools on the basis of race or socioeconomic status.

## **HIGHER EDUCATION COURSES FOR HIGH SCHOOL STUDENTS**

**SECTION 7.24.(a)** It is the intent of the General Assembly to implement a funding formula in the 2011-2012 school year that will provide money to local school administrative units for the purpose of paying the tuition of high school students taking higher education courses for which tuition is required.

**SECTION 7.24.(b)** It is the intent of the General Assembly to eliminate the tuition waiver for courses taken by high school students at community colleges set forth in G.S. 115D-5(b) effective July 1, 2011, except for the waiver that applies to students in cooperative innovative high school programs established pursuant to Part 9 of Article 16 of Chapter 115C of the General Statutes. Tuition shall continue to be waived for students in cooperative innovative high school programs.

**SECTION 7.24.(c)** For the 2011-2012 school year, the North Carolina Community College System General Fund appropriations shall be reduced by an amount calculated by multiplying the number of FTE high school students for whom tuition is required by the per capita budgeted receipts for community college curriculum instruction. This amount of funds shall be transferred to the State Board of Education for distribution to the local school administrative units.

**SECTION 7.24.(d)** For the 2011-2012 school year, the General Fund appropriation for Learn and Earn Online shall be available to the State Board of Education for distribution to the local school administrative units.

**SECTION 7.24.(e)** For the 2011-2012 school year, the State Public School Fund shall be reduced by an amount calculated by (i) subtracting the per capita budgeted receipts for community college curriculum instruction from the in-State tuition amount per FTE and (ii) multiplying the result by the number of FTE high school students for whom tuition is required. This amount of funds shall be available to the State Board of Education for distribution to the local school administrative units.

The State Board of Education shall ensure that appropriate and reliable data is collected in order to implement this section.

**SECTION 7.24.(f)** The amounts transferred to the State Board of Education under subsections (c), (d), and (e) of this section shall be distributed to local school administrative units based on the pro rata share of each local school administrative unit's number of FTE high school students for whom tuition is required.

**SECTION 7.24.(g)** The amounts allocated to local school administrative units under this section shall not be transferred to other uses and shall only be available for paying the tuition of high school students taking higher education courses for which tuition is required.

**SECTION 7.24.(h)** Beginning with the 2010-2011 school year, courses provided in (i) general education, except for mathematics, science, and technology, (ii) physical education, and (iii) college success skills courses offered to high school students shall no longer generate State funding through budget FTE. If an institute of higher education offers these courses to high school students, the colleges may charge an amount sufficient to cover the costs of the courses.

This subsection does not apply to courses provided to students of Early and Middle College High Schools.

## **ENVIRONMENTAL ENGINEER/SUPPORT SERVICES DIVISION**

**SECTION 7.25.** The State Board of Education may use up to two hundred thousand dollars (\$200,000) of funds available to provide an environmental engineer in the Department of Public Instruction, Support Services Division, to address increasing environmental concerns in the public schools of North Carolina.

## **COMPONENTS OF THE TESTING PROGRAM**

**SECTION 7.30.** G.S. 115C-174.11(a) reads as rewritten:

"(a) Assessment Instruments for First and Second Grades. – The State Board of Education shall adopt and provide to the local school administrative units developmentally appropriate individualized assessment instruments consistent with the Basic Education Program for the first and second grades, rather than standardized tests. Local school administrative units may use these assessment instruments provided to them by the State Board for first and second grade students, and shall not use standardized tests except as required as a condition of receiving a federal grant under the Reading First Program.~~federal grants.~~"

## **ADDITIONAL FEDERAL FUNDS FOR EDUCATION**

**SECTION 7.31.(a)** Federal funds for local school administrative units that are not specified in this act are hereby appropriated in the amounts provided. To the extent that the federal laws and regulations permit, the Director of the Budget shall use these funds only in the following priority order:

- (1) To eliminate the LEA Adjustment in its entirety.
- (2) To eliminate all reductions to the State Public School Fund provided for in this act.
- (3) To eliminate all reductions to the State Public School Fund provided for in S.L. 2009-451.
- (4) For expansion items.

**SECTION 7.31.(b)** The Director of the Budget shall not reduce any General Fund appropriations to the Department of Public Instruction or to local school administrative units as a result of the receipt of any additional federal funds appropriated in this section.

## **PART VIII. COMMUNITY COLLEGES**

### **CARRYFORWARD OF COLLEGE INFORMATION SYSTEM FUNDS**

**SECTION 8.1.(a)** Of the funds appropriated to the Community Colleges System Office for the 2009-2011 fiscal biennium for the College Information System, up to one million two hundred fifty thousand dollars (\$1,250,000) shall not revert at the end of each fiscal year but shall remain available until expended. These funds may only be used to purchase periodic system upgrades.

**SECTION 8.1.(b)** This section becomes effective June 30, 2010.

### **STATE AID BUDGET FLEXIBILITY**

**SECTION 8.2.** G.S. 115D-31 is amended by adding a new subsection to read:

"(b1) A local community college may use all State funds allocated to it, except for Literacy funds and Customized Training funds, for any authorized purpose that is consistent with the college's Institutional Effectiveness Plan. Each local community college shall include in its Institutional Effectiveness Plan a section on how funding flexibility allows the college to meet the demands of the local community and to maintain a presence in all previously funded categorical programs."

### **EDUCATION FOR PRISON INMATES**

**SECTION 8.3.(a)** Funds appropriated for community college courses for prison inmates shall be used only for inmates in State prisons. The first priority for the use of these funds shall be to restore the FTE for basic skills courses to the FY 2008-2009 level. Funds not needed for this purpose may be used for continuing education and curriculum courses related to



job skills training. These funds shall not be used for Associate of Arts, Associate of Science, or Associate of General Education degrees.

**SECTION 8.3.(b)** Courses in federal prisons or local jails shall not earn regular budget full-time equivalents, but may be offered on a self-supporting basis.

**SECTION 8.3.(c)** The Department of Correction and the Community Colleges System Office shall report to the 2011 General Assembly on:

- (1) The implementation of the new funding structure and requirements.
- (2) Strategies for implementing their recommendations to:
  - a. Enhance measurable goals, objectives, and outcomes.
  - b. Enhance and standardize data collection.
  - c. Strengthen the continuum of programming from entry to exit, based on assessment of skills and needs.
  - d. Give individuals the opportunity to use specific skills through work assignments that meet system needs.
  - e. Tailor programs to specific inmate needs.
  - f. Increase Cognitive Behavioral Interventions (CBI) courses.
  - g. Develop an offender-specific human resources development course.
  - h. Explore additional funding sources.
  - i. Explore federal grant for wiring courses.
- (3) Strategies for reasonably limiting the number of courses an individual takes while in prison.

**SECTION 8.3.(d)** G.S. 115D-5(c) reads as rewritten:

"(c) No course of instruction shall be offered by any community college at State expense or partial State expense to any captive or co-opted group of students, as defined by the State Board of Community Colleges, without prior approval of the State Board of Community Colleges. All course offerings approved for State prison inmates must be tied to clearly identified job skills, transition needs, or both. Approval by the State Board of Community Colleges shall be presumed to constitute approval of both the course and the group served by that institution. The State Board of Community Colleges may delegate to the President the power to make an initial approval, with final approval to be made by the State Board of Community Colleges. A course taught without such approval will not yield any full-time equivalent students, as defined by the State Board of Community Colleges."

## TUITION WAIVERS

**SECTION 8.4.(a)** G.S. 115D-5(b) reads as rewritten:

"(b) In order to make instruction as accessible as possible to all citizens, the teaching of curricular courses and of noncurricular extension courses at convenient locations away from institution campuses as well as on campuses is authorized and shall be encouraged. A pro rata portion of the established regular tuition rate charged a full-time student shall be charged a part-time student taking any curriculum course. In lieu of any tuition charge, the State Board of Community Colleges shall establish a uniform registration fee, or a schedule of uniform registration fees, to be charged students enrolling in extension courses for which instruction is financed primarily from State funds; ~~provided, however, that the funds.~~ The State Board of Community Colleges may provide by general and uniform regulations for waiver of tuition and registration fees for persons for:

- (1) Persons not enrolled in elementary or secondary schools taking courses leading to a high school diploma or equivalent ~~certificate, for training certificate;~~
- (2) Training courses for (i) volunteer firemen, (ii) local fire department personnel, (iii) volunteer rescue and lifesaving department personnel, (iv) local rescue and lifesaving department personnel, (v) Radio Emergency Associated Citizens Team (REACT) members when the REACT team is under contract to a county as an emergency response agency, ~~local~~ (vi) municipal, county, or State law-enforcement officers, patients in State alcoholic rehabilitation centers, (vii) all full-time custodial employees of the Department of Correction, and (viii) employees of the Department's Division of Community Corrections and employees of the Department of Juvenile Justice and Delinquency Prevention required to be certified under Chapter

- 17C of the General Statutes and the rules of the Criminal Justice and Training Standards ~~Commission, Commission;~~
- (3) Patients in State alcoholic rehabilitation centers; trainees
  - (4) Trainees enrolled in courses conducted under the ~~New and Expanding Industry Program, clients~~ Customized Training Program;
  - (5) Clients of sheltered ~~workshops, clients~~ workshops;
  - (6) Clients of adult developmental activity ~~programs, students~~ programs;
  - (7) Students in Health and Human Services Development ~~Programs, juveniles~~ Programs;
  - (8) Juveniles of any age committed to the Department of Juvenile Justice and Delinquency Prevention by a court of competent ~~jurisdiction, members~~ jurisdiction;
  - (9) Members of the North Carolina State Defense Militia as defined in G.S. 127A-5 and as administered under Article 5 of Chapter 127A of the General Statutes, and elementary Statutes;
  - (10) Elementary and secondary school employees enrolled in courses in first aid or cardiopulmonary resuscitation (~~CPR~~). ~~Provided further, tuition shall be waived for up (CPR);~~
  - (11) Up to six hours of credit instruction and ~~96 contact hours~~ one course of noncredit instruction per academic semester for senior citizens age 65 or older who are qualified as legal residents of North Carolina. ~~Provided further, tuition shall also be waived for all Carolina;~~
  - (12) All curriculum courses taken by high school students at community colleges, including students in early college and middle college high school programs, in accordance with G.S. 115D-20(4) and this ~~section.~~ section;
  - (13) Human resources development courses for any individual who (i) is unemployed; (ii) has received notification of a pending layoff; (iii) is working and is eligible for the Federal Earned Income Tax Credit (FEITC); or (iv) is working and earning wages at or below two hundred percent (200%) of the federal poverty guidelines; and
  - (14) Prison inmates."

**SECTION 8.4.(b)** G.S. 115D-39 is amended by adding a new subsection to read:

"(a1) In addition, any federal law enforcement officer whose permanent duty station is within North Carolina shall also be eligible for the State resident community college tuition rate for law enforcement training courses."

**SECTION 8.4.(c)** The Community Colleges System Office shall report to the 2011 General Assembly on the number and cost of courses taken by State law enforcement officers and of courses taken by local law enforcement officers.

**SECTION 8.4.(d)** The Fiscal Research Division, in consultation with the Community Colleges System Office, shall make a comprehensive study of the currently authorized tuition waivers and shall report to the 2011 General Assembly on waivers that should be modified or abolished because they are not being used or for other reasons.

## **COMMUNITY COLLEGE FINANCIAL AID LOANS**

**SECTION 8.5.(a)** The State Board of Community Colleges shall permanently realign its funding formula by increasing the amount allocated in the funding formula for students' services by fifty million dollars (\$50,000,000) and by reducing the amount in the funding formula for curriculum and continuing education instruction by a commensurate amount. The revised formula shall ensure that community colleges have the adequate funds and resources necessary to administer and provide financial aid services to students.

**SECTION 8.5.(b)** G.S. 115D-40.1 reads as rewritten:

### **"§ 115D-40.1. Financial Assistance for Community College Students.**

(a) **Need-Based Assistance Program.** – It is the intent of the General Assembly that the Community College System make these financial aid funds available to the neediest students who are not eligible for other financial aid programs that fully cover the required educational expenses of these students. The State Board may use some of these funds as short-term loans to students who anticipate receiving the federal HOPE or Lifetime Learning Tax Credits.

(b) Targeted Assistance. – Notwithstanding subsection (a) of this section, the State Board may allocate no more than ten percent (10%) of the funds appropriated for Financial Assistance for Community College Students to:

- (1) Students who do not qualify for need-based assistance but who enroll in low-enrollment programs that prepare students for high-demand occupations, and
- (2) Students with disabilities who have been referred by the Division of Vocational Rehabilitation and are enrolled in a community college.

(c) Administration of Program. – The State Board shall adopt rules and policies for the disbursement of the financial assistance provided in subsections (a) and (b) of this section. Degree, diploma, and certificate students must complete a Free Application for Federal Student Aid (FAFSA) to be eligible for financial assistance. The State Board may contract with the State Education Assistance Authority for administration of these financial assistance funds. These funds shall not revert at the end of each fiscal year but shall remain available until expended for need-based financial assistance. The

~~The State Board shall ensure that at least one counselor is available at each college to inform students about federal programs and funds available to assist community college students including, but not limited to, Pell Grants and HOPE and Lifetime Learning Tax Credits and to actively encourage students to utilize these federal programs and funds. The interest earned on the funds provided in subsections (a) and (b) of this section may be used to support the costs of administering the Community College Grant Program.~~

(d) Participation in Federal Loan Programs. – All community colleges shall participate in the William D. Ford Federal Direct Loan Program. The State Board shall ensure that at least one counselor is available at each college to inform students about federal programs and funds available to assist community college students, including, but not limited to, Pell Grants, HOPE and Lifetime Learning Tax Credits, and the William D. Ford Federal Direct Loan Program, and to actively encourage students to utilize these federal programs and funds."

**SECTION 8.5.(c)** Subsection (b) of this section becomes effective July 1, 2011. The remainder of this section becomes effective July 1, 2010.

## **TUITION REFUNDS**

**SECTION 8.6.(a)** A refund of community college tuition shall not be made except under the following circumstances:

- (1) A one hundred percent (100%) refund shall be made if the student officially withdraws prior to the first day of class of the academic semester or term as noted in the college calendar. Also, a student is eligible for a 100 percent refund if the class in which the student is officially registered is cancelled due to insufficient enrollment.
- (2) A seventy-five percent (75%) refund shall be made if the student officially withdraws from the class prior to or on the official ten percent (10%) point of the semester.
- (3) For classes beginning at times other than the first week (seven calendar days) of a semester a one hundred percent (100%) refund shall be made if the student officially withdraws from the class prior to the first class meeting. A seventy-five percent (75%) refund shall be made if the student officially withdraws from the class prior to or on the ten percent (10%) point of the class.
- (4) A one hundred percent (100%) refund shall be made if the student officially withdraws from a contact hour class prior to the first day of class of the academic semester or term or if the college cancels the class. A seventy-five percent (75%) shall be made if the student officially withdraws from a contact hour class on or before the tenth calendar day of the class.

**SECTION 8.6.(b)** To comply with applicable federal regulations regarding refunds, federal regulations supersede the provisions of this section.

**SECTION 8.6.(c)** Where a student, having paid the required tuition for a semester, dies during that semester (prior to or on the last day of examinations of the college the student was attending), all tuition and fees for that semester may be refunded to the estate of the deceased.

**SECTION 8.6.(d)** Community colleges shall adopt local refund policies for classes for which they collect receipts which are not required to be deposited into the State Treasury account.

#### **MANAGEMENT FLEXIBILITY REDUCTION/COMMUNITY COLLEGES**

**SECTION 8.7.** Section 8.24 of S.L. 2009-451 reads as rewritten:

**"SECTION 8.24.** The management flexibility reduction for the North Carolina Community College System shall be allocated by the State Board of Community Colleges in a manner that accounts for the unique needs of each college and provides for the equitable distribution of funds to the institutions consistent with G.S. 115D-5(a). Before taking reductions to instructional budgets, the community colleges shall consider reducing budgets for senior and middle management personnel and for programs that have both low-enrollment and low-postgraduate success. Colleges shall minimize the impact on student support services and on the retraining of dislocated workers. Colleges shall not reduce funding for the Small Business Centers. The community colleges shall also review their institutional funds to determine whether there are monies available in those funds that can be used to assist with operating costs before taking reductions in instructional budgets."

#### **CATAWBA VALLEY COMMUNITY COLLEGE MANUFACTURING SOLUTIONS CENTER**

**SECTION 8.8.(a)** G.S. 115D-67.2(b)(7) reads as rewritten:

"(7) The Director of the ~~Hosiery Technology Center~~Manufacturing Solutions Center at Catawba Valley Community College who shall serve ex officio as a nonvoting member."

**SECTION 8.8.(b)** Notwithstanding any other provision of law, all fees collected by the Manufacturing Solutions Center of Catawba Valley Community College for the testing of products shall be retained by the Center and used for the operations of the Center. Purchases made by the Center using these funds are not subject to the provisions of Article 3 of Chapter 143 of the General Statutes.

#### **COMMUNITY COLLEGE EQUIPMENT FUNDS**

**SECTION 8.9.** Of the funds appropriated for the 2010-2011 fiscal year for community college equipment, up to two hundred fifty thousand dollars (\$250,000) may be used for virtual 3-D equipment.

#### **BASIC SKILLS PLUS**

**SECTION 8.10.** Section 8.2 of S.L. 2009-451 reads as rewritten:

**"~~SECTION 8.2.~~SECTION 8.2.(a)** Notwithstanding any other provision of law, a local community college may use up to five percent (5%) of the Literacy Funds allocated to it by the State Board of Community Colleges to procure instructional technology for literacy labs. This technology may include computers, instructional software and software licenses, scanners for testing, and classroom projection equipment. The State Board may also authorize a local community college to use up to twenty percent (20%) of the State Literacy Funds allocated to it to provide employability skills, job-specific occupational and technical skills, and developmental education instruction to students concurrently enrolled in a community college course leading to a high school diploma or equivalent certificate.

**"SECTION 8.2.(b)** Notwithstanding any other provision of law, if a community college provides employability skills, job-specific occupational or technical skills, or developmental education instruction, to students concurrently enrolled in a community college course leading to a high school diploma or equivalent certificate, the college may waive the tuition and registration fees associated with this instruction."

#### **MULTICAMPUS FUNDS**

**SECTION 8.11.** G.S. 115D-5(o) reads as rewritten:

"(o) The General Assembly finds that additional data are needed to determine the adequacy of multicampus and off-campus center funds; therefore, multicampus colleges and colleges with off-campus centers shall report annually, beginning September 1, 2005, to the Community Colleges System Office on all expenditures by line item of funds used to support their multicampuses and off-campus centers. The Community Colleges System Office shall

report on these expenditures to the Education Appropriation Subcommittees of the House of Representatives and the Senate, the Office of State Budget and Management, and the Fiscal Research Division by December 1 of each year.

The State Board of Community Colleges shall not approve any additional multicampus centers without identified recurring sources of funding."

## **PART IX. UNIVERSITIES**

### **REPEAL ESCHEAT FUND APPROPRIATION FOR MILLENNIUM TEACHING SCHOLARSHIP LOAN PROGRAM**

**SECTION 9.1.** Section 9.1.(c) of S.L. 2009-451 is repealed.

### **STUDY FINANCIAL AID CONSOLIDATION**

**SECTION 9.2.(a)** The State Education Assistance Authority, The University of North Carolina, the North Carolina Community College System, and the Fiscal Research Division of the General Assembly shall establish a work group to study jointly the simplification and consolidation of State-funded financial aid for students. North Carolina Independent Colleges and Universities, Inc., shall also be included as a joint member of the work group if it chooses to participate in the study. The State Education Assistance Authority shall be the lead agency for the work group and study.

**SECTION 9.2.(b)** The purpose of the study is to develop recommendations and options for simplifying and consolidating the delivery of, administration of, and access to State-funded financial aid for students. In conducting the study, the work group shall consider the State's current student financial aid programs and how to consolidate those programs into two categories of State-funded student aid programs: one program that consolidates the State's major need-based programs and one program that consolidates many of the State's scholarship and forgivable loan programs currently available to students who plan to earn degrees and pursue careers in certain professional areas. More specifically the work group shall do the following:

- (1) Design a unified need-based financial aid program that combines at a minimum the following three programs into a single need-based financial aid program: The University of North Carolina Need-Based Grant program, the North Carolina Community College Grant program, and the North Carolina Education Lottery Scholarship program established under Article 35A of Chapter 115C of the General Statutes. Currently each of these programs has its own award criteria, formulas, target populations, and funding sources (Escheat Fund, General Fund, and Lottery Funds). As part of its study, the work group shall determine what the appropriate parameters may be for such a unified program by using models that take into account income, expected family contribution, college expenses, type of college attended, and any other factors the work group deems relevant. In designing the program, the work group shall address the issue of proportionality of funding and shall take into account all of the following in its consideration of that issue: the proportionality of funding that currently exists among The University of North Carolina, the North Carolina Community College System, and the North Carolina private colleges and universities; funding sources; accounting for student enrollment change; monetary differences between certain categories of students and whether based on those monetary differences student financial aid should be based on cost of attendance or tuition and fees. The work group may also consider whether it is appropriate to redefine "need" for purposes of student financial aid and to develop a common formula for the distribution of financial aid and the consequences of any proposed modifications if the decision is made to redefine "need" and develop a common formula. The program shall be designed to: (i) distribute funds in a manner that is consistent with legislative intent, but more easily understood by potential students, and (ii) retain the ability to track lottery funds.
- (2) Design a "forgivable loans for service" program that combines at a minimum the following existing programs into one consolidated program that focuses

on loans for services: the Nurse Educators of Tomorrow; Nurse Scholars Program; Nurse Education Scholarship Loan Program; Board of Governors Medical Scholarship Loans; Board of Governors Dental Scholarship Loans; Health, Science and Mathematics Student Loan Program; Prospective Teacher Scholarship Loan Program; and the Teacher Assistant Scholarship Program. This single consolidated program shall initially focus on two high area needs: teaching and health professions (including nursing, allied health and medical, dental, and pharmacy careers). In designing this program, the work group may consider the current allocation of funds among the various scholarship and forgivable loan programs, whether it would be appropriate to allow the reallocation and award of funds not distributed as forgivable loans in a specific service area to be awarded as forgivable loans in a different service area, and, if so, what procedure and methodology would be appropriate to trigger the reallocation of funds and provide for the distribution of those funds as awards in a different service area.

**SECTION 9.2.(c)** In addition to the considerations set out in subsection (b) of this section, the work group shall also consider all of the following:

- (1) The time period required to phase out student loans from any of the programs affected by the program consolidation.
- (2) How federal funding may affect student financial aid services.
- (3) How to deal with current recipients of funds from programs affected by the consolidation.
- (4) How to deal with recipients who are paying back loans made through programs affected by the consolidation.
- (5) Whether the State Education Assistance Authority should be authorized to extend the repayment period for forgivable loans in hardship circumstances when a good faith effort has been made to repay the loan in a timely manner, and if so, what the appropriate procedure may be for making that determination and extending the repayment period.
- (6) Whether there are, and if so how to address, any significant abuses of the financial aid system, particularly by persons who intentionally apply for and receive financial aid but who intend to drop out of school after securing financial aid funds.
- (7) Any other issues the work group deems relevant to this study.

**SECTION 9.2.(d)** The work group shall present its proposed program designs and report its findings and recommendations to the Joint Select Committee on State Funded Student Financial Aid by October 1, 2010. In its report the work group shall also identify options that may vary from the proposed program designs but that are alternatives that the work group determines may also be workable and consistent with the legislative intent of this study. The work group shall also include in the report any legislative changes that may be needed to implement the program designs and work group recommendations.

## **COORDINATE THE REPORT DUE DATES FOR VARIOUS TEACHER EDUCATION REPORTS**

**SECTION 9.3.(a)** G.S. 116-11 is amended by adding a new subdivision to read:

"(12d) The Board of Governors shall provide a comprehensive annual report on teacher education efforts at The University of North Carolina. The report shall include information about teacher education and recruitment, 2+2 initiatives, distance education programs focused on teacher education, and professional development programs for teachers and school administrators. The teacher education report shall be due on April 15 of each year to the Joint Legislative Education Oversight Committee and the State Board of Education."

**SECTION 9.3.(b)** G.S. 116-74.21(c) reads as rewritten:

"(c) The Board of Governors shall study the issue of supply and demand of school administrators to determine the number of school administrators to be trained in the programs in each year of the biennium and report the results of this study to the Joint Legislative Education Oversight Committee no later than ~~March 1~~ April 15 annually."

**SECTION 9.3.(c)** Section 9.7.(c) of S.L. 2008-107 reads as rewritten:

**"SECTION 9.7.(c)** The University of North Carolina and Community Colleges System Office shall report by ~~September 1, 2008, April 15, 2011,~~ and annually thereafter, to the Joint Legislative Education Oversight ~~Commission, Committee,~~ the State Board of Education, the Office of State Budget and Management, and the Fiscal Research Division of the General Assembly on the implementation of the UNC-NCCCS 2+2 E-Learning Initiative. This report shall include:

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

**SECTION 9.3.(d)** Section 9.3.(c) of S.L. 2005-276 reads as rewritten:

**"SECTION 9.3.(c)** These results shall be reported by ~~September 1, 2006, April 15, 2011,~~ and annually thereafter to the State Board of Education, the Board of Governors of The University of North Carolina, the State Board of Community Colleges, the Education Cabinet, the Joint Legislative Education Oversight ~~Commission, Committee,~~ and the Office of State Budget and Management."

**SECTION 9.3.(e)** Section 9.9 of S.L. 2002-126 reads as rewritten:

**"SECTION 9.9.** The Board of Governors of The University of North Carolina may allow Elizabeth City State University, the University of North Carolina at Pembroke, and Western Carolina University each to allocate up to one hundred seventy-eight thousand three hundred eighty dollars (\$178,380) of the funds allocated to them for focused enrollment growth for a maximum of 20 Prospective Teacher Scholars. These funds may be used to recruit new nonresident students to enter into agreements to: (i) pursue a full-time course of study that will lead to teacher certification in North Carolina and (ii) teach in a North Carolina public school or a school operated by the United States government in North Carolina for one year for each year that they receive this benefit. The Board of Governors shall establish guidelines and regulations for this pilot program, including methodology for determining its success in increasing the supply of qualified teachers for North Carolina public schools. The Board shall report its guidelines and regulations to guide these pilot programs to the Joint Legislative Education Oversight Committee by ~~November 15, 2002, April 15, 2011.~~ The Board shall report annually to the Committee on the progress of the pilot programs and their costs."

## **ELIMINATE BIENNIAL DISTANCE EDUCATION REPORTS**

**SECTION 9.4.** Section 11.7 of S.L. 1998-212 reads as rewritten:

"Section 11.7. This act provides funding to The University of North Carolina Board of Governors for degree-related courses provided away from the campus sites of the constituent institutions of The University of North Carolina. The intent of this commitment is to provide expanded opportunities for higher education to more North Carolina residents, including nontraditional students, and to increase the number of North Carolina residents who earn post-secondary degrees.

These funds shall be used for the provision of off-campus higher education programs, including the costs for the development or adaptation of programs for this purpose, and the funds may be used for the costs of providing space and services at the off-campus sites.

Prior to approving funding for off-campus programs in nursing, the Board shall consult with the central office of the Area Health Education Centers (AHEC) to obtain information about regional needs and priorities and to coordinate funding with AHEC efforts in nursing education.

The Board of Governors shall track these funds separately in order to provide data on the costs of providing these programs, including the different costs for various methods of delivery

of educational programs. The Board of Governors shall provide for evaluation of these off-campus programs, including comparisons to the costs and quality of on-campus delivery of similar programs, as well as the impact on access to higher education and the educational attainment levels of North Carolina residents. ~~The Board shall provide a preliminary report to the General Assembly by May 1, 2000, and subsequent evaluations, including recommendations for changes, shall be made at least biennially to the Joint Legislative Education Oversight Committee."~~

## **REPEAL DUPLICATE STUDY/STATE-FUNDED STUDENT FINANCIAL AID**

**SECTION 9.5.** Section 9.24 of S.L. 2009-451 is repealed.

## **PERMANENT TRANSFER OF FUNDING TO ROANOKE ISLAND COMMISSION FOR PERFORMING ARTS**

**SECTION 9.6.** Section 9.4 of S.L. 2009-451 reads as rewritten:

**"SECTION 9.4.** The General Assembly finds that in order to expand opportunities for students involved in the performing arts, existing funding for the Summer Institute on Roanoke Island should not be allocated to one specific University of North Carolina institution but instead be allocated directly to the Roanoke Island Commission, so that any interested University of North Carolina institution may have the opportunity to participate in summer arts enrichment and education programs. Therefore, of the funds appropriated by this act to the Board of Governors of The University of North Carolina and allocated to the Summer Institute of the University of North Carolina School of the Arts on Roanoke Island program for the 2009-2011 fiscal biennium, the sum of four hundred sixty-one thousand six hundred forty-six dollars (\$461,646) shall be transferred for the 2009-2010 fiscal year to the Roanoke Island Commission, and ~~the sum of four hundred sixty-one thousand six hundred forty-six dollars (\$461,646) shall be transferred for the 2010-2011 fiscal year to the Roanoke Island Commission.~~ recurring funds appropriated for the 2010-2011 fiscal year to the Board of Governors of The University of North Carolina and allocated to the University of North Carolina School of the Arts for the Summer Institute on Roanoke Island program shall be permanently transferred to the Department of Cultural Resources and allocated to the Roanoke Island Commission. The amount to be transferred shall be equal to the amount of the appropriation remaining after all reductions, prior to and included in the act, are incorporated. The Roanoke Island Commission may use these funds to purchase equipment and to contract with any of the constituent institutions of The University of North Carolina System to provide music and drama students an education in a professional performing environment while providing a public service to the State. Any available funds may be used to contract with community-based or nonprofit performing arts groups or other performing arts groups supported with State or local funds to provide music and drama on Roanoke Island."

## **REVIEW OF UNC SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS (STEM) PROGRAMS**

**SECTION 9.7.(a)** In order to assess the effectiveness of the science, technology, engineering, and mathematics (STEM) programs administered by The University of North Carolina, General Administration shall compile a comprehensive list of the programs within The University System whose primary objective is to provide community outreach in the form of either (i) teacher professional development programs to strengthen the quality of science or mathematics instruction in the public schools; or (ii) K-12 student enrichment programs in the areas of science, technology, engineering, or mathematics. The University of North Carolina General Administration shall submit the list of STEM programs compiled pursuant to this subsection to the Office of State Budget and Management and the Fiscal Research Division by February 15, 2011.

At a minimum, all of the following programs shall be included in the list:

- (1) Pre-College and Teacher Professional Development programs administered through the North Carolina Mathematics and Science Education Network (NC-MSEN).
- (2) Summer Ventures Program.
- (3) North Carolina Central University Center for Science, Math and Technology Education.
- (4) Fayetteville State University CHEER Summer Bridges.



**SECTION 9.7.(b)** The University of North Carolina General Administration shall conduct a review of each of the programs identified pursuant to subsection (a) of this section and shall report the results to the Office of State Budget and Management and the Fiscal Research Division no later than September 30, 2011, to assist with future funding decisions. The report shall contain the following information for each program:

- (1) A description of the program mission, goals, and objectives.
- (2) The statutory objectives for the program if applicable.
- (3) Annual State appropriation and receipt funding for the program.
- (4) Program effectiveness measures for Teacher Professional Development programs to include at a minimum:
  - a. A measure of teachers' classroom effectiveness in STEM areas before and after attending a university professional development program.
  - b. A measure of math and science educators retained as a result of attending a UNC professional development program.
- (5) Program effectiveness measures for student enrichment programs to include at a minimum:
  - a. A measure of students' expected college and career aspirations before and after attending a STEM program.
  - b. A measure of students' math and science performance on standardized tests before and after attending a STEM program.
  - c. A measure of declared STEM majors within the UNC system who attended a UNC-sponsored STEM program.

**SECTION 9.7.(c)** In addition, the Department of Public Instruction shall survey math and science educators in North Carolina to identify the number of current math and science educators who attended a Pre-College or Summer Ventures program sponsored by The University of North Carolina before entering college. The survey may be conducted in cooperation with ongoing data collection efforts within The University of North Carolina System. The data shall be reported to the Office of State Budget and Management and the Fiscal Research Division by February 15, 2011.

## **TRANSFER OF A+ SCHOOLS FROM UNC-GREENSBORO TO DEPARTMENT OF CULTURAL RESOURCES**

**SECTION 9.8.** The A+ Schools program is transferred from the University of North Carolina at Greensboro to the North Carolina Arts Council in the Department of Cultural Resources, as if by a Type I transfer as defined in G.S. 143A-6, with all the elements of such a transfer. The program transfer shall include the sum of fifty-eight thousand six hundred thirty-eight dollars (\$58,638).

## **COASTAL DEMONSTRATION WIND TURBINES**

**SECTION 9.9.** Section 9.14 of S.L. 2009-451 reads as rewritten:

**"SECTION 9.14.(a)** Of the funds received by the State and appropriated by United States Public Law 111-005, the American Recovery and Reinvestment Act of 2009, and appropriated in this act to the State Energy Office for the 2009-2010 fiscal year, the sum of three hundred thousand dollars (\$300,000) in nonrecurring funds shall be allocated to The University of North Carolina to continue the coastal sounds wind energy study set forth in Section 9.12 of S.L. 2008-107. The University shall contract with a third party by October 1, 2009, to design, permit, procure, construct, establish, ~~operate, and reclaim as appropriate at the end of their economic life~~ and operate up to three demonstration turbines and necessary support facilities in the sounds or off the coast of ~~North Carolina by September 1, 2010.~~ North Carolina. The contract shall provide for the reclamation and decommissioning of the project at the end of its economic life. The demonstration project shall commence operations as soon as practicable, and, in any event, no later than December 31, 2011.

Any contract entered into between The University and a third party pursuant to this section shall ensure that The University is provided appropriate access to the demonstration turbines and necessary support facilities for research purposes. The actual number and placement of the wind turbines and necessary support facilities shall be determined by the coastal sounds wind energy study in coordination with participating entities. The Director of the Budget shall ensure that any available federal funds are secured by the State to construct the demonstration turbines

and necessary support facilities. The University may negotiate and execute any rights-of-way, easements, leases, and any other agreements necessary to construct, establish, and operate the demonstration turbines and supporting facilities, notwithstanding any other provisions of law governing such negotiation and execution of any rights-of-way, easements, leases, or other required agreements required for the facilities authorized under this section.

...  
"**SECTION 9.14.(c)** The North Carolina Utilities Commission is directed to facilitate and expedite wind energy pilot projects developed pursuant to this act that come within its jurisdiction to the extent allowed by law and consistent with State statute. A wind turbine constructed pursuant to this section shall be exempt from the requirements of G.S. 62-110.1. For such wind turbines owned by a public utility, upon an application by the public utility seeking a rider to recover the costs of such project, the Utilities Commission shall establish an annual rider for the public utility to recover the just and reasonable costs, including the utility's cost of debt and equity, of such project upon completion. Should the project development and construction of the demonstration wind turbines be unreasonably delayed beyond the date set forth in subsection (a) of this section for reasons outside the control of the public utility, all just and reasonable costs incurred by the public utility during project development and construction shall nonetheless be recoverable through an annual rider under this subsection, provided that the public utility shall bear the burden of proving by a preponderance of the evidence that the reasons for the delay were beyond its control and its execution of the project was reasonable and prudent. Should the demonstration wind turbines be abandoned prior to completion, the capital costs and AFUDC related to the project, less any salvage value received, shall nonetheless be recoverable under this Article, provided that the utility shall bear the burden of proving by a preponderance of the evidence that the decision to abandon construction of the project was prudent.  
...."

## **COASTAL WAVE ENERGY RESEARCH AND PROTOTYPE PROJECT**

**SECTION 9.10.(a)** The General Assembly finds that strengthening research and development efforts on renewable energy sources is critical to North Carolina's environment and economy, and that recent events resulting from the British Petroleum oil spill amplify the need for North Carolina's innovators and scientists to enhance their efforts to develop sustainable energy sources and technologies that do not threaten the health and well-being of the State's waters, sensitive lands, and residents. In order to provide opportunities for research into tidal, wave, and other ocean-based sources of alternative energy, the University of North Carolina Coastal Studies Institute shall form a consortium with the Colleges of Engineering at North Carolina State University, North Carolina Agricultural and Technical State University, and the University of North Carolina at Charlotte to study the capture of energy from ocean waves. The Coastal Studies Institute shall be designated the lead agency in coordinating these efforts. Funding appropriated by this act shall be used by university scientists to conceptualize, design, construct, operate, and market new and innovative technologies designed to harness and maximize the energy of the ocean in order to provide substantial power generation for the State. Funding may be used to leverage federal or private research funding for this purpose, but may not be used to purchase and utilize technology that has already been developed by others unless that technology is a critical component to North Carolina's research efforts. Wave energy technologies developed and used for this research may be attached to or staged from an existing State-owned structure located in the ocean waters of the State, and data generated by these technologies shall be available at this structure for public education and awareness. It is the intent of the General Assembly that North Carolina become the focal point for marine-based ocean research collaborations involving the nation's public and private universities.

**SECTION 9.10.(b)** With respect to the demonstration wave energy facility and necessary support facilities authorized by subsection (a) of this section, the facilities authorized under this act shall be constructed in accordance with the provisions of general law applicable to the construction of State facilities, except that the State Property Office shall expedite and grant all easements and use agreements required for construction of the facilities without payment of any fee, royalty, or other cost. Notwithstanding any other provision of law, construction of the facilities authorized by this section shall be exempt from the following statutes and rules implementing those statutes: G.S. 143-48 through 143-64, 143-128, 143-129, 143-132, 113A-1 through 113A-10, 113A-50 through 113A-66, and 113A-116 through

113A-128. With respect to any other environmental permits required for construction of the facilities, the Department of Environment and Natural Resources is directed to expedite permitting of the project to the extent allowed by law and shall waive any application fees that would be otherwise applicable to applications for permits required for the facilities and, where possible under applicable law, issue all permits within 40 days of receipt of a complete application.

## UNIVERSITY OF NORTH CAROLINA HEALTH CARE SYSTEM

SECTION 9.11. G.S. 116-37 reads as rewritten:

### "§ 116-37. University of North Carolina Health Care System.

(a) Creation of System. –

...  
(4) With respect to the provisions of subsections (d), (e), (f), (h), (i), (j), and (k) of this section, the board of directors may adopt policies that make the authorities and responsibilities established by one or more of said subsections ~~separately applicable either to the University of North Carolina Hospitals at Chapel Hill or Hill, to the clinical patient care programs of the School of Medicine of the University of North Carolina at Chapel Hill, or to both,~~ to both, or to other persons or entities affiliated with or under the control of the University of North Carolina Health Care System.

...  
(b) Board of Directors. – There is hereby established a board of directors of the University of North Carolina Health Care System, effective November 1, 1998.

(1) The board of directors ~~initially~~ shall be composed as follows:

a. A minimum of six members ex officio of said board shall be the President of The University of North Carolina (or the President's designee); the Chief Executive Officer of the University of North Carolina Health Care System; ~~two the Chancellor of the University of North Carolina at Chapel Hill and one additional administrative officers~~ officer of the University of North Carolina at Chapel Hill designated by the Chancellor of that institution; Chancellor; and two members of the faculty of the School of Medicine of the University of North Carolina at Chapel Hill designated by the Dean of the School of Medicine; provided, that if not such a member ex officio by virtue of holding one or more of the offices aforementioned, additional ex officio memberships shall be held by the President of the University of North Carolina Hospitals at Chapel ~~Hill-Hill,~~ the faculty member responsible for leading the clinical patient care programs of the School of Medicine, and the Dean of the School of Medicine of the University of North Carolina at Chapel ~~Hill,~~ for a total potential ex officio membership of eight.Hill.

b. No less than nine and no more than 21 members at large, which number shall be determined by the board of directors, shall be appointed for four-year terms, commencing on November 1 of the year of appointment; provided, that the initial class of at-large members shall include the persons who hold the appointed memberships on the board of directors of the University of North Carolina Hospitals at Chapel Hill incumbent as of October 31, 1998, with their terms of membership on the board of directors of the University of North Carolina Health Care System to expire on the last day of October of the year in which their term as a member of the board of directors of the University of North Carolina Hospitals at Chapel Hill would have expired. Vacant at-large positions shall be filled by the appointment of persons from the business and professional public at large who have special competence in business management, hospital administration, health care delivery, or medical practice or who otherwise have demonstrated dedication to the improvement of health care in North Carolina, and who are neither members of the Board of Governors, members of the board of

trustees of a constituent institution of The University of North Carolina, nor officers or employees of the State. Members shall be appointed by the President of the University, and ratified by the Board of Governors, from among a slate of nominations made by the board of directors of the University of North Carolina Health Care System, ~~said slate to include at least twice as many nominees as there are vacant positions to be filled.~~System. No member may be appointed to more than two full four-year terms in succession; provided, that persons holding appointed memberships on November 1, 1998, by virtue of their previous membership on the board of directors of the University of North Carolina Hospitals at Chapel Hill, shall not be eligible, for a period of one year following expiration of their term, to be reappointed to the board of directors of the University of North Carolina Health Care System. Any vacancy in an unexpired term shall be filled by an appointment made by the President, and ratified by the Board of Governors, upon the nomination of the board of directors, for the balance of the term remaining.

- (2) The board of directors, with each ex officio and at-large member having a vote, shall elect a chairman only from among the at-large members, for a term of two years; ~~no years.~~ Notwithstanding the foregoing limitation, the Chancellor of the University of North Carolina at Chapel Hill may serve as Chairman. No person shall be eligible to serve as chairman for more than three terms in succession.

- ...
- (4) In meeting the patient-care, educational, research, and public-service goals of the University of North Carolina Health Care System, the board of directors is authorized to exercise such authority and responsibility and adopt such policies, rules, and regulations as it deems necessary and appropriate, not inconsistent with the provisions of this section or the policies of the Board of ~~Governors.~~ Governors or, to the extent the board's actions affect employees of the University of North Carolina at Chapel Hill, the policies of the University of North Carolina at Chapel Hill. The board may authorize any component of the University of North Carolina Health Care System, including the University of North Carolina Hospitals at Chapel Hill, to contract in its individual capacity, subject to such policies and procedures as the board of directors may direct. The board of directors may enter into formal agreements with the University of North Carolina at Chapel Hill with respect to the provision of clinical experience for students and for the provision of maintenance and supporting services. The board's action on matters within its jurisdiction is final, except that appeals may be made, in writing, to the Board of Governors with a copy of the appeal to the Chancellor of the University of North Carolina at Chapel Hill. The board of directors shall keep the Board of Governors and the board of trustees of the University of North Carolina at Chapel Hill fully informed about health care policy and recommend changes necessary to maintain adequate health care delivery, education, and research for improvement of the health of the citizens of North Carolina.

(c) Officers. –

- (1) The executive and administrative head of the University of North Carolina Health Care System shall have the title of "Chief Executive Officer." The board of directors, ~~in cooperation with the board of trustees~~ trustees, and the Chancellor of the University of North Carolina at Chapel Hill, following such search process as the boards and the Chancellor deem appropriate, shall ~~identify, in cooperation with the Chancellor,~~ identify two or more persons as candidates for the office, who, pursuant to criteria agreed upon by the boards and the Chancellor, have the qualifications for both the positions of Chief Executive Officer of the University of North Carolina Health Care System and Vice-Chancellor for Medical Affairs of the University of North Carolina

at Chapel Hill. The names of the candidates so ~~identified~~identified, once approved by the board of directors and the board of trustees, shall be forwarded by the Chancellor to the President of The University of North Carolina, who if satisfied with the quality of one or more of the candidates, will nominate one as Chief Executive Officer, subject to selection by the Board of Governors. The individual serving as Chief Executive Officer shall have complete executive and administrative authority to formulate proposals for, recommend the adoption of, and implement policies governing the programs and activities of the University of North Carolina Health Care System, subject to all requirements of the board of directors. That same individual, when serving as Vice-Chancellor for Medical Affairs, shall have all authorities, rights, and responsibilities of a vice-chancellor of the University of North Carolina at Chapel Hill.

...  
(3) The board of directors shall elect, on nomination of the Chief Executive Officer, the President of the University of North Carolina Hospitals at Chapel Hill, and such additional administrative and professional staff employees of the University of North Carolina Health Care System as may be deemed necessary to assist in fulfilling the duties of the office of the Chief Executive Officer, all of whom shall serve at the pleasure of the Chief Executive Officer.

...."

#### **UNIVERSITY CANCER RESEARCH FUND**

**SECTION 9.12.** G.S. 116-29.1 reads as rewritten:

##### **"§ 116-29.1. University Cancer Research Fund.**

...  
(c) Cancer Research Fund Committee. – The Cancer Research Fund Committee shall consist of five ex officio members and two appointed members. The five ex officio members shall consist of the following: (i) one member shall be the ~~President of The University of North Carolina, Chancellor of the University of North Carolina at Chapel Hill,~~ (ii) one member shall be the Director of the Lineberger Comprehensive Cancer Center, (iii) one member shall be the Dean of the School of Medicine at The University of North Carolina, (iv) one member shall be the Dean of the School of Pharmacy at The University of North Carolina, and (v) one member shall be the Dean of the School of Public Health at The University of North Carolina. The remaining two members shall be appointed by a majority vote of the standing members of the Committee and shall be selected from persons holding a leadership position in a nationally prominent cancer program.

If any of the specified positions cease to exist, then the successor position shall be deemed to be substituted in the place of the former one, and the person holding the successor position shall become an ex officio member of the Committee.

(d) Chair. – The chair shall be the ~~President of The University of North Carolina, Chancellor of the University of North Carolina at Chapel Hill.~~

...."

#### **UNC MANAGEMENT FLEXIBILITY REDUCTION**

**SECTION 9.13.** Section 9.19 of S.L. 2009-451 reads as rewritten:

**"SECTION 9.19.** The management flexibility reduction for The University of North Carolina shall not be allocated by the Board of Governors to the constituent institutions and affiliated entities using an across-the-board method but in a manner that recognizes the importance of the academic mission and differences among The University of North Carolina entities. Before taking reductions in instructional budgets, the Board of Governors and the campuses of the constituent institutions shall consider reducing budgets for senior and middle management personnel, centers and institutes, low enrollment degree programs, speaker series, and nonacademic activities. The Board of Governors and the campuses of the constituent institutions also shall review the institutional trust funds and the special funds held by or on behalf of ~~the~~The University of North Carolina and its constituent institutions to determine whether there are monies available in those funds that can be used to assist with operating costs before taking reductions in instructional budgets. In addition, the campuses of the constituent

institutions also shall require their faculty to have a teaching workload equal to the national average in their Carnegie classification. Budget reductions shall not be considered in funding available for need-based financial aid.

Notwithstanding any other provision of law, for the 2010-2011 fiscal year only, the constituent institutions may, with the approval of the President of The University of North Carolina, increase tuition by up to seven hundred fifty dollars (\$750.00) per academic year. This increase shall be in addition to other increases authorized for the fiscal year. At least twenty percent (20%) of these funds shall be used to provide need-based financial aid to students. The remaining balance of these funds shall be used only to offset the institutions' management flexibility reductions."

#### **INSTITUTE OF OUTDOOR DRAMA**

**SECTION 9.14.(a)** The Institute of Outdoor Drama shall be transferred from the University of North Carolina at Chapel Hill to East Carolina University. Any unexpended balances of General Fund appropriations or other funds for the Institute of Outdoor Drama shall also be transferred from the University of North Carolina at Chapel Hill to East Carolina University.

**SECTION 9.14.(b)** Of the funds appropriated by this act to the Board of Governors of The University of North Carolina for the 2010-2011 fiscal year, the sum of one hundred fifty thousand dollars (\$150,000) shall be used for the Institute of Outdoor Drama at East Carolina University.

**SECTION 9.14.(c)** It is the intent of the General Assembly that the Institute for Outdoor Drama at East Carolina University become receipt supported by the 2011-2012 fiscal year.

#### **RECRUITMENT OF PHARMACY STUDENTS**

**SECTION 9.15.(a)** The University of North Carolina at Chapel Hill shall collaborate with the University of North Carolina at Asheville and Elizabeth City State University regarding the recruitment of students of pharmacy. The universities shall develop and institute a plan in which potential pharmacy students are informed of the pharmacy programs at each of the public universities in an effort to recruit those students to State schools.

**SECTION 9.15.(b)** Of the funds appropriated by this act to the Board of Governors of The University of North Carolina for the 2010-2011 fiscal year, the Board of Governors shall use forty-four thousand dollars (\$44,000) for the recruitment and academic support of pharmacy students at the University of North Carolina at Asheville and Elizabeth City State University.

#### **SUCCESS NC REPORT**

**SECTION 9.16.** The University of North Carolina General Administration and the North Carolina Community College System shall report to the Joint Legislative Education Oversight Committee by December 1, 2010, regarding the progress in implementing Success NC. Success NC is a program that represents a collaborative effort between The University of North Carolina and the North Carolina Community College System with the goal of increasing the number of North Carolinians with college degrees and workplace relevant credentials to prepare them for success in today's 21st century knowledge-based workforce.

#### **ECU DENTAL SCHOOL FUNDS/CONTINUING STATE FINANCIAL SUPPORT TO HELP SECURE ACCREDITATION**

**SECTION 9.18.** It is the intent of the General Assembly to appropriate funds in the amount of three million five hundred thousand dollars (\$3,500,000) for the 2011-2012 fiscal year and the sum of one million five hundred thousand dollars (\$1,500,000) for the 2012-2013 fiscal year to the Board of Governors of The University of North Carolina for East Carolina University to provide continuing State financial support of the School of Dentistry at East Carolina University in future fiscal years and to help secure accreditation of the School of Dentistry by the American Dental Association's Commission on Accreditation.

#### **TRANSFER SURPLUS IN LEGISLATIVE TUITION GRANTS AND STATE GRANTS TO STUDENTS AT CERTAIN PRIVATE INSTITUTIONS OF HIGHER EDUCATION TO CONTRACTUAL SCHOLARSHIP FUND**

**SECTION 9.19.(a)** Notwithstanding any other provision of law, if the amount appropriated by this act to the State Education Assistance Authority for the 2010-2011 fiscal year for legislative tuition grants exceeds the amount required to pay the legislative tuition grants in the amount of one thousand eight hundred fifty dollars (\$1,850) to each North Carolina resident student attending the State's private colleges, then the State Education Assistance Authority shall deposit the surplus balance of the funds into the State Contractual Scholarship Fund and may use those funds to provide additional scholarships for or to increase the scholarship amounts awarded to students who have financial need.

**SECTION 9.19.(b)** Notwithstanding any other provision of law, if the amount appropriated by this act to the State Education Assistance Authority for the 2010-2011 fiscal year for State grants awarded under G.S. 116-43.5 exceeds the amount required to pay those grants in the amount of one thousand eight hundred fifty dollars (\$1,850) to each North Carolina resident student attending the State's eligible institutions as defined by G.S. 116-43.5, then the State Education Assistance Authority shall deposit the surplus balance of the funds into the State Contractual Scholarship Fund and may use those funds to provide additional scholarships for or to increase the scholarship amounts awarded to students who have financial need.

#### **CAMPUS INITIATED TUITION INCREASES/TWENTY-FIVE PERCENT FOR STUDENT FINANCIAL AID**

**SECTION 9.20.(a)** Section 9.23 of S.L. 2009-451 is repealed.

**SECTION 9.20.(b)** All campus initiated tuition increases approved by the Board of Governors of The University of North Carolina may be implemented; however, each campus that implements the tuition increase shall expend at least twenty-five percent (25%) of the increase on need-based student financial aid and may use as much of the remaining tuition income as needed to fully meet need-based student financial aid needs on that campus.

#### **UNC ENROLLMENT GROWTH**

**SECTION 9.22.** In considering potential increases in enrollment growth for The University of North Carolina for the 2011-2013 fiscal biennium, the Board of Governors shall consider all of the following items:

- (1) The general economic conditions of the State as reported by the Office of State Budget and Management and the Fiscal Research Division.
- (2) The possible increases and decreases in the State's revenue, particularly General Fund revenue as reported by the Office of State Budget and Management and the Fiscal Research Division.
- (3) Any other non-State revenue resources available to The University of North Carolina that may be used to assist with the recurring costs of enrollment growth.

#### **NCSU/RESTORE MASTER GARDENER FUNDS**

**SECTION 9.24.** Of the funds appropriated by this act to the Board of Governors of The University of North Carolina and allocated to North Carolina State University for the 2010-2011 fiscal year the sum of forty-eight thousand eight hundred seventy-eight dollars (\$48,878) shall be restored to the master gardener account.

#### **ELIMINATE IN-STATE TUITION FOR NON-RESIDENT ATHLETIC SCHOLARSHIPS**

**SECTION 9.25.** G.S. 116-143.6(a) reads as rewritten:

"(a) Notwithstanding any other provision of law, if the Board of Trustees of a constituent institution of The University of North Carolina elects to do so, it may by resolution adopted consider as residents of North Carolina all persons who receive full ~~scholarships~~ scholarships, unless the scholarship is for athletics, to the institution from entities recognized by the institution and attend the institution as undergraduate students. The aforesaid persons shall be considered residents of North Carolina for all purposes by The University of North Carolina."

#### **AMEND TUITION WAIVER**

**SECTION 9.26.** G.S. 115B-2(a) reads as rewritten:

"(a) The constituent institutions of The University of North Carolina and the community colleges as defined in G.S. 115D-2(2) shall permit the following persons to attend classes for credit or noncredit purposes without the required payment of tuition:

- (1) Repealed by Session Laws 2009-451, s. 8.11(a), effective July 1, 2009.
- (2) Any person who is the survivor of a law enforcement officer, firefighter, volunteer firefighter, or rescue squad worker killed as a direct result of a traumatic injury sustained in the line of duty.
- (3) The spouse of a law enforcement officer, firefighter, volunteer firefighter, or rescue squad worker who is permanently and totally disabled as a direct result of a traumatic injury sustained in the line of duty.
- (4) Any child, if the child is at least 17 years old but not yet ~~23 years old~~, 24 years old, whose parent is a law enforcement officer, firefighter, volunteer firefighter, or rescue squad worker who is permanently and totally disabled as a direct result of a traumatic injury sustained in the line of duty. However, a child's eligibility for a waiver of tuition under this Chapter shall not exceed: (i) ~~48 months~~, 54 months, if the child is seeking a baccalaureate degree, or (ii) if the child is not seeking a baccalaureate degree, the number of months required to complete the educational program to which the child is applying.
- (5) Any child, if the child (i) is at least 17 years old but not yet ~~23 years old~~, 24 years old, (ii) is a ward of North Carolina or was a ward of the State at the time the child reached the age of 18, (iii) is a resident of the State; and (iv) is eligible for services under the Chaffee Education and Training Vouchers Program; but the waiver shall only be to the extent that there is any tuition still payable after receipt of other financial aid received by the student."

**UNC BUILDING RESERVE/ALLOCATION OF FUNDS AMONG CONSTITUENT INSTITUTIONS AND UNC AFFILIATED INSTITUTIONS**

**SECTION 9.27.** Funds appropriated by this act to the Board of Governors of The University of North Carolina for the 2010-2011 fiscal year for the Building Reserve shall be allocated among the following constituent institutions and affiliate institutions of The University of North Carolina for the projects listed below in the amounts indicated:

(1) Appalachian State University				
Beasley Broadcast Complex	\$30,711	R	\$56,770	NR
College of Education Bldg	\$102,884	R	\$291,753	NR
(2) East Carolina University				
Heart Center	\$112,678	R	\$ 0	NR
Family Medicine Center	\$1,785,786	R	\$290,258	NR
(3) Elizabeth City State University				
School of Pharmacy	\$532,046	R	\$2,308	NR
(4) Fayetteville State University				
Lilly Gym	\$91,326	R	\$0	NR
Nursing Education Building	\$416,570	R	\$99,424	NR
(5) NC A&T State University				
Barnes Hall Renovation	\$128,106	R	\$109,808	NR
Cherry Hall Minor Addition	\$121,344	R	\$31,483	NR
Cherry Hall Renovation	\$250,404	R	\$136,706	NR
(6) North Carolina Central University				
Pearson Cafeteria Culinary Arts Teaching Lab	\$66,924	R	\$9,659	NR
(7) NC State University Academic Affairs				
Math and Statistics Bldg	\$581,612	R	\$13,776	NR
Council Building	\$323,858	R	\$122,974	NR
Engineering Complex III	\$3,443,092	R	\$687,096	NR
Terry Animal Medical Center	\$958,765	R	\$738,556	NR
Avent Ferry Administration Center	\$398,384	R	\$0	NR
CBC Substation Infrastructure	\$110,266	R	\$0	NR
CVM Finger Barns HVAC	\$84,132	R	\$0	NR
Parks Shops Renovation	\$383,551	R	\$58,813	NR



	Hunt Library Infrastructure	\$258,846	R	\$0	NR
	Terry Center Infrastructure	\$176,204	R	\$0	NR
	Yarborough Steam Plant Infrastructure	\$105,811	R	\$0	NR
	Engineering Complex III Infrastructure	\$246,100	R	\$0	NR
	Eastern 4-H Conference Center	\$222,215	R	\$0	NR
(8)	UNC-Asheville				
	Res NC Center for Health & Wellness	\$304,599	R	\$246,664	NR
	Rhoades Hall and Tower Renovations	\$85,593	R	\$40,104	NR
(9)	UNC-Chapel Hill Academic				
	Arts Common – Phase I	\$218,703	R	\$5,048	NR
	Duke Energy Building	\$242,105	R	\$51,481	NR
	Science Complex				
	Phase II-"New Venable"	\$1,730,537	R	\$246,277	NR
(10)	UNC-Chapel Hill Health Affairs				
	Berryhill Renovation	\$125,319	R	\$0	NR
(11)	UNC-Charlotte				
	Bioinformatics Building	\$2,206,350	R	\$317,637	NR
	Center City Building	\$358,240	R	\$490,355	NR
	Cone Center	\$607,668	R	\$91,374	NR
	Memorial Hall	\$123,297	R	\$47,733	NR
(12)	UNC-Greensboro				
	New Classroom and Office	\$373,105	R	\$218,800	NR
(13)	UNC-Pembroke				
	Magnolia Property Purchase	\$22,100	R	\$27,055	NR
(14)	UNC – School of the Arts				
	172 Waightown Street	\$72,993	R	\$26,882	NR
(15)	UNC-Wilmington				
	School of Nursing	\$1,158,587	R	\$197,475	NR
	Oyster Hatchery Research Lab	\$225,296	R	\$62,978	NR
(16)	Western Carolina University				
	Campus Recreation Center	\$390,576	R	\$109,212	NR

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

### **ELECTRONIC BENEFITS TRANSFER SYSTEM**

**SECTION 10.1.** The Department of Health and Human Services, Division of Child Development, shall implement an Electronic Benefits Transfer system for child care subsidy. The Department shall review all current electronic card system operations as related to Child Support Enforcement and Food and Nutrition to determine whether coordination may occur among the three-card systems that result in cost-savings.

The Department shall monitor the implementation of the "smart card" system pilot program in Georgia and implementation of the Medicaid Access Card in Texas. The Department shall submit a report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on the implementation of Georgia's pilot program and Texas' Medicaid Access Card and provide any recommendations for a card system program in this State by May 1, 2011.

### **REPEAL POLICIES TO FACILITATE AND EXPEDITE USE OF CHILD CARE SUBSIDY FUNDS**

**SECTION 10.2.** Section 10.4 of S.L. 2009-451 is repealed.

### **EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES ENHANCEMENTS**

**SECTION 10.3.** Section 10.7.(g) of S.L. 2009-451 reads as rewritten:

**"SECTION 10.7.(g)** For fiscal years 2009-2010 and 2010-2011, the local partnerships shall spend an amount for child care subsidies that provides at least fifty-two million dollars (\$52,000,000) for the TANF maintenance of effort requirement and the Child Care Development Fund and Block Grant match requirement. ~~The Department of Health and Human~~

~~Services shall determine the level of funds that need to be expended in order to draw down all federal recovery funds and shall direct the local partnerships to spend at least at the determined level. The local partnerships shall not spend at a level less than that directed by the Department."~~

## **ADMINISTRATIVE ALLOWANCE FOR COUNTY DEPARTMENTS OF SOCIAL SERVICES**

**SECTION 10.5.** Section 10.10 of S.L. 2009-451 reads as rewritten:

**"SECTION 10.10.** The Division of Child Development of the Department of Health and Human Services shall increase the allowance that county departments of social services may use for administrative costs from four percent (4%) to five percent (5%) of the county's total child care subsidy funds allocated in the Child Care Development Fund Block Grant plan. The increase shall be effective for the 2009-2010 ~~fiscal year~~ and 2010-2011 fiscal years."

## **REPORT ON DHHS POSITION ELIMINATIONS**

**SECTION 10.5A.** The Secretary of the Department of Health and Human Services may achieve savings from position eliminations within the Divisions under the supervision of the Secretary by reducing a greater or lesser number of positions than prescribed for the Department in the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets for the 2010-2011 fiscal year. The Secretary shall report on the number of positions eliminated in the budget for the 2010-2011 fiscal year. The report shall include the total number of positions, including positions filled and vacant positions, and savings generated through salary and fringe benefits and any severance paid out. The Secretary shall submit the report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division on or before March 1, 2011.

## **MENTAL HEALTH CHANGES**

**SECTION 10.6.(a)** Section 10.12.(b) of S.L. 2009-451 reads as rewritten:

**"SECTION 10.12.(b)** Of the funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, the sum of twenty million one hundred twenty-one thousand six hundred forty-four dollars (\$20,121,644) for the 2009-2010 fiscal year and the sum of ~~twenty million one hundred twenty-one thousand six hundred forty-four dollars (\$20,121,644)~~ twenty-nine million one hundred twenty-one thousand six hundred forty-four dollars (\$29,121,644) for the 2010-2011 fiscal year shall be allocated for the purchase of local inpatient psychiatric beds or bed days. These beds or bed days shall be distributed across the State in LME catchment areas and according to need as determined by the Department. The Department shall enter into contracts with the LMEs and community hospitals for the management of these beds or bed days. The Department shall work to ensure that these contracts are awarded equitably around all regions of the State. Local inpatient psychiatric beds or bed days shall be managed and controlled by the LME, including the determination of which local or State hospital the individual should be admitted to pursuant to an involuntary commitment order. Funds shall not be allocated to LMEs but shall be held in a statewide reserve at the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services to pay for services authorized by the LMEs and billed by the hospitals through the LMEs. LMEs shall remit claims for payment to the Division within 15 working days of receipt of a clean claim from the hospital and shall pay the hospital within 30 working days of receipt of payment from the Division. If the Department determines (i) that an LME is not effectively managing the beds or bed days for which it has responsibility, as evidenced by beds or bed days in the local hospital not being utilized while demand for services at the State psychiatric hospitals has not reduced, or (ii) the LME has failed to comply with the prompt payment provisions of this subsection, the Department may contract with another LME to manage the beds or bed days, or, notwithstanding any other provision of law to the contrary, may pay the hospital directly. The Department shall develop reporting requirements for LMEs regarding the utilization of the beds or bed days. Funds appropriated in this section for the purchase of local inpatient psychiatric beds or bed days shall be used to purchase additional beds or bed days not currently funded by or through LMEs and shall not be used to supplant other funds available or otherwise appropriated for the purchase of psychiatric inpatient services under contract with community

hospitals, including beds or bed days being purchased through Hospital Utilization Pilot funds appropriated in S.L. 2007-323. Not later than March 1, 2010, the Department shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research Division on a uniform system for beds or bed days purchased (i) with local funds, (ii) from existing State appropriations, (iii) under the Hospital Utilization Pilot, and (iv) purchased using funds appropriated under this subsection.

**SECTION 10.6.(b)** Section 10.12.(f) of S.L. 2009-451 reads as rewritten:

**"SECTION 10.12.(f)**

- (1) The Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall continue implementation of the current Supports Intensity Scale (SIS) assessment tool pilot project if the pilot project has demonstrated that the SIS tool:
  - a. Is effective in identifying the appropriate array and intensity of services, including residential supports or placement, for individuals assessed.
  - b. Is valid for determining intensity of support related to resource allocation for CAP-MR/DD, public and private ICF-MR facilities, developmental disability group homes, and other State- or federally funded services.
  - c. Is used by an assessor that does not have a pecuniary interest in the determinations resulting from the assessment.
  - d. Determines the level of intensity and type of services needed from developmental disability service providers.

(1a) The Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services shall require the seven LMEs participating in the current Supports Intensity Scale (SIS) assessment tool pilot project to administer a SIS assessment to all clients with developmental disabilities no later than October 1, 2010. The participating LMEs shall use the results of the SIS assessment to assign clients with developmental disabilities to one of the tiers within the CAP-MR/DD Waiver and to other needed services, according to their relative intensity of need.

- (2) The Department shall report on the progress of the pilot project by ~~May 1, 2010~~ April 1, 2011. The Department shall submit the report to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division. The report shall include the following:
  - a. The infrastructure that will be needed to assure that the administration of the assessment tool is independent from service delivery, the qualifications of assessors, training and management of data, and test-retest accountability.
  - b. The cost to (i) purchase the tool, (ii) implement the tool, (iii) provide training, and (iv) provide for future expansion of the tool statewide.
  - c. Information about compliance with the requirements specified in subdivision (1a) of this section by the seven LMEs participating in the current SIS assessment tool pilot project."

**JOHNSTON COUNTY LME ADMINISTRATIVE FUNDING**

**SECTION 10.6A.** Notwithstanding G.S. 122C-115(a1), the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall not further reduce the allocation of administrative funding to the Johnston County Area Mental Health, Developmental Disabilities and Substance Abuse Authority for the 2010-2011 fiscal year as a consequence of the total population of the catchment area served.

## **TERM LIMITS FOR COUNTY COMMISSIONERS AND COUNTY MANAGERS ON AREA MENTAL HEALTH BOARDS**

**SECTION 10.7.** G.S. 122C-118.1(d) reads as rewritten:

"(d) Any member of an area board who is a county commissioner serves on the board in an ex officio capacity at the pleasure of the initial appointing authority, for a term not to exceed the member's service as a county commissioner. Any member of an area board who is a county manager serves on the board at the pleasure of the initial appointing authority, for a term not to exceed the duration of the member's employment as a county manager. ~~The terms of county commissioners on an area board are concurrent with their terms as county commissioners.~~ The terms of the other members on the area board shall be for three years, except that upon the initial formation of an area board one-third shall be appointed for one year, one-third for two years, and all remaining members for three years. ~~Members other than county commissioners and county managers,~~ shall not be appointed for more than two consecutive terms. Board members serving as of July 1, 2006, may remain on the board for one additional term. This subsection applies to all area authority board members regardless of the procedure used to appoint members under subsection (a) of this section."

## **CAP-MR/DD SERVICE ELIGIBILITY**

**SECTION 10.7A.** Section 10.21B of S.L. 2009-451 reads as rewritten:

~~"SECTION 10.21B"~~**SECTION 10.21B.(a)** Except as otherwise provided in this ~~section~~ subsection for former Thomas S. recipients, CAP-MR/DD recipients are not eligible for any State-funded services except for those services for which there is not a comparable service in the CAP-MR/DD waiver. The excepted services are limited to guardianship, room and board, and time-limited supplemental staffing to stabilize residential placement. Former Thomas S. recipients currently living in community placements may continue to receive State-funded services.

**SECTION 10.21B.(b)** The Department of Health and Human Services, Division of Medical Assistance, shall work with stakeholders to develop a new service definition within the CAP-MR/DD waiver to better meet the needs of individuals who (i) have a high intensity of behavioral needs, (ii) reside in small licensed residential placements, and (iii) require supervision 24 hours per day, seven days per week, three hundred sixty-five days per year. The Division shall apply to the Centers for Medicare and Medicaid Services (CMS) for an appropriate amendment to the CAP-MR/DD waiver if CMS approval is necessary to implement the new service definition. Not later than October 1, 2010, the Department shall report to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division on the development of the new service definition and the status of any necessary approval from CMS to implement the new service definition."

## **REPORT ON PROVISION OF BEHAVIORAL HEALTH CRISIS SERVICES BY HOSPITAL EMERGENCY DEPARTMENTS**

**SECTION 10.7B.** The Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall evaluate the provision of behavioral health crisis services by State and local hospital emergency departments, broken down by local management entity (LME) catchment area. The evaluation shall compare both Medicaid and non-Medicaid recipients whose care is managed by the 1915 (b)/(c) waiver program with Medicaid and non-Medicaid recipients whose care is managed by LMEs and other entities. The Division shall submit a report of the evaluation to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Subcommittee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research Division not later than March 1, 2011. The report shall include information on (i) the number of times State and local hospital emergency departments are utilized for behavioral health crisis services, (ii) the lengths of stay for patients admitted to these State and local hospital emergency departments, and (iii) the number of patients readmitted to these State and local hospital emergency departments within 30 days after discharge.

## **JOINT STUDY COMMITTEE ON AUTISM SPECTRUM DISORDERS AND PUBLIC SAFETY**

**SECTION 10.9.** Section 10.21D(i) of S.L. 2009-451 reads as rewritten:

**"SECTION 10.21D.(i)** The Committee may submit an interim report on the results of its study, including any proposed legislation, to the members of the Senate and the House of Representatives on or before May 1, 2010, by filing a copy of the report with the Office of the President Pro Tempore of the Senate, the Office of the Speaker of the House of Representatives, and the Legislative Library. The Committee shall submit a final report on the results of its study, including any proposed legislation, to the members of the Senate and the House of Representatives ~~on or before December 31, 2010,~~ upon the completion of its work by filing a copy of the report with the Office of the President Pro Tempore of the Senate, the Office of the Speaker of the House of Representatives, and the Legislative Library. The Committee shall terminate ~~on December 31, 2010, or upon the filing of its final report, whichever occurs first,~~ upon the completion of its work."

## **DOROTHEA DIX HOSPITAL**

**SECTION 10.10.(a)** Not later than August 1, 2010, the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall submit an operations budget for Dorothea Dix Hospital for the 2010-2011 fiscal year to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

**SECTION 10.10.(b)** Notwithstanding any other provision of law, G.S. 122C-112.1(a)(30) and G.S. 122C-181 apply to Dorothea Dix Hospital.

## **CHANGE EFFECTIVE DATE FOR WELL TESTING**

**SECTION 10.10A.** Section 4 of S.L. 2009-124 reads as rewritten:

**"SECTION 4.** Section 1 of this act becomes effective October 1, ~~2010,~~ 2012. The remainder of the act is effective when it becomes law."

## **CHANGES TO COMMUNITY-FOCUSED ELIMINATING HEALTH DISPARITIES INITIATIVE**

**SECTION 10.11.** Section 10.23(c) of S.L. 2009-451 reads as rewritten:

**"SECTION 10.23.(c)** The Department of Health and Human Services shall report on the following with respect to funds appropriated to the CFEHDI for the 2009-2010 fiscal year. The report shall address the following:

- (1) Which community programs and local health departments received CFEHDI grants.
- (2) The amount of funding each program or local health department received.
- (3) Which of the minority populations were served by the programs or local health departments.
- (4) Which counties were served by the programs or local health departments.
- (5) What activities were planned and implemented by the programs or local health departments to fulfill the community focus of the CFEHDI program.
- (6) How the activities implemented by the programs or local health departments fulfilled the goal of reducing health disparities among minority populations.

The report shall also include specific activities undertaken pursuant to subsection (a) of this section to address large gaps in health status among North Carolinians who are African-American and other minority populations in this State. The Department shall submit the report not later than ~~March 15, 2010,~~ March 14, 2011, to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division."

## **IMMUNIZATION CHANGES**

**SECTION 10.13.(a)** Section 10.29A of S.L. 2009-451 is amended by adding two new subsections to read:

**"SECTION 10.29A.(c)** The General Assembly finds that health insurers licensed to practice in this State currently provide reimbursement for the full series of standard immunizations recommended by the federal Centers for Disease Control and Prevention (CDC)

and the American Academy of Family Physicians and required by the North Carolina Immunization Program. The covered immunizations include all of the following:

- (1) Diphtheria, Pertussis, Tetanus Toxoid (DPT).
- (2) Polio.
- (3) Measles, Mumps, Rubella (MMR).
- (4) Influenza.
- (5) Pneumococcal vaccine.
- (6) Human Papilloma virus (HPV).
- (7) Haemophilus Influenzae Type b (Hib) vaccine.
- (8) Hepatitis B.
- (9) Meningococcal vaccine.
- (10) Varicella.
- (11) Rotavirus.
- (12) Hepatitis A.
- (13) Tetanus, Diphtheria, Pertussis (Tdap).

The General Assembly also finds that, consistent with G.S. 130A-153, physicians and local health departments currently administer the required immunizations listed in subdivisions (1) through (11) of this subsection, which are supplied by the federal government at no cost through the Vaccine For Children (VFC) program, to uninsured and underinsured children with incomes below two hundred percent (200%) of the federal poverty level. Therefore, the General Assembly eliminates the State appropriation for the purchase of childhood vaccines for which health care providers, including local health departments, should be billing health insurers.

"SECTION 10.29A.(d) Of the funds appropriated in this act for the Childhood Immunization Program, the sum of three million dollars (\$3,000,000) in nonrecurring funds for the 2010-2011 fiscal year shall be used by the Division of Public Health on a onetime basis to provide for the stocking of required childhood vaccines for the 2010-2011 school year for children with health insurance coverage. Local health departments should seek reimbursement from licensed health insurers in order to maintain the necessary inventory of childhood vaccines."

**SECTION 10.13.(b)** G.S. 130A-153(a) reads as rewritten:

"(a) The required immunization may be obtained from a physician licensed to practice medicine or from a local health department. Local health departments shall administer required and State-supplied immunizations at no cost to uninsured or underinsured patients ~~who are uninsured or underinsured and have~~ with family incomes below two hundred percent (200%) of the federal poverty level. A local health department may redistribute these vaccines only in accordance with the rules of the Commission."

## **NORTH CAROLINA HEALTH CHOICE EMERGENCY ROOM VISIT CO-PAYMENTS**

**SECTION 10.14.** Under the North Carolina Health Choice Program for Children, the co-payment for nonemergency visits to the emergency room for children whose family income is at or below one hundred fifty percent (150%) of the federal poverty level is ten dollars (\$10.00). The co-payment for children whose family income is between one hundred fifty-one percent (151%) and two hundred percent (200%) of the federal poverty level is twenty-five dollars (\$25.00).

## **COMMUNITY CARE OF NORTH CAROLINA**

**SECTION 10.15.** Section 10.36 of S.L. 2009-451 reads as rewritten:

~~"SECTION 10.36.(a) Given the primary care case management foundation established by Community Care of North Carolina (CCNC), the Department shall build upon that foundation to ensure quality care and cost control of care provided to Medicaid patients.~~

~~"SECTION 10.36.(b) The Department shall contract with CCNC participating physicians and local CCNC networks to manage the care of Medicaid recipients through a per member per month reimbursement.~~

~~"SECTION 10.36.(c) The Department shall ensure that, through CCNC participating physicians and networks, the Department is striving to follow tenets adapted from the National Committee of Quality Assurance's (NCQA) national measures for patient-centered Medical~~

Homes Models. The Department shall consult with local CCNC networks to achieve all of the following:

- (1) Identify priority diseases, conditions, and patients for care management.
- (2) Develop, adopt, and implement protocols for consistent and effective care management of those diseases, conditions, and patients.
- (3) Identify data elements necessary for effective delivery and management of medical care and care management services.
- (4) Develop and implement a system to measure, analyze, and report clinical performance and service performance by physicians and networks.

~~"SECTION 10.36.(d) Consistent with subdivision (1) of subsection (c) of this section, the Department shall (i) identify baseline data on priority diseases, conditions, patients, and populations, and on physicians and networks; (ii) identify patient, physician, and network performance measures, and (iii) develop and implement data systems to gather, analyze, and report on those performance measures. The Department shall begin work immediately to implement this subsection.~~

~~"SECTION 10.36.(e) The Department shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division no later than December 31, 2009, on the performance measures adopted pursuant to subsection (d) of this section. Beginning July 1, 2010, and every six months thereafter, the Department shall submit a report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division evaluating the performance of each of the 14 CCNC Networks based on the performance measures adopted pursuant to subsection (d) of this section.~~

~~"SECTION 10.36.(f) The Department of Health and Human Services (Department) shall conduct a Request for Proposal process to solicit bids from qualified outside entities with proven experience in conducting actuarial and health care studies and evaluations to annually report on the Medicaid cost savings achieved by the CCNC Community Care of North Carolina (CCNC) networks during a 12-month period. Beginning December 31, 2010, March 1, 2011, and every year thereafter, the Department shall submit a report on the Medicaid cost savings achieved by the CCNC networks, which shall include children, adults, and the aged, blind, and disabled, to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.~~

~~"SECTION 10.36.(g) By October 1, 2010, the Department and the Division of Medical Assistance (DMA) shall contract with North Carolina Community Care Networks, Inc., (NCCCN, Inc.) and the 14 participating local CCNC networks represented by NCCCN, Inc., to provide standardized clinical and budgetary coordination, oversight, and reporting for a statewide Enhanced Primary Care Case Management System for Medicaid enrollees. The contract with NCCCN, Inc., shall build upon and expand the existing successful CCNC primary care case management model to include comprehensive statewide quantitative performance goals and deliverables which shall include all of the following areas: (i) service utilization management, (ii) budget analytics, (iii) budget forecasting methodologies, (iv) quality of care analytics, (v) participant access measures, and (vi) predictable cost containment methodologies.~~

~~"SECTION 10.36.(h) NCCCN, Inc., shall report quarterly to the Department and to the Office of State Budget and Management (OSBM) on the development of the statewide Enhanced Primary Care Case Management System and its defined goals and deliverables as agreed upon in the contract. Beginning July 1, 2010, NCCCN, Inc., shall submit a quarterly report to the Secretary of Health and Human Services, OSBM, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division on the progress and results of implementing the quantitative, analytical, utilization, quality, cost containment, and access goals and deliverables set out in the contract. NCCCN, Inc., shall conduct its own analysis of the CCNC system to identify any variations from the development plan for the Enhanced Primary Care Case Management System and its defined goals and deliverables set out in the contract between DMA and NCCCN, Inc. Upon identifying any variations, NCCCN, Inc., shall develop and implement a plan to address the variations. NCCCN, Inc., shall report the plan to DMA within 30 days after taking any action to implement the plan.~~

"SECTION 10.36.(i) By January 1, 2012, the Department and OSBM shall assess the performance of NCCCN, Inc., and CCNC regarding the goals and deliverables established in the contract. Based on this assessment, the Department and DMA shall expand, cancel, or alter the contract with NCCCN, Inc., and CCNC effective April 1, 2012. Expansion or alteration of the contract may reflect refinements based on clearly identified goals and deliverables in the areas of quality of care, participant access, cost containment, and service delivery.

"SECTION 10.36.(j) By July 1, 2012, the Department, DMA, and NCCCN, Inc., shall finalize a comprehensive plan that establishes management methodologies which include all of the following: (i) quality of care measures, (ii) utilization measures, (iii) recipient access measures, (iv) performance incentive models in which past experience indicates a benefit from financial incentives, (v) accountable budget models, (vi) shared savings budget models, and (vii) budget forecasting analytics as agreed upon by the Department, DMA, and NCCCN, Inc. In the development of these methodologies, the Department, DMA, and NCCCN, Inc., shall consider options for shared risk. The Department and DMA shall provide assistance to NCCCN, Inc., in meeting the objectives of this section.

"SECTION 10.36.(k) Beginning with the 2010-2011 fiscal year, the Department shall establish a separate line item in Budget Code 14445 for all expenditures in DMA associated with managed care activities pertaining to the utilization of Medicaid expenditures through CCNC."

#### **MEDICAID MANAGEMENT INFORMATION SYSTEM (MMIS) FUNDS/IMPLEMENTATION OF MMIS**

**SECTION 10.16.** Section 10.41(a) of S.L. 2009-451, as amended by Section 10A of S.L. 2009-575, reads as rewritten:

**"SECTION 10.41.(a)** Of the funds appropriated in this act to the Department of Health and Human Services (Department), the sum of ~~ten million seven hundred sixty five thousand one hundred fifty three dollars (\$10,765,153) for fiscal year 2009-2010 and the sum of eight million sixty four thousand one hundred twenty eight dollars (\$8,064,128)~~ eleven million seven hundred thirty-seven thousand four hundred fourteen dollars (\$11,737,414) for fiscal year 2010-2011 shall be (i) deposited to the Department's information technology budget code and (ii) used to match federal funds for the procurement, design, development, and implementation of the new Medicaid Management Information System (MMIS) and to fund the central management of the project. The Department shall utilize prior year earned revenues received for the MMIS. In the event that the Department does not receive prior year earned revenues in the amounts authorized by this section, the Department is authorized, with approval of the Office of State Budget and Management, to utilize other overrealized receipts and funds appropriated to the Department to achieve the level of funding specified in this section for the MMIS."

#### **NORTH CAROLINA FAMILIES ACCESSING SERVICES THROUGH TECHNOLOGY (NC FAST) FUNDS**

**SECTION 10.16A.(a)** The Secretary of the Department of Health and Human Services may utilize over-realized receipts and, if necessary, funds appropriated to the Department by this act to expedite development and implementation of the Eligibility Information System (EIS) component of the North Carolina Families Accessing Services through Technology (NC FAST) project. The Department shall not obligate any of its over-realized receipts or funds for this purpose without (i) prior written approval from the United States Department of Agriculture Food and Nutrition Service, the United States Department of Health and Human Services Administration for Children and Families, the Centers for Medicare and Medicaid Services, and any other federal partner responsible for approving changes to the annual Advance Planning Document update (APDu) for the NC FAST project and (ii) prior review and approval from the Office of Information Technology Services (ITS) and the Office of State Budget Management (OSBM). The Department shall report any changes to the NC FAST project to the Joint Legislative Oversight Committee on Information Technology, the Joint Legislative Commission on Governmental Operations, the Senate Appropriations Committee on Health and Human Services, the House Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than 30 days after receiving all the approvals required by this section.



**SECTION 10.16A.(b)** Nothing in this section shall be construed to exempt the NC FAST project or any change to the NC FAST project approved pursuant to this section from the provisions of Article 3D of Chapter 147 of the General Statutes.

#### **ELIMINATE STATE FUNDING FOR CHILD SUPPORT OFFICES**

**SECTION 10.17.** Section 10.46A of S.L. 2009-451 is amended by adding a new subsection to read:

**"SECTION 10.46A.(c)** Notwithstanding G.S. 143-64.03 and G.S. 143-64.05, the Secretary of the Department of Health and Human Services may transfer State-owned equipment, including computers, printers, and furniture, used by State-operated child support offices to administer child support enforcement programs to a county government or the Eastern Band of the Cherokee Indians for the sole purpose of facilitating the county government or the Eastern Band of the Cherokee Indians' administration of the child support program. The transfer shall be at no cost to the county government or the Eastern Band of the Cherokee Indians and shall occur no later than July 1, 2010.

The county government or the Eastern Band of the Cherokee Indians assuming responsibility for the child support program effective July 1, 2010, shall identify from the existing equipment and office furnishings which items will be needed to administer the child support program. A comprehensive list of items to be transferred shall be compiled and signed by the manager of the State-operated child support office and the manager of the county or tribal child support office and the signed list shall serve as official documentation of the transfer. Copies of the documentation shall be provided to the Department of Health and Human Services Controller's Office and the Department of Administration. Any equipment not included in the transfer shall revert to the Department of Administration, Division of Surplus Property."

#### **CHILD WELFARE POSTSECONDARY SUPPORT PROGRAM/USE OF ESCHEAT FUND**

**SECTION 10.18.** Section 10.50 of S.L. 2009-451 reads as rewritten:

**"SECTION 10.50.(a)** There is appropriated from the Escheat Fund income to the Department of Health and Human Services the sum of three million one hundred sixty-eight thousand two hundred fifty dollars (\$3,168,250) for the 2009-2010 fiscal year. These funds shall be used to support the child welfare postsecondary support program for the educational needs of foster youth aging out of the foster care system and special needs children adopted from foster care after age 12 by providing assistance with the "cost of attendance" as that term is defined in 20 U.S.C. § 10871l. The Department shall collaborate with the State Education Assistance Authority to develop policies and procedures for the distribution of these funds.

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 required in G.S. 116B-6(f).

Funds appropriated by this subsection shall be allocated by the State Education Assistance Authority.

The purpose for which funds are appropriated under this section is in addition to other purposes for which Escheat Fund income is distributed under G.S. 116B-7 and shall not be construed to otherwise affect the distribution of funds under G.S. 116B-7.

**"SECTION 10.50.(a1)** Of the funds appropriated from the General Fund to the Department of Health and Human Services, the sum of ~~three million one hundred sixty-eight thousand two hundred fifty dollars (\$3,168,250)~~ one million five hundred eighty-four thousand one hundred twenty-five dollars (\$1,584,125) for the 2010-2011 fiscal year shall be used to support the child welfare postsecondary support program for the educational needs of foster youth aging out of the foster care system and special needs children adopted from foster care after age 12 by providing assistance with the "cost of attendance" as that term is defined in 20 U.S.C. § 10871l.

Funds appropriated by this subsection shall be allocated by the State Education Assistance Authority.

**"SECTION 10.50.(b)** Of the funds appropriated from the General Fund to the Department of Health and Human Services the sum of fifty thousand dollars (\$50,000) for the 2009-2010 fiscal year and the sum of fifty thousand dollars (\$50,000) for the 2010-2011 fiscal year shall

be allocated to the North Carolina State Education Assistance Authority (SEAA). The SEAA shall use these funds only to perform administrative functions necessary to manage and distribute scholarship funds under the child welfare postsecondary support program.

"**SECTION 10.50.(c)** Of the funds appropriated from the General Fund to the Department of Health and Human Services the sum of five hundred thousand dollars (\$500,000) for the 2009-2010 fiscal year and the sum of ~~five hundred thousand dollars (\$500,000)~~ three hundred thirty-nine thousand four hundred ninety-three dollars (\$339,493) for the 2010-2011 fiscal year shall be used to contract with an entity to develop and administer the child welfare postsecondary support program described under subsection (a) of this section, which development and administration shall include the performance of case management services.

"**SECTION 10.50.(d)** Funds appropriated to the Department of Health and Human Services for the child welfare postsecondary support program shall be used only for students attending public institutions of higher education in this State."

#### **TANF BENEFIT IMPLEMENTATION**

**SECTION 10.19.** Section 10.51 of S.L. 2009-451 reads as rewritten:

"**SECTION 10.51.(a)** The General Assembly approves the plan titled "North Carolina Temporary Assistance for Needy Families State Plan FY ~~2009-2011~~, "2010-2012," prepared by the Department of Health and Human Services and presented to the General Assembly. The North Carolina Temporary Assistance for Needy Families State Plan covers the period October 1, ~~2009~~, 2010, through September 30, ~~2011~~, 2012. The Department shall submit the State Plan, as revised in accordance with subsection (b) of this section, to the United States Department of Health and Human Services, as amended by this act or any other act of the 2009 General Assembly.

"**SECTION 10.51.(b)** The counties approved as Electing Counties in the North Carolina Temporary Assistance for Needy Families State Plan FY ~~2009-2011~~, 2010-2012, as approved by this section are: Beaufort, Caldwell, Catawba, Lenoir, Lincoln, Macon, and Wilson.

"**SECTION 10.51.(c)** Counties that submitted the letter of intent to remain as an Electing County or to be redesignated as an Electing County and the accompanying county plan for fiscal years 2009 through 2011, pursuant to G.S. 108A-27(e), shall operate under the Electing County budget requirements effective July 1, 2009. For programmatic purposes, all counties referred to in this subsection ~~shall~~ may remain under their current county designation through September 30, ~~2009-2012~~.

"**SECTION 10.51.(d)** For the ~~2009-2010~~ 2010-2011 fiscal year, Electing Counties shall be held harmless to their Work First Family Assistance allocations for the 2008-2009 fiscal year, provided that remaining funds allocated for Work First Family Assistance and Work First Diversion Assistance are sufficient for payments made by the Department on behalf of Standard Counties pursuant to G.S. 108A-27.11(b).

"**SECTION 10.51.(e)** In the event that Departmental projections of Work First Family Assistance and Work First Diversion Assistance for the ~~2009-2010~~ 2010-2011 fiscal year indicate that remaining funds are insufficient for Work First Family Assistance and Work First Diversion Assistance payments to be made on behalf of Standard Counties, the Department is authorized to deallocate funds, of those allocated to Electing Counties for Work First Family Assistance in excess of the sums set forth in G.S. 108A-27.11, up to the requisite amount for payments in Standard Counties. Prior to deallocation, the Department shall obtain approval by the Office of State Budget and Management. If the Department adjusts the allocation set forth in subsection (d) of this section, then a report shall be made to the Joint Legislative Commission on Governmental Operations, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division."

#### **STATE-COUNTY SPECIAL ASSISTANCE CONSOLIDATING CHANGES**

**SECTION 10.19A.(a)** G.S. 105A-2(2)e. reads as rewritten:

"The following definitions apply in this Chapter:

...  
(2) Debt. – Any of the following:

...  
e. A sum owed as a result of having obtained public assistance payments under any of the following programs through an intentional

false statement, intentional misrepresentation, intentional failure to disclose a material fact, or inadvertent household error:

1. The Work First Program provided in Article 2 of Chapter 108A of the General Statutes.
2. The State-County Special Assistance ~~for Adults~~ Program enabled by Part 3 of Article 2 of Chapter 108A of the General Statutes.
3. A successor program of one of these programs.

...."

**SECTION 10.19A.(b)** G.S. 108A-25(a)(2) reads as rewritten:

"(a) The following programs of public assistance are established, and shall be administered by the county department of social services or the Department of Health and Human Services under federal regulations or under rules adopted by the Social Services Commission and under the supervision of the Department of Human Resources:

...

(2) State-county special ~~assistance for adults~~ assistance.

...."

**SECTION 10.19A.(c)** G.S. 108A-40 reads as rewritten:

"Part 3. State-County Special ~~Assistance for Adults~~ Assistance.

**"§ 108A-40. Authorization of State-County Special Assistance for Adults Program.**

The Department is authorized to establish and supervise a State-County Special Assistance ~~for Adults~~ Program. This program is to be administered by county departments of social services under rules and regulations of the Social Services Commission."

**SECTION 10.19A.(d)** G.S. 108A-41 reads as rewritten:

**"§ 108A-41. Eligibility.**

(a) Assistance shall be granted under this Part to all persons in adult care homes for care found to be essential in accordance with the rules and regulations adopted by the Social Services Commission and prescribed by G.S. 108A-42(b). As used in this Part, the term "adult care home" includes a supervised living facility for ~~developmentally disabled~~ adults with intellectual and developmental disabilities licensed under Article 2 of Chapter 122C of the General Statutes.

(b) Assistance shall be granted to any person who:

- (1) Is 65 years of age and older, ~~or is~~ between the ages of 18 and ~~65-65~~, and is permanently and totally ~~disabled~~ disabled or is legally blind pursuant to G.S. 111-11; and
- (2) Has insufficient income or other resources to provide a reasonable subsistence compatible with decency and health as determined by the rules and regulations of the Social Services Commission; and
- (3) Is one of the following:
  - a. A resident of North Carolina for at least 90 days immediately prior to receiving this assistance;
  - b. A person coming to North Carolina to join a close relative who has resided in North Carolina for at least 180 consecutive days immediately prior to the person's application. The close relative shall furnish verification of his or her residency to the local department of social services at the time the applicant applies for special assistance. As used in this sub-subdivision, a close relative is the person's parent, grandparent, brother, sister, spouse, or child; or
  - c. A person discharged from a State facility who was a patient in the facility as a result of an interstate mental health compact. As used in this sub-subdivision the term State facility is a facility listed under G.S. 122C-181.

(c) When determining whether a person has insufficient resources to provide a reasonable subsistence compatible with decency and health, there shall be excluded from consideration the person's primary place of residence and the land on which it is situated, and in addition there shall be excluded real property contiguous with the person's primary place of residence in which the property tax value is less than twelve thousand dollars (\$12,000).

(d) The county shall also have the option of granting assistance to Certain Disabled persons as defined in the rules and regulations adopted by the Social Services Commission.

Nothing in this Part should be interpreted so as to preclude any individual county from operating any program of financial assistance using only county funds."

**SECTION 10.19A.(e)** G.S. 108A-45 reads as rewritten:

**"§ 108A-45. Participation.**

The State-County Special Assistance ~~for Adults~~ Program established by this Part shall be administered by all the county departments of social services under rules and regulations adopted by the Social Services Commission and under the supervision of the Department. Provided that, assistance for certain disabled persons shall be provided solely at the option of the county."

**SECTION 10.19A.(f)** G.S. 108A-46.1 reads as rewritten:

**"§ 108A-46.1. Transfer of assets for purposes of qualifying for State-county Special Assistance for adults. Assistance.**

Notwithstanding any other provision of law to the contrary, Supplemental Security Income (SSI) policy applicable to transfer of assets and estate recovery, as prescribed by federal law, shall apply to applicants for State-county Special Assistance."

**SECTION 10.19A.(g)** G.S. 108A-47 reads as rewritten:

**"§ 108A-47. Limitations on payments.**

No payment of assistance under this Part shall be made for the care of any person in ~~an adult care home~~ an adult care home licensed facility that is owned or operated in whole or in part by any of the following:

- (1) A member of the Social Services Commission, of any county board of social services, or of any board of county commissioners;
- (2) An official or employee of the Department, unless the official or employee has been appointed temporary manager of the facility pursuant to G.S. 131E-237, or of any county department of social services;
- (3) A spouse of a person designated in subdivisions (1) and (2)."

**SECTION 10.19A.(h)** G.S. 108A-47.1 reads as rewritten:

**"§ 108A-47.1. Special Assistance in-home payments.**

The Department of Health and Human Services may use funds from the existing State-County Special Assistance ~~for Adults~~ budget to provide Special Assistance payments to eligible individuals 18 years of age or older in in-home living arrangements. These payments may be made for up to fifteen percent (15%) of the caseload for all State-County Special ~~Assistance for Adults. Assistance.~~ The standard monthly payment to individuals enrolled in the Special Assistance in-home program shall be seventy-five percent (75%) of the monthly payment the individual would receive if the individual resided in an adult care home and qualified for Special Assistance, except if a lesser payment amount is appropriate for the individual as determined by the local case manager. The Department shall implement Special Assistance in-home eligibility policies and procedures to assure that in-home program participants are those individuals who need and, but for the in-home program, would seek placement in an adult care home facility. The Department's policies and procedures shall include the use of a functional assessment. The Department shall make this in-home option available to all counties on a voluntary basis. To the maximum extent possible, the Department shall consider geographic balance in the dispersion of payments to individuals across the State."

**SECTION 10.19A.(i)** G.S. 108A-80(b) reads as rewritten:

"(b) The Department shall furnish a copy of the recipient check register monthly to each county auditor showing a complete list of all recipients of Work First Family Assistance in Standard Program Counties and State-County Special ~~Assistance for Adults. Assistance.~~ their addresses, and the amounts of the monthly grants. An Electing County whose checks are not being issued by the State shall furnish a copy of the recipient check register monthly to its county auditor showing a complete list of all recipients of Work First Family Assistance in the Electing County, their addresses, and the amounts of the monthly payments. These registers shall be public records open to public inspection during the regular office hours of the county auditor, but the registers or the information contained therein may not be used for any commercial or political purpose. Any violation of this section shall constitute a Class 1 misdemeanor."

**EXTEND REPORTING DATE/EVALUATION OF CONSOLIDATION OF ADMINISTRATIVE FUNCTIONS OF COUNTY DEPARTMENT OF SOCIAL SERVICES**

**SECTION 10.20.** Section 10.52(b) of S.L. 2009-451 reads as rewritten:

**"SECTION 10.52.(b)** The Program Evaluation Division shall report its findings and recommendations to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division by ~~December 1, 2010.~~February 1, 2011."

#### **CHILDREN'S TRUST FUND**

**SECTION 10.20A.(a)** G.S. 7B-1302(a) reads as rewritten:

"(a) There is established a fund to be known as the "Children's Trust Fund," in the ~~Department of State Treasurer,~~Department of Health and Human Services, Division of Social Services, which shall be funded by a portion of the marriage license fee under G.S. 161-11.1 and a portion of the special license plate fee under G.S. 20-81.12. The money in the Fund shall be used by the Division of Social Services to fund abuse and neglect prevention programs so authorized by this Article."

**SECTION 10.20A.(b)** G.S. 161-11.1(a) reads as rewritten:

"(a) Five dollars (\$5.00) of each fee collected by a register of deeds on or after October 1, 1983, for issuance of a marriage license pursuant to G.S. 161-10(a)(2) shall be forwarded, as soon as practical but no later than 60 days after collection by the register of deeds, to the county finance officer, who shall forward same to the ~~State Treasurer~~Department of Health and Human Services, Division of Social Services, for deposit in the Children's Trust Fund."

#### **OFFICE OF EDUCATION SERVICES/CONSOLIDATION OF PRINCIPAL FUNCTIONS**

**SECTION 10.20B.(a)** The Department of Health and Human Services shall consolidate the functions of the School Director OES Residential Schools and School Principal positions located at the North Carolina School for the Deaf, Eastern North Carolina School for the Deaf, and Governor Morehead School for the Blind. In addition to the minimum qualifications for School Administrator-Principals outlined in Chapter 115C of the General Statutes, the Department of Health and Human Services shall consult with the State Board of Education and the Department of Public Instruction to set minimum qualifications for occupants of the consolidated School Director OES Residential Schools positions.

**SECTION 10.20B.(b)** The following positions in the Office of Education Services are hereby eliminated:

- (1) 60039101 – School Principal
- (2) 60039225 – School Principal
- (3) 60039380 – School Administrator
- (4) 60039082 – School Assistant Principal
- (5) 60039080 – School Assistant Principal
- (6) 60039138 – School Assistant Principal
- (7) 60039392 – School Assistant Principal

The Office of Education Services shall ensure that elimination of these positions does not interrupt oversight of instructional programming by a fully licensed School Administrator-Principal or School Administrator-Assistant Principal at the North Carolina School for the Deaf, Eastern North Carolina School for the Deaf, or Governor Morehead School for the Blind.

#### **OFFICE OF EDUCATION SERVICES/TRANSFER OF RESIDENTIAL AND PRESCHOOLS FOR THE DEAF AND BLIND**

**SECTION 10.21A.(a)** The General Assembly finds that to improve the educational outcomes for students attending the State's residential schools for the deaf and blind, the State Board of Education shall assume administrative responsibility for the North Carolina School for the Deaf, Eastern North Carolina School for the Deaf, Governor Morehead School for the Blind, Early Intervention Services – Preschool, and Governor Morehead Preschool programs. Notwithstanding Part 3A of Article 3 of Chapter 143B of the General Statutes, effective June 1, 2011, the Office of Education Services within the Department of Health and Human Services is dissolved, and the North Carolina School for the Deaf, Eastern North Carolina School for the Deaf, Governor Morehead School for the Blind, Early Intervention Services – Preschool, and Governor Morehead Preschool programs within the Department of Health and Human Services, Office of Education Services, are transferred to the Department of Public Instruction. These

transfers shall have all of the elements of a Type I transfer, as defined in G.S. 143A-6. Upon transfer, the State Board of Education shall continue the salary supplements authorized by G.S. 143B-146.21, and in effect on June 1, 2011, for teachers, instructional support personnel, and school-based administrators in the residential schools and preschools.

**SECTION 10.21A.(b)** The State Board of Education shall, in consultation with the Department of Health and Human Services, develop and implement a transition plan that addresses, at a minimum, each of the following:

- (1) Structural adjustments within the Department of Public Instruction.
- (2) Proposed staffing and operating requirements for the provision of appropriate oversight.
- (3) Collaboration with the Department of Health and Human Services in the provision of student health services, life skills/independent living services, and vocational instruction.
- (4) Continuation of educational support services, including curriculum/instructional support, monitoring/evaluation, and licensure, certification, and teacher evaluation assistance to remaining educational programs within the Department of Health and Human Services.
- (5) Targets for student achievement and recommended adjustments to instructional services at the residential schools to improve educational outcomes, including:
  - a. End-of-grade (EOG) and end-of-course (EOC) test scores;
  - b. Academic pathway graduation rates;
  - c. Completion of postsecondary education; and
  - d. Postgraduation employment.

The State Board of Education shall submit the plan to the Joint Legislative Commission on Governmental Operations Subcommittee on Education/Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Education/Higher Education, the House of Representatives Appropriations Subcommittee on Education, and the Fiscal Research Division no later than December 1, 2010. The State Board of Education shall present the plan to the Joint Legislative Commission on Governmental Operations Subcommittee on Education/Health and Human Services at its subsequent meeting following submission of the plan.

**SECTION 10.21A.(c)** The Secretary of the Department of Health and Human Services (Secretary) shall, in consultation with the Chair of the State Board of Education, appoint an interim superintendent within the Department of Health and Human Services to oversee operations of the North Carolina School for the Deaf, Eastern North Carolina School for the Deaf, Governor Morehead School for the Blind, Early Intervention Services – Preschool, and Governor Morehead Preschool programs no later than October 1, 2010. The interim superintendent shall report directly to the Secretary until a superintendent hired pursuant to subsection (e) of this section assumes administrative responsibility for the schools. The Secretary is authorized to use an existing, temporary position and funds appropriated in this act to the Department of Health and Human Services to support the activities of the interim superintendent. The Secretary shall not reclassify one of the positions designated for elimination in subsection (f) of this section to meet the requirements of this subsection.

**SECTION 10.21A.(d)** No later than October 1, 2010, the State Board of Education shall establish a search committee to hire a superintendent to oversee the operations of the North Carolina School for the Deaf, Eastern North Carolina School for the Deaf, and Governor Morehead School for the Blind within the Department of Public Instruction. The search committee is charged with: (i) identifying prospective applicants and reviewing applications for the position of superintendent; and (ii) recommending qualified applicants to the State Board of Education no later than May 1, 2011. The search committee shall consist of the following:

- (1) The State Superintendent of Public Instruction, or designee.
- (2) The Chair of the State Board of Education, or designated member of the Board.
- (3) The Director of the North Carolina School for the Deaf, or designee.
- (4) The Director of the Eastern North Carolina School for the Deaf, or designee.
- (5) The Director of the Governor Morehead School for the Blind, or designee.

- (6) The Chair of the North Carolina Council for the Deaf and Hard of Hearing, or designee.
- (7) The Chair of the Consumer and Advocacy Committee for the Blind, or designee.
- (8) Two public members with professional expertise in the education of hearing and visually impaired students, appointed by the Governor.

The Chair of the State Board of Education, or designated member of the Board, shall serve as chair of the search committee. A majority of the members constitutes a quorum. The Committee shall convene no later than November 1, 2010, and shall set its subsequent meeting schedule as determined by the members of the search committee. Members of the search committee shall serve on a voluntary basis, and vacancies shall be filled by the designating or appointing authority. The Department of Public Instruction shall provide requested professional and clerical support to the search committee. The search committee shall terminate no later than May 1, 2011, and make its final recommendations to the State Board of Education upon its termination.

**SECTION 10.21A.(e)** The State Board of Education (Board) shall, in collaboration with the Office of State Personnel, set the duties, recruitment standards, and classification for the position of Superintendent of the North Carolina School for the Deaf, Eastern North Carolina School for the Deaf, and Governor Morehead School for the Blind. The Department of Public Instruction shall create the position of superintendent from funds appropriated in this act. The Board shall provide public notice of the position no later than December 1, 2010. Upon considering the recommendations of the search committee, the Board shall hire a superintendent to assume oversight of the residential schools no later than June 1, 2011.

**SECTION 10.21A.(f)** Effective October 1, 2010, the Office of Education Services' Central Administration and Exceptional Children Support programs are eliminated. The following positions shall be eliminated as part of this action:

- (1) Central Administration:
  - a. Executive Assistant I – 60038894
  - b. Administrative Off III – 60038895
  - c. Business Officer – 60038896
  - d. Superintendent Office of Education – 60038897
  - e. W/A Personnel Director I – 60038898
  - f. Purchasing Technician – 60038900
  - g. School Administrator – 60038903
  - h. School Administrator – 60038905
- (2) Exceptional Children Support:
  - a. School Administrator – 60038901
  - b. School Administrator – 60038902
  - c. School Guidance Counselor – 60038904
  - d. Human Services Clinical Counselor II – 60039190
  - e. School Educator II – 60039306
  - f. School Educator – 60039310
  - g. Processing Assistant IV – 60039439

**SECTION 10.21A.(g)** Effective October 1, 2010, the Resource Support, DHHS VI Outreach, and Deaf/Blind statewide programs within the Office of Education Services (14424-1601) are transferred to the Department of Public Instruction, Exceptional Children Division. These transfers shall have all of the elements of a Type I transfer, as defined in G.S. 143A-6. The following positions shall also be transferred as part of this action:

- (1) School Administrator – 60089692
- (2) School Educator I – 60039422
- (3) School Educator II – 60039420
- (4) School Educator I – 60039418

**SECTION 10.21A.(h)** Effective for the 2010-2011 academic year, the Department of Health and Human Services shall reinstate the residential and instructional schedules for the North Carolina School for the Deaf, Eastern North Carolina School for the Deaf, and Governor Morehead School for the Blind that were in effect before February 8, 2010. Residential students shall have the opportunity to arrive at their respective schools on the evening of the day before commencement of academic instruction for the week. The Department of Health and Human Services shall also reinstate on-site summer school programming at these schools.

## MEDICAID POLICY CHANGES

**SECTION 10.22.(a)** Section 10.58.(d) of S.L. 2009-451 reads as rewritten:

**"SECTION 10.58.(d)** Services and Payment Bases. – The Department shall spend funds appropriated for Medicaid services in accordance with the following schedule of services and payment bases. All services and payments are subject to the language at the end of this subsection. 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.

...  
(28) Drugs. – Reimbursements. Reimbursements shall be available for prescription drugs as allowed by federal regulations plus a professional services fee per month, excluding refills for the same drug or generic equivalent during the same month. Payments for drugs are subject to the provisions of this subdivision or in accordance with the State Plan adopted by the Department of Health and Human Services, consistent with federal reimbursement regulations. Payment of the professional services fee shall be made in accordance with the State Plan adopted by the Department of Health and Human Services, consistent with federal reimbursement regulations. The professional services fee shall be five dollars and sixty cents (\$5.60) per prescription for generic drugs and four dollars (\$4.00) per prescription for brand-name drugs. Adjustments to the professional services fee shall be established by the General Assembly. In addition to the professional services fee, the Department may pay an enhanced fee for pharmacy services.

Limitations on quantity. – The Department of Health and Human Services may establish authorizations, limitations, and reviews for specific drugs, drug classes, brands, or quantities in order to manage effectively the Medicaid pharmacy program, ~~except that the Department shall not impose limitations on brand-name medications for which there is a generic equivalent in cases where the prescriber has determined, at the time the drug is prescribed, that the brand-name drug is medically necessary and has written on the prescription order the phrase "medically necessary."~~program. The Department may impose prior authorization requirements on brand-name drugs for which the phrase "medically necessary" is written on the prescription.

Dispensing of generic drugs. – Notwithstanding G.S. 90-85.27 through G.S. 90-85.31, or any other law to the contrary, under the Medical Assistance Program (Title XIX of the Social Security Act), and except as otherwise provided in this subsection for drugs listed in the narrow therapeutic index, a prescription order for a drug designated by a trade or brand name shall be considered to be an order for the drug by its established or generic name, except when the prescriber has determined, at the time the drug is prescribed, that the brand-name drug is medically necessary and has written on the prescription order the phrase "medically necessary." An initial prescription order for a drug listed in the narrow therapeutic drug index that does not contain the phrase "medically necessary" shall be considered an order for the drug by its established or generic name, except that a pharmacy shall not substitute a generic or established name prescription drug for subsequent brand or trade name prescription orders of the same prescription drug without explicit oral or written approval of the prescriber given at the time the order is filled. Generic drugs shall be dispensed at a lower cost to the Medical Assistance Program rather than trade or brand-name drugs. Notwithstanding this subdivision to the contrary, the Secretary of Health and Human Services may prevent substitution of a generic equivalent drug, including a generic equivalent that is on the State maximum allowable cost list, when the net cost to the State of the brand-name drug, after consideration of all rebates, is less than the cost of the generic equivalent. As used in this subsection, "brand name" means the proprietary name the manufacturer places upon a drug product or on its container, label, or



wrapping at the time of packaging; and "established name" has the same meaning as in section 502(e)(3) of the Federal Food, Drug, and Cosmetic Act, as amended, 21 U.S.C. § 352(e)(3).

Prior authorization. – The Department of Health and Human Services shall not impose prior authorization requirements or other restrictions under the State Medical Assistance Program on medications prescribed for Medicaid recipients for the treatment of (i) mental illness, including, but not limited to, medications for schizophrenia, bipolar disorder, major depressive disorder or (ii) HIV/AIDS, ~~except that the Department of Health and Human Services shall continually review utilization of medications under the State Medical Assistance Program prescribed for Medicaid recipients for the treatment of mental illness, including, but not limited to, medications for schizophrenia, bipolar disorder, or major depressive disorder. The Department may, however, with respect to drugs to treat mental illnesses, develop guidelines and measures to ensure appropriate usage of these medications, including FDA approved indications and dosage levels.~~ (ii) HIV/AIDS. Medications prescribed for the treatment of mental illness shall be included on the Preferred Drug List (PDL). The Department of Health and Human Services, Division of Medical Assistance, may initiate prior authorization for the prescribing of drugs specified for the treatment of mental illness by providers who fail to prescribe those drugs in accordance with indications and dosage levels approved by the federal Food and Drug Administration. The Department may also require retrospective clinical justification for the use of multiple psychotropic drugs for a Medicaid patient. For individuals 18 years of age and under who are prescribed three or more psychotropic medications, the Department shall implement clinical edits that target inefficient, ineffective, or potentially harmful prescribing patterns. When such patterns are identified, the Medical Director for the Division of Medical Assistance and the Chief of Clinical Policy for the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services shall require a peer-to-peer consultation with the target prescribers. Alternatives discussed during the peer-to-peer consultations shall be based upon:

- a. Evidence-based criteria available regarding efficacy or safety of the covered treatments; and
- b. Policy approval by a majority vote of the North Carolina Physicians Advisory Group (NCPAG).

The target prescriber has final decision-making authority to determine which prescription drug to prescribe or refill.

...  
(30) Experimental or trial procedures. – Coverage is limited to procedures that are recognized or approved by the National Institutes of Health (NIH).

(31) Medicaid as secondary payer claims. – The Department shall apply Medicaid medical policy to recipients who have primary insurance other than Medicare, Medicare Advantage, and Medicaid. The Department shall pay an amount up to the actual coinsurance or deductible or both, in accordance with the State Plan, as approved by the Department of Health and Human Services. The Department may disregard application of this policy in cases where application of the policy would adversely affect patient care."

**SECTION 10.22.(b)** Section 10.58.(e) of S.L. 2009-451 reads as rewritten:

**"SECTION 10.58.(e)** Provider Performance Bonds and Visits. –

- (1) Subject to the provisions of this subdivision, the Department may require Medicaid-enrolled providers to purchase a performance bond in an amount not to exceed one hundred thousand dollars (\$100,000) naming as beneficiary the Department of Health and Human Services, Division of Medical Assistance, or provide to the Department a validly executed letter of credit or other financial instrument issued by a financial institution or agency honoring a demand for payment in an equivalent amount. The Department

may require the purchase of a performance bond or the submission of an executed letter of credit or financial instrument as a condition of initial enrollment, reenrollment, or reinstatement if:

- a. The provider fails to demonstrate financial viability,
- b. The Department determines there is significant potential for fraud and abuse,
- c. The Department otherwise finds it is in the best interest of the Medicaid program to do so.

The Department shall specify the circumstances under which a performance bond or executed letter of credit will be required.

(1a) The Department may waive or limit the requirements of this paragraph for individual Medicaid-enrolled providers or for one or more classes of Medicaid-enrolled providers based on the following:

- a. The provider's or provider class's dollar amount of monthly billings to Medicaid.
- b. The length of time an individual provider has been licensed, endorsed, certified, or accredited in this State to provide services.
- c. The length of time an individual provider has been enrolled to provide Medicaid services in this State.
- d. The provider's demonstrated ability to ensure adequate record keeping, staffing, and services.
- e. The need to ensure adequate access to care.

In waiving or limiting requirements of this paragraph, the Department shall take into consideration the potential fiscal impact of the waiver or limitation on the State Medicaid Program. The Department shall provide to the affected provider written notice of the findings upon which its action is based and shall include the performance bond requirements and the conditions under which a waiver or limitation apply. The Department may adopt temporary rules in accordance with G.S. 150B-21.1 as necessary to implement this provision.

(2) Reimbursement is available for up to 30 visits per recipient per fiscal year for the following professional services: ~~hospital-outpatient providers,~~ physicians, nurse practitioners, nurse midwives, clinics, health departments, optometrists, chiropractors, and podiatrists. The Department of Health and Human Services shall adopt medical policies in accordance with G.S. 108A-54.2 to distribute the allowable number of visits for each service or each group of services consistent with federal law. In addition, the Department shall establish a threshold of some number of visits for these services. The Department shall ensure that primary care providers or the appropriate CCNC network are notified when a patient is nearing the established threshold to facilitate care coordination and intervention as needed.

Prenatal services, all EPSDT children, emergency room visits, and mental health visits subject to independent utilization review are exempt from the visit limitations contained in this subdivision. Subject to appropriate medical review, the Department may authorize exceptions when additional care is medically necessary. Routine or maintenance visits above the established visit limit will not be covered unless necessary to actively manage a life threatening disorder or as an alternative to more costly care options."

## **SPECIALTY DRUG PROVIDER NETWORK**

**SECTION 10.23.** The Department of Health and Human Services shall work with specialty drug providers, manufacturers of specialty drugs, Medicaid recipients who are prescribed specialty drugs, and the medical professionals that treat Medicaid recipients who are prescribed specialty drugs to develop ways to ensure that best practices and the prevention of overutilization are maintained in the delivery and utilization of specialty drugs.

## **STATEWIDE EXPANSION OF CAPITATED 1915(B)/(C) BEHAVIORAL HEALTH WAIVERS**

**SECTION 10.24.(a)** The Department of Health and Human Services (Department) shall select up to two additional Local Management Entities (LMEs) to implement the capitated 1915 (b)/(c) Medicaid waiver as a demonstration program during the 2010-2011 fiscal year. The waiver program shall include all Medicaid-covered mental health, developmental disabilities, and substance abuse services. Expansion of the waiver to additional LMEs shall be contingent upon approval by the Centers for Medicare and Medicaid Services.

**SECTION 10.24.(b)** The Department shall conduct an evaluation of the capitated 1915(b)/(c) Medicaid waiver demonstration program sites to determine the programs' impact on consumers with developmental disabilities. The evaluation shall include a satisfaction survey of consumers. The Department shall consider the impact on ICF/MR facilities included in the waiver to determine and, to the extent possible, minimize potential inconsistencies with the DMA-ICF/MR rate plan and the requirements of G.S. 131E-176 and G.S. 131E-178 without negatively impacting the viability and success of the waiver program. The Department shall consult with stakeholders and evaluate all other waiver options, including the possibility of a waiver without a 1915(b)/(c) combination. The Department shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research Division no later than April 1, 2012, after which time the Department may expand the capitated 1915(b)/(c) Medicaid waiver to additional LMEs.

The Department shall not approve any expansion of the Piedmont Behavioral Healthcare LME (PBH) beyond its existing catchment area until after the Department has completed its evaluation and made its report pursuant to this subsection.

## **STUDY MEDICAID PROVIDER RATES**

**SECTION 10.25.(a)** The Department of Health and Human Services, Division of Medical Assistance, shall initiate a study or contract out for a study of reimbursement rates for Medicaid providers and program benefits. The study shall include the following information:

- (1) A comparison of Medicaid reimbursement rates in North Carolina with reimbursement rates in surrounding states and with rates in two additional states; and
- (2) A comparison of Medicaid program benefits in North Carolina with program benefits provided in surrounding states and with rates in two additional states. Selected provider rates shall be studied for the initial report.

**SECTION 10.25.(b)** The Department shall report its initial findings to the Governor, the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division by April 1, 2011.

**SECTION 10.25.(c)** Funds appropriated to the Department of Health and Human Services may be used to complete this study.

## **MEDICAID FRAUD PREVENTION**

**SECTION 10.26.(a)** The Department of Health and Human Services (Department) is authorized to create a fraud prevention program that uses information, lawfully obtained, from State and private databases to develop a fraud risk analysis of Medicaid providers and recipients. This analysis would be used to prevent fraud before it takes place and to achieve cost avoidance savings. For the purposes of the fraud prevention program created pursuant to this subsection, State agencies shall provide the Department with access to their databases, and the Department shall comply with all necessary security measures and restrictions to ensure that access to any specific information held confidential under federal and State law is limited to authorized persons.

**SECTION 10.26.(b)** The information obtained by the Department pursuant to subsection (a) of this section shall be privileged and confidential, is not a public record pursuant to G.S. 132-1, and may only be used for investigative or evidentiary purposes related to violations of State or federal law and regulatory activities. The Department shall release data collected pursuant to this section to the following persons only:

- (1) An individual who requests the individual's own Medicaid recipient information.
- (2) A provider who requests the provider's Medicaid provider information.
- (3) The Office of the Attorney General, a county department of social services for investigative or evidentiary purposes related to violations of State or federal law by Medicaid recipients, and the Medicaid Fraud Investigations Unit of the Office of the Attorney General of North Carolina for investigative or evidentiary purposes related to violations of State or federal law by Medicaid providers.
- (4) To a court pursuant to a lawful court order in a criminal action.

The Department may provide data to public or private entities for statistical, research, or educational purposes only after removing information that could be used to identify individual recipients or providers of Medicaid services.

**SECTION 10.26.(c)** Notwithstanding any other provision of law to the contrary, the Department may modify or extend existing contracts to achieve Medicaid fraud prevention savings in a timely manner, subject to review and approval by the Secretary of the Department of Administration. The requirements of G.S. 143-59 apply to contracts entered into, modified, or extended pursuant to this section.

**SECTION 10.26.(d)** The Department shall report on the activities conducted under this section, including actions taken relating to compliance with G.S. 143-59 and any contract modifications or extensions that are approved pursuant to this section to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the Office of State Budget and Management, and the Fiscal Research Division on or before April 1, 2011.

**SECTION 10.26.(e)** The authority granted to the Department to modify or extend existing contracts in subsection (c) of this section expires one year following the effective date of this section. The Department shall destroy all records and information obtained pursuant to this section after five years unless there has been criminal, civil, or administrative action involving the records and information obtained. Any records or information turned over to the Office of the Attorney General, a county department of social services, the Medicaid Fraud Investigation Unit of the Office of the Attorney General, or a court of competent jurisdiction shall not be subject to the destruction requirements of this subsection.

#### **STUDY HIV MEDICAID WAIVER**

**SECTION 10.27.** By November 1, 2010, the Department of Health and Human Services, Divisions of Medical Assistance and Public Health, shall jointly study and report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on the financial and programmatic feasibility of reducing the waiting list for the AIDS Drug Assistance Program (ADAP) by expanding eligibility for Medicaid to HIV-positive individuals with incomes at or below one hundred thirty-three percent (133%) of the federal poverty level. The study shall include an assessment of the cost-effectiveness of using State dollars to expand Medicaid eligibility to this population as compared to using State dollars for ADAP. The study may also consider any planning and coordination benefits the State may derive from expanding Medicaid eligibility to HIV-positive individuals, in preparation for the expansion of Medicaid eligibility in calendar year 2014 to all individuals with incomes at or below one hundred thirty-three percent (133%) of the federal poverty level. If, as a result of the study, the Divisions of Medical Assistance and Public Health conclude that expanding Medicaid eligibility to HIV-positive individuals with incomes at or below one hundred thirty-three percent (133%) of the federal poverty level is a cost-effective means for the State to eliminate its ADAP waiting list, then the Division of Medical Assistance shall apply to the Centers for Medicare and Medicaid Services (CMS) for an appropriate waiver to implement this expansion in Medicaid eligibility. If approved by CMS, the Division shall not implement the waiver except as authorized by an act of the General Assembly appropriating funds for this purpose.

#### **ELIMINATE REIMBURSEMENT OF "NEVER EVENTS"**

**SECTION 10.28.** The Department of Health and Human Services, Division of Medical Assistance, shall modify its Medicaid State Plan, as detailed by the Centers for

Medicare and Medicaid Services in its July 31, 2008, letter to State Medicaid Directors, to ensure that inpatient hospital reimbursement is not provided for Hospital-Acquired Conditions (HACs) that are identified as nonpayable by Medicare. The State Plan Amendment addressing this "Never Event" modification shall apply to all Medicaid reimbursement provisions in section 4.19A of the North Carolina Medicaid State Plan governing inpatient hospital reimbursement, including Medicaid supplemental or enhanced payments and Medicaid disproportionate share hospital payments.

## **AMEND MEDICAID RECIPIENT APPEALS PROCESS**

**SECTION 10.30.(a)** Article 2 of Chapter 108A of the General Statutes is amended by adding a new Part to read:

"Part 6A. Medicaid Recipient Appeals Process.

### **"§ 108A-70.9A. Appeals by Medicaid recipients.**

(a) Definitions. – The following definitions apply in this Part, unless the context clearly requires otherwise.

- (1) Adverse determination. – A determination by the Department to deny, terminate, suspend, or reduce a Medicaid service or an authorization for a Medicaid service.
- (2) Recipient. – A recipient and the recipient's parent, guardian, or legal representative, unless otherwise specified.
- (3) OAH. – The Office of Administrative Hearings.

(b) General Rule. – Notwithstanding any provision of State law or rules to the contrary, this section shall govern the process used by a Medicaid recipient to appeal an adverse determination made by the Department.

(c) Notice. – Except as otherwise provided by federal law or regulation, at least 10 days before the effective date of an adverse determination, the Department shall notify the recipient, and the provider, if applicable, in writing of the adverse determination and of the recipient's right to appeal the adverse determination. The Department shall not be required to notify a recipient's parent, guardian, or legal representative unless the recipient's parent, guardian, or legal representative has requested in writing to receive the notice. The notice shall be mailed on the date indicated on the notice as the date of the determination. The notice shall include:

- (1) An identification of the recipient whose services are being affected by the adverse determination, including the recipient's full name and Medicaid identification number.
- (2) An explanation of what service is being denied, terminated, suspended, or reduced and the reason for the determination.
- (3) The specific regulation, statute, or medical policy that supports or requires the adverse determination.
- (4) The effective date of the adverse determination.
- (5) An explanation of the recipient's right to appeal the Department's adverse determination in an evidentiary hearing before an administrative law judge.
- (6) An explanation of how the recipient can request a hearing and a statement that the recipient may represent himself or herself or use legal counsel, a relative, or other spokesperson.
- (7) A statement that the recipient will continue to receive Medicaid services at the level provided on the day immediately preceding the Department's adverse determination or the amount requested by the recipient, whichever is less, if the recipient requests a hearing before the effective date of the adverse determination. The services shall continue until the hearing is completed and a final decision is rendered.
- (8) The name and telephone number of a contact person at the Department to respond in a timely fashion to the recipient's questions.
- (9) The telephone number by which the recipient may contact a Legal Aid/Legal Services office.
- (10) The appeal request form described in subsection (e) of this section that the recipient may use to request a hearing.

(d) Appeals. – Except as provided by this section and G.S. 108A-70.9B, a request for a hearing to appeal an adverse determination of the Department under this section is a contested case subject to the provisions of Article 3 of Chapter 150B of the General Statutes. The

recipient shall request a hearing within 30 days of the mailing of the notice required by subsection (c) of this section by sending an appeal request form to OAH and the Department. Where a request for hearing concerns the reduction, modification, or termination of Medicaid services, including the failure to act upon a timely request for reauthorization with reasonable promptness, upon the receipt of a timely appeal, the Department shall reinstate the services to the level or manner prior to action by the Department as permitted by federal law or regulation. The Department shall immediately forward a copy of the notice to OAH electronically. The information contained in the notice is confidential unless the recipient appeals. OAH may dispose of the records after one year. The Department may not influence, limit, or interfere with the recipient's decision to request a hearing.

(e) Appeal Request Form. – Along with the notice required by subsection (c) of this section, the Department shall also provide the recipient with an appeal request form which shall be no more than one side of one page. The form shall include the following:

- (1) A statement that in order to request an appeal, the recipient must send the form by mail or fax to the address or fax number listed on the form within 30 days of mailing of the notice.
- (2) The recipient's name, address, telephone number, and Medicaid identification number.
- (3) A preprinted statement that indicates that the recipient would like to appeal the specific adverse determination of which the recipient was notified in the notice.
- (4) A statement informing the recipient that he or she may choose to be represented by a lawyer, a relative, a friend, or other spokesperson.
- (5) A space for the recipient's signature and date.

(f) Final Decision. – After a hearing before an administrative law judge, the judge shall return the decision and record to the Department in accordance with G.S. 108A-70.9B. The Department shall make a final decision in the case within 20 days of receipt of the decision and record from the administrative law judge and promptly notify the recipient of the final decision and of the right to judicial review of the decision pursuant to Article 4 of Chapter 150B of the General Statutes.

**"§ 108A-70.9B. Contested Medicaid cases.**

(a) Application. – This section applies only to contested Medicaid cases commenced by Medicaid recipients under G.S. 108A-70.9A. Except as otherwise provided by G.S. 108A-70.9A and this section governing time lines and procedural steps, a contested Medicaid case commenced by a Medicaid recipient is subject to the provisions of Article 3 of Chapter 150B of the General Statutes. To the extent any provision in this section or G.S. 108A-70.9A conflicts with another provision in Article 3 of Chapter 150B of the General Statutes, this section and G.S. 108A-70.9A control.

(b) Simple Procedures. – Notwithstanding any other provision of Article 3 of Chapter 150B of the General Statutes, the chief administrative law judge may limit and simplify the procedures that apply to a contested Medicaid case involving a Medicaid recipient in order to complete the case as quickly as possible.

- (1) To the extent possible, OAH shall schedule and hear contested Medicaid cases within 55 days of submission of a request for appeal.
- (2) Hearings shall be conducted telephonically or by video technology with all parties, however the recipient may request that the hearing be conducted in person before the administrative law judge. An in-person hearing shall be conducted in Wake County, however, for good cause shown, the in-person hearing may be conducted in the county of residence of the recipient or a nearby county. Good cause shall include, but is not limited to, the recipient's impairments limiting travel or the unavailability of the recipient's treating professional witnesses. The Department shall provide written notice to the recipient of the use of telephonic hearings, hearings by video conference, and in-person hearings before the administrative law judge, and how to request a hearing in the recipient's county of residence.
- (3) The simplified procedure may include requiring that all prehearing motions be considered and ruled on by the administrative law judge in the course of the hearing of the case on the merits. An administrative law judge assigned to a contested Medicaid case shall make reasonable efforts in a case

- involving a Medicaid recipient who is not represented by an attorney to assure a fair hearing and to maintain a complete record of the hearing.
- (4) The administrative law judge may allow brief extensions of the time limits contained in this section for good cause and to ensure that the record is complete. Good cause includes delays resulting from untimely receipt of documentation needed to render a decision and other unavoidable and unforeseen circumstances. Continuances shall only be granted in accordance with rules adopted by OAH and shall not be granted on the day of the hearing, except for good cause shown. If a petitioner fails to make an appearance at a hearing that has been properly noticed via certified mail by OAH, OAH shall immediately dismiss the contested case, unless the recipient moves to show good cause within three business days of the date of dismissal.
- (5) The notice of hearing provided by OAH to the recipient shall include the following information:
- a. The recipient's right to examine at a reasonable time before the hearing and during the hearing the contents of the recipient's case file and documents to be used by the Department in the hearing before the administrative law judge.
  - b. The recipient's right to an interpreter during the appeals process.
  - c. Circumstances in which a medical assessment may be obtained at agency expense and be made part of the record. Qualifying circumstances include those in which (i) a hearing involves medical issues, such as a diagnosis, an examining physician's report, or a medical review team's decision; and (ii) the administrative law judge considers it necessary to have a medical assessment other than that performed by the individual involved in making the original decision.

(c) Mediation. – Upon receipt of an appeal request form as provided by G.S. 108A-70.9A(e) or other clear request for a hearing by a Medicaid recipient, OAH shall immediately notify the Mediation Network of North Carolina, which shall contact the recipient within five days to offer mediation in an attempt to resolve the dispute. If mediation is accepted, the mediation must be completed within 25 days of submission of the request for appeal. Upon completion of the mediation, the mediator shall inform OAH and the Department within 24 hours of the resolution by facsimile or electronic messaging. If the parties have resolved matters in the mediation, OAH shall dismiss the case. OAH shall not conduct a hearing of any contested Medicaid case until it has received notice from the mediator assigned that either: (i) the mediation was unsuccessful, or (ii) the petitioner has rejected the offer of mediation, or (iii) the petitioner has failed to appear at a scheduled mediation. Nothing in this subsection shall restrict the right to a contested case hearing.

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

(e) New Evidence. – The recipient shall be permitted to submit evidence regardless of whether obtained prior to or subsequent to the Department's actions and regardless of whether the Department had an opportunity to consider the evidence in making its adverse determination. When the evidence is received, at the request of the Department, the administrative law judge shall continue the hearing for a minimum of 15 days and a maximum of 30 days to allow for the Department's review of the evidence. Subsequent to review of the evidence, if the Department reverses its original decision, it shall immediately inform the administrative law judge.

(f) Issue for Hearing. – For each adverse determination, the hearing shall determine whether the Department substantially prejudiced the rights of the recipient and if the Department, based upon evidence at the hearing:

- (1) Exceeded its authority or jurisdiction.
- (2) Acted erroneously.

- (3) Failed to use proper procedure.
- (4) Acted arbitrarily or capriciously.
- (5) Failed to act as required by law or rule.

(g) Decision. – The administrative law judge assigned to a contested Medicaid case shall hear and decide the case without unnecessary delay. OAH shall send a copy of the audiotape or diskette of the hearing to the agency within five days of completion of the hearing. The judge shall prepare a written decision and send it to the parties. The decision shall be sent together with the record to the agency within 20 days of the conclusion of the hearing.

**"§ 108A-70.9C. Informal review permitted.**

Nothing in this Part shall prevent the Department from engaging in an informal review of a contested Medicaid case with a recipient prior to issuing a notice of adverse determination as provided by G.S. 108A-70.9A(c)."

**SECTION 10.30.(b)** Section 10.15A.(h3) of S.L. 2008-107, as amended by Section 3.13.(b) of S.L. 2008-118, reads as rewritten:

**"SECTION 10.15A.(h3)** From funds available to the Department of Health and Human Services (Department) for the ~~2008-2009~~2010-2011 fiscal year, the sum of ~~two~~one million dollars (~~\$2,000,000~~) (\$1,000,000) shall be transferred by the Department of ~~Health and Human Services~~ to the Office of Administrative Hearings (OAH). These funds shall be allocated by ~~the Office of Administrative Hearings~~ OAH for mediation services provided for Medicaid ~~applicant and recipient~~ appeals and to contract for other services necessary to conduct the appeals process. OAH shall continue the Memorandum of Agreement (MOA) with the Department for mediation services provided for Medicaid recipient appeals and contracted services necessary to conduct the appeals process. The MOA will facilitate the Department's ability to draw down federal Medicaid funds to support this administrative function. Upon receipt of invoices from OAH for covered services rendered in accordance with the MOA, the Department shall transfer the federal share of Medicaid funds drawn down for this purpose."

**SECTION 10.30.(c)** Not later than October 1, 2011, the Department of Health and Human Services and the Office of Administrative Hearings (OAH) shall submit a report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Subcommittee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research Division on the number, status, and outcome of contested Medicaid cases handled by OAH pursuant to the appeals process established in Part 6A of Article 2 of Chapter 108A of the General Statutes. The report shall include information on the number of contested Medicaid cases resolved through mediations and through formal hearings, the outcome of settled and withdrawn cases, and the number of incidences in which the Division of Medical Assistance (DMA) reverses the decision of an administrative law judge along with DMA's rationale for the reversal.

**ACCOUNTING FOR MEDICAID RECEIVABLES AS NONTAX REVENUE**

**SECTION 10.31.** Section 10.64.(b) of S.L. 2009-451 reads as rewritten:

**"SECTION 10.64.(b)** For the 2009-2010 fiscal year, the Department of Health and Human Services shall deposit from its revenues one hundred twenty-four million nine hundred ninety-four thousand nine hundred fifty-four dollars (\$124,994,954) with the Department of State Treasurer to be accounted for as nontax revenue. For the 2010-2011 fiscal year, the Department of Health and Human Services shall deposit from its revenues ~~one hundred million dollars~~ (~~\$100,000,000~~)one hundred thirty-five million dollars (\$135,000,000) with the Department of State Treasurer to be accounted for as nontax revenue. These deposits shall represent the return of General Fund appropriations provided to the Department of Health and Human Services to provide indigent care services at State-owned and operated mental hospitals. The treatment of any revenue derived from federal programs shall be in accordance with the requirements specified in the Code of Federal Regulations, Volume 2, Part 225."

**MEDICAID PREFERRED DRUG LIST**

**SECTION 10.32.** Section 10.66.(c) of S.L. 2009-451 reads as rewritten:

**"SECTION 10.66.(c)** The Department, in consultation with the PAG, shall adopt and publish policies and procedures relating to the preferred drug list, including:

- (1) Guidelines for the presentation and review of drugs for inclusion on the preferred drug list,



- (2) The manner and frequency of audits of the preferred drug list for appropriateness of patient care and cost-effectiveness,
- (3) An appeals process for the resolution of disputes, and
- (4) Such other policies and procedures as the Department deems necessary and appropriate.

The Department and the pharmaceutical and therapeutics committee shall consider all therapeutic classes of prescription drugs for inclusion on the preferred drug list, ~~except medications for treatment of human immunodeficiency virus or acquired immune deficiency syndrome shall not be subject to consideration for inclusion on the preferred drug list.~~

The Department shall maintain an updated preferred drug list in electronic format and shall make the list available to the public on the Department's Internet Web site.

The Department shall: (i) enter into a multistate purchasing pool; (ii) negotiate directly with manufacturers or labelers; (iii) contract with a pharmacy benefit manager for negotiated discounts or rebates for all prescription drugs under the medical assistance program; or (iv) effectuate any combination of these options in order to achieve the lowest available price for such drugs under such program.

The Department may negotiate supplemental rebates from manufacturers that are in addition to those required by Title XIX of the federal Social Security Act. The committee shall consider a product for inclusion on the preferred drug list if the manufacturer provides a supplemental rebate. The Department may procure a sole source contract with an outside entity or contractor to conduct negotiations for supplemental rebates."

### **MEDICAID PREFERRED DRUG LIST (PDL) REVIEW PANEL**

**SECTION 10.33.(a)** The Secretary of the Department of Health and Human Services shall establish a Preferred Drug List (PDL) Policy Review Panel within 60 days after the effective date of this section. The purpose of the PDL Policy Review Panel is to review the Medicaid PDL recommendations from the Department of Health and Human Services, Division of Medical Assistance, and the Physician Advisory Group Pharmacy and Therapeutics (PAG P&T) Committee.

**SECTION 10.33.(b)** The Secretary shall appoint the following individuals to the review panel:

- (1) The Director of Pharmacy for the Division of Medical Assistance.
- (2) A representative from the PAG P&T Committee.
- (3) A representative from the Old North State Medical Society.
- (4) A representative from the North Carolina Association of Pharmacists.
- (5) A representative from Community Care of North Carolina.
- (6) A representative from the North Carolina Psychiatric Association.
- (7) A representative from the North Carolina Pediatric Society.
- (8) A representative from the North Carolina Academy of Family Physicians.
- (9) A representative from the North Carolina Chapter of the American College of Physicians.
- (10) A representative from a research-based pharmaceutical company.

Individuals appointed to the Review Panel, except for the Division's Director of Pharmacy, shall only serve a two-year term.

**SECTION 10.33.(c)** Within 30 days after the Department, in consultation with the PAG P&T Committee, publishes a proposed policy or procedure related to the Medicaid PDL, the Review Panel shall hold an open meeting to review the recommended policy or procedure along with any written public comments received as a result of the posting. The Review Panel shall provide an opportunity for public comment at the meeting. After the conclusion of the meeting, the Review Panel shall submit policy recommendations about the proposed Medicaid PDL policy or procedure to the Secretary.

### **LOCK NARCOTIC PRESCRIPTIONS INTO SINGLE PHARMACY/PROVIDER**

**SECTION 10.34.** The Department of Health and Human Services, Division of Medical Assistance, shall lock Medicaid enrollees into a single pharmacy and provider when the Medicaid enrollee's utilization of selected controlled substance medication meets the lock-in criteria approved by the NC Physicians Advisory Group, as follows:

- (1) Enrollees may be prescribed selected controlled substance medications by only one prescribing physician and may not change the prescribing physician at any time without prior approval or authorization by the Division.
- (2) Enrollees may have prescriptions for selected controlled substance medications filled at only one pharmacy and may not change to another pharmacy at any time without prior approval or authorization by the Division.

**AUTHORIZE THE DIVISION OF MEDICAL ASSISTANCE TO TAKE CERTAIN STEPS TO EFFECTUATE COMPLIANCE WITH BUDGET REDUCTIONS IN THE MEDICAID PROGRAM**

**SECTION 10.35.** Section 10.68A.(a) of S.L. 2009-451, as amended by Section 5A of S.L. 2009-575, reads as rewritten:

**"SECTION 10.68A.(a)** ~~For the purpose of enabling the~~ The Department of Health and Human Services, Division of Medical Assistance, ~~to achieve the budget reductions enacted in this act for the Medicaid program, the Department may take the following actions, notwithstanding any other provision of this act or other State law or rule to the contrary and subject to the requirements of subsection (e) of this section:~~

- (1) Electronic transactions. –
  - a. Within 60 days of notification of its procedures via the DMA Web site, Medicaid providers shall follow the Department's established procedures for securing electronic payments. No later than September 1, 2009, the Department shall cease routine provider payments by check.
  - b. Effective September 1, 2009, all Medicaid providers shall file claims electronically to the fiscal agent. Nonelectronic claims submission may be required when it is in the best interest of the Department.
  - c. Effective September 1, 2009, enrolled Medicaid providers shall submit Preadmission Screening and Annual Resident Reviews (PASARR) through the Department's Web-based tool or through a vendor with interface capability to submit data into the Web-based PASARR.
- (2) Clinical coverage. – The Department of Health and Human Services, Division of Medical Assistance, shall amend applicable clinical policies and submit applicable State Plan amendments to CMS to implement the budget reductions authorized in the following clinical coverage areas in this act:
  - a. Consolidate and reduce Targeted Case Management and case management functions bundled within other Medicaid services.
  - b. Take appropriate action to lower the cost of HIV case management, including tightening service hours and limiting administrative costs. The Department shall maintain HIV case management as a stand-alone service outside of departmental efforts to consolidate case management services.
  - c. Eliminate coverage of therapeutic camps. The Department shall report on or before October 1, 2009, on the plan to transition children out of mental health residential therapeutic camps. The Department shall submit the report to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services.
- (3) ~~Medicaid Personal Care Service provision. — Upon the enactment of this act, the Division of Medical Assistance shall implement the following new criteria for personal care services (PCS):~~
  - a. ~~Independent assessment by an entity that does not provide direct PCS services for evaluation of the recipient prior to initiation of service. The independent assessment will determine the qualifying Activities of Daily Living (ADL), the level of assistance required, and the amount and scope of PCS to be provided, according to policy criteria.~~

- b. ~~Independent assessment or review from the assigned Community Care of North Carolina (CCNC) physician of the continued qualification for PCS services under the revised PCS policy criteria.~~
- e. ~~Establishment of time limits on physician service orders and reauthorization in accordance with the recipient's diagnosis and acuity of need.~~
- d. ~~Add the following items to the list of tasks that are not covered by this service: nonmedical transportation, errands and shopping, money management, cueing, and prompting, guiding, or coaching.~~
- e. ~~Online physician attestation of medical necessity.~~
- f. ~~If sufficient reduction in cost is not achieved with the revised policy, the Secretary shall direct the Division of Medical Assistance to further modify the policy to achieve targeted cost savings.~~

~~Recipients currently receiving PCS services shall be reviewed under the above criteria, and those recipients not meeting the new criteria shall be terminated from the service within 30 days of the review. The Department shall review usage of personal care services in adult care homes to determine if overuse is occurring and shall report its findings to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division on or before December 1, 2009.~~

(3a) In-Home Care provision. – In order to enhance in-home aide services to Medicaid recipients, the Department of Health and Human Services, Division of Medical Assistance, shall:

- a. No longer provide services under PCS and PCS-Plus the later of January 1, 2011, or whenever CMS approves the elimination of the PCS and PCS-Plus programs and the implementation of the following two new services:
  - 1. In-Home Care for Children (IHCC). – Services to assist families to meet the in-home care needs of children, including those individuals under the age of 21 receiving comprehensive and preventive child health services through the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program.
  - 2. In-Home Care for Adults (IHCA). – Services to meet the eating, dressing, bathing, toileting, and mobility needs of individuals 21 years of age or older who, because of a medical condition, disability, or cognitive impairment, demonstrate unmet needs for, at a minimum: (i) three of the five qualifying activities of daily living (ADLs) with limited hands-on assistance; (ii) two ADLs, one of which requires extensive assistance; or (iii) two ADLs, one of which requires assistance at the full dependence level. The five qualifying ADLs are eating, dressing, bathing, toileting, and mobility. IHCA shall serve individuals at the highest level of need for in-home care who are able to remain safely in the home.
- b. Establish, in accordance with G.S. 108A-54.2, a Medical Coverage Policy for each of these programs to include:
  - 1. For IHCC, up to 60 hours per month in accordance with an assessment conducted by DMA or its designee and a plan of care developed by the service provider and approved by DMA or its designee. Additional hours may be authorized when the services are required to correct or ameliorate defects and physical and mental illnesses and conditions in this age group, as defined in 42 U.S.C. § 1396d(r)(5), in accordance with a plan of care approved by DMA or its designee.
  - 2. For IHCA, up to 80 hours per month in accordance with an assessment conducted by DMA or its designee and a plan of

- care developed by the service provider and approved by DMA or its designee.
- c. Implement the following program limitations and restrictions to apply to both IHCC and IHCA:
1. Additional services to children required under federal EPSDT requirements shall be provided to qualified recipients in the IHCC Program.
  2. Services shall be provided in a manner that supplements, rather than supplants, family roles and responsibilities.
  3. Services shall be authorized in amounts based on assessed need of each recipient, taking into account care and services provided by the family, other public and private agencies, and other informal caregivers who may be available to assist the family. All available resources shall be utilized fully, and services provided by such agencies and individuals shall be disclosed to the DMA assessor.
  4. Services shall be directly related to the hands-on assistance and related tasks to complete each qualifying ADL in accordance with the IHCC or IHCA assessment and plan of care, as applicable.
  5. Services provided under IHCC and IHCA shall not include household chores not directly related to the qualifying ADLs, nonmedical transportation, financial management, and non-hands-on assistance such as cueing, prompting, guiding, coaching, or babysitting.
  6. Essential errands that are critical to maintaining the health and welfare of the recipient may be approved on a case-by-case basis by the DMA assessor when there is no family member, other individual, program, or service available to meet this need. Approval, including the amount of time required to perform this task, shall be documented on the recipient's assessment form and plan of care.
- d. Utilize the following process for admission to the IHCC and IHCA programs:
1. The recipient shall be seen by his or her primary or attending physician, who shall provide written authorization for referral for the service and written attestation to the medical necessity for the service.
  2. All assessments for admission to IHCC and IHCA, continuation of these services, and change of status reviews for these services shall be performed by DMA or its designee. The DMA designee may not be an owner of a provider business, or provider of in-home or personal care services of any type.
  3. DMA or its designee shall determine and authorize the amount of service to be provided on a "needs basis," as determined by its review and findings of each recipient's degree of functional disability and level of unmet needs for hands-on personal assistance in the five qualifying ADLs.
- e. Take all appropriate actions to manage the cost, quality, program compliance, and utilization of services provided under the IHCC and IHCA programs, including, but not limited to:
1. Priority independent reassessment of recipients before the anniversary date of their initial admission or reassessment for those recipients likely to qualify for the restructured IHCC and IHCA programs;
  2. Priority independent reassessment of recipients requesting a change of service provider;

3. Targeted reassessments of recipient prior to their anniversary dates when the current provider assessment indicates they may not qualify for the program or for the amount of services they are currently receiving;
  4. Targeted reassessment of recipients receiving services from providers with a history of program noncompliance;
  5. Provider desk and on-site reviews and recoupment of all identified overpayments or improper payments;
  6. Recipient reviews, interviews, and surveys;
  7. The use of mandated electronic transmission of referral forms, plans of care, and reporting forms;
  8. The use of mandated electronic transmission of uniform reporting forms for recipient complaints and critical incidents;
  9. The use of automated systems to monitor, evaluate, and profile provider performance against established performance indicators; and
  10. Establishment of rules that implement the requirements of 42 C.F.R. § 441.16.
- f. Timeline for implementation of new IHCC and IHCA programs.
1. Subject to approvals from CMS, DMA shall make every effort to implement the new IHCC and IHCA programs by January 1, 2011.
  2. DMA shall ensure that individuals who qualify for the IHCC and IHCA programs shall not experience a lapse in service and, if necessary, shall be admitted on the basis of their current provider assessment when an independent reassessment has not yet been performed and the current assessment documents that the medical necessity requirements for the IHCC or IHCA program, as applicable, have been met.
  3. Prior to the implementation date of the new IHCC and IHCA programs, all recipients in the PCS and PCS-Plus programs shall be notified pursuant to 42 C.F.R. § 431.220(b) and discharged, and the Department shall no longer provide services under the PCS and PCS-Plus programs, which shall terminate. Recipients who qualify for the new IHCC and IHCA programs shall be admitted and shall be eligible to receive services immediately.
- (3b) Medicaid Personal Care Services (PCS) studies:
- a. The Department of Health and Human Services shall conduct a study determining the cost effectiveness, efficiencies gained, and challenges associated with transitioning the performance of independent assessments for PCS, IHCC, or IHCA services to CCNC and shall report its findings to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Commission on Health and Human Services, and the Fiscal Research Division on or before January 1, 2011.
  - b. The Division of Medical Assistance shall study the incidence of fraud, waste, or abuse by Medicaid PCS providers and recipients and by Medicaid IHCC or IHCA providers and recipients, after the implementation of those programs, and shall report its findings on or before January 1, 2011, and annually thereafter, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.
- (4) MH/DD/SA Personal Care and Personal Assistance Services Provision. – A denial, reduction, or termination of Medicaid-funded personal care services

- shall result in a similar denial, reduction, or termination of State-funded MH/DD/SA personal care and personal assistance services.
- (5) Community Support and other MH/DD/SA services. – The Department of Health and Human Services shall transition community support child and adult, individual and group services to other defined services on or before June 30, 2010. The Division of Medical Assistance and the Division of MH/DD/SA shall take the steps necessary for the Medicaid and the State-funded community support program to provide for transition and discharge planning to recipients currently receiving community support services. The following shall occur:
- a. The Department shall submit to CMS: (i) revised service definitions that separate case management functions from the Community Support definition and (ii) a new service definition for peer support services for adults with mental illness and/or substance abuse ~~disorders.~~ disorders, for implementation no sooner than January 1, 2011.
  - b. No new admissions for community support individual or group shall be allowed during this transition period unless the Department determines appropriate alternative services are not available, in which case limited community support services may be provided during the transition period. LMEs will be responsible for referring eligible consumers to appropriate alternative services.
  - c. Authorizations currently in effect as of the date of enactment of this act remain valid. Any new authorization or subsequent reauthorization is subject to the provisions of this act.
  - d. No community support services shall be provided in conjunction with other enhanced services. Until CMS approves the new case management definition, professional level community support may be provided in conjunction with residential Level III and IV to assist in recipient discharge planning. Up to a maximum of 24 hours of case management (professional level) functions may be provided over a 90-day authorization period as approved by the prior authorization vendor.
  - e. The current moratorium on community support provider endorsement shall remain in effect.
  - f. A provider of community support services whose endorsement has been withdrawn or whose Medicaid participation has been terminated is not entitled to payment during the period the appeal is pending, and the Department shall make no payment to the provider during that period. If the final agency decision is in favor of the provider, the Department shall remove the suspension, commence payment for valid claims, and reimburse the provider for payments withheld during the period of appeal.
  - g. Effective 60 days from the enactment of this act, the paraprofessional level of community support shall be eliminated, and from this date the Department shall not use any Medicaid or State funds to pay for this level of service.
  - h. Thirty days after the enactment of this act, any concurrent request shall be accompanied with a discharge plan. Submission of the discharge plan will be a required document for a request to be considered complete. Failure to submit the discharge plan will result in the request being returned as "unable to process." Discharge from the service must occur within 90 days after the submission of the discharge plan.
  - i. Any community support provider that ceases to function as a provider shall provide written notification to DMA, the Local Management Entity, recipients, and the prior authorization vendor 30 days prior to closing of the business.

- j. Medical and financial record retention is the responsibility of the provider and shall be in compliance with the record retention requirements of their Medicaid provider agreement or State-funded services contract. Records shall also be available to State, federal, and local agencies.
  - k. Failure to comply with notification, recipient transition planning, or record maintenance shall result in suspension of further payment until such failure is corrected. In addition, failure to comply shall result in denial of enrollment as a provider for any Medicaid or State-funded service. A provider (including its officers, directors, agents, or managing employees or individuals or entities having a direct or indirect ownership interest or control interest of five percent (5%) or more as set forth in Title XI of the Social Security Act) that fails to comply with the required record retention may be subject to sanctions, including exclusion from further participation in the Medicaid program, as set forth in Title XI.
- (6) Community Support Team. – Authorization for a Community Support Team shall be based upon medical necessity as defined by the Department and shall not exceed 18 hours per week. The Division of Medical Assistance shall do an immediate rate study of the Community Support Team to bring the average cost of service per recipient in line with Assertive Community Treatment Team (ACTT) services. The Division shall also revise provider qualifications and tighten the service definition to contain costs in this line item. Not later than December 1, 2009, the Division of Medical Assistance shall report its findings on the rate study and any actions it has taken to conform with this subdivision to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services.
- (7) MH Residential. – The Department of Health and Human Services shall restructure the Medicaid child mental health, developmental disabilities, and substance abuse residential services to ensure that total expenditures are within budgeted levels. All restructuring activities shall be in compliance with federal and State law or rule. The Divisions of Medical Assistance and Mental Health, Developmental Disabilities, and Substance Abuse Services shall establish a team inclusive of providers, LMEs, and other stakeholders to assure effective transition of recipients to appropriate treatment options. The restructuring shall address all of the following:
- a. Submission of the therapeutic family service definition to CMS.
  - b. The Department shall reexamine the entrance and continued stay criteria for all residential services. The revised criteria shall promote least restrictive services in the home prior to residential placement. During treatment, there must be inclusion in community activities and parent or legal guardian participation in treatment.
  - c. Require all existing residential providers or agencies to be nationally accredited within one year of enactment of this act. Any providers enrolled after the enactment of this act shall be subject to existing endorsement and nationally accrediting requirements. In the interim, providers who are nationally accredited will be preferred providers for placement considerations.
  - d. Before a child can be admitted to Level III or Level IV placement, one or more of the following shall apply:
    - 1. Placement shall be a step down from a higher level placement such as a psychiatric residential treatment facility or ~~inpatient~~ inpatient; or
    - 2. Multisystemic therapy or intensive in-home therapy services have been ~~unsuccessful~~ unsuccessful; or
    - 3. The Child and Family Team has reviewed all other alternatives and recommendations and recommends Level III

- or IV placement due to maintaining health and ~~safety~~; safety;  
or
4. Transition or discharge plan shall be submitted as part of the initial or concurrent request.
  - e. Length of stay is limited to no more than 120 days. Any exceptions granted will require an independent psychiatric assessment, Child and Family Team review of goals and treatment progress, family or discharge placement setting are actively engaged in treatment goals and objectives and active participation of the prior authorization of vendor. The Department shall study the effectiveness of the length of stay limitation imposed pursuant to this sub-subdivision, and the number of children staying in Level II, III, and IV facilities, and report its findings to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services on or before January 1, 2011, and shall provide update reports on the number of children in these facilities to this same committee every six months thereafter, for the following three-year period.
  - f. Submission of discharge plan is required in order for the request to be considered complete. Failure to submit a complete discharge plan will result in the request being returned as unable to process.
  - g. Any residential provider that ceases to function as a provider shall provide written notification to DMA, the Local Management Entity, recipients, and the prior authorization vendor 30 days prior to closing of the business.
  - h. Record maintenance is the responsibility of the provider and must be in compliance with record retention requirements. Records shall also be available to State, federal, and local agencies.
  - i. Failure to comply with notification, recipient transition planning, or record maintenance shall be grounds for withholding payment until such activity is concluded. In addition, failure to comply shall be conditions that prevent enrollment for any Medicaid or State-funded service. A provider (including its officers, directors, agents, or managing employees or individuals or entities having a direct or indirect ownership interest or control interest of five percent (5%) or more as set forth in Title XI of the Social Security Act) that fails to comply with the required record retention may be subject to sanctions, including exclusion from further participation in the Medicaid program, as set forth in Title XI.
  - j. On or before October 1, 2009, the Department shall report on its plan for transitioning children out of Level III and Level IV group homes. The Department shall submit the reports to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services.
- (8) Reduce Medicaid rates. – Subject to the prior approval of the Office of State Budget and Management, the Secretary shall reduce Medicaid provider rates to accomplish the reduction in funds for this purpose enacted in this act. In exercising authority under this subsection, the Secretary shall not reduce Medicaid provider rates beyond those in effect as of June 1, 2010, except as provided in budget reductions for the 2010-2011 fiscal year. The Secretary shall consider the impact on access to care through primary care providers and critical access hospitals and may adjust the rates accordingly. The rate reduction applies to all Medicaid private and public providers with the following exceptions: federally qualified health clinics, rural health centers, State institutions, hospital outpatient, pharmacies, and the noninflationary components of the case-mix reimbursement system for nursing facilities. Medicaid rates predicated upon Medicare fee schedules shall follow Medicare reductions but not Medicare increases unless federally required. Inflationary increases for Medicaid providers paying provider fees (private



ICF-MRs and nursing facilities) can occur if the State share of the increases can be funded with provider fees.

- (9) Medicaid identification cards. – The Department shall issue Medicaid identification cards to recipients on an annual basis with quarterly updates.
- (10) The Department of Health and Human Services shall develop a plan for the consolidation of case management ~~services~~, services utilizing CCNC. The plan shall address the time line and process for implementation, ~~the vendors involved~~, the identification of savings, and the Medicaid recipients affected by the consolidation. Consolidation under this subdivision does not apply to HIV case management. By December 1, ~~2009~~, 2010, the Department shall report on the plan to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.
- (11) For the purpose of promoting cost-effective utilization of outpatient mental health services for children, DMA shall require prior authorization for services following the sixteenth visit.
- (12) Provision of Medicaid Private Duty Nursing (PDN). – DMA shall change the Medicaid Private Duty Nursing program provided under the State Medicaid Plan, as follows:
  - a. Restructure the current PDN program to provide services that are:
    1. Provided only to qualified recipients under the age of 21.
    2. Authorized by the recipient's primary care or attending physician.
    3. Limited to 16 hours of service per day, unless additional services are required to correct or ameliorate defects and physical and mental illnesses and conditions as defined in 42 U.S.C. § 1396d(r)(5).
    4. Approved based on an initial assessment and continuing need reassessments performed by an Independent Assessment Entity (IAE) that does not provide PDN services and authorized in amounts that are medically necessary based on the recipient's medical condition, amount of family assistance available, and other relevant conditions and circumstances, as defined by the Medicaid Clinical Coverage Policy for this service.
    5. Provided in accordance with a plan of care approved by DMA or its designee.
  - b. Develop and submit to CMS a 1915(c) Home and Community Based Services Waiver for individuals dependent on technology to substitute for a vital body function.
  - c. Once approved by CMS and upon approval of the Medicaid Clinical Coverage Policy, transition all qualified recipients age 21 and older currently receiving PDN to waiver services provided under the Technology Dependent Waiver."

## **MEDICAID WAIVER FOR ASSISTED LIVING**

**SECTION 10.35A.(a)** The Department of Health and Human Services, Division of Medical Assistance (Division) shall develop and implement either a 1915(c) Home and Community Based Services assisted living program or an Assisted Living Services program under State Medicaid Plan 1915(i) authority in order to continue Medicaid funding of personal care services to individuals living in adult care homes. The Division shall determine which program to implement based on an analysis of which alternative best addresses both resident needs and federal requirements.

**SECTION 10.35A.(b)** The Division shall apply to the Centers for Medicare and Medicaid Services for approval of the program by August 10, 2010.

**SECTION 10.35A.(c)** On or before January 1, 2011, the Division shall provide a report on the program to the Joint Legislative Commission on Governmental Operations, the Senate Appropriations Committee on Health and Human Services, the House of

Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

**SENIOR SERVICES: PROJECT C.A.R.E. (CAREGIVER ALTERNATIVES TO RUNNING ON EMPTY)**

**SECTION 10.35B.** Of the funds appropriated to the Department of Health and Human Services, Division of Aging and Adult Services, for the 2010-2011 fiscal year, the sum of two hundred thousand dollars (\$200,000) in recurring funds shall be used to support Alzheimer's-related activities consistent with the goals of Project Caregiver Alternatives To Running On Empty (Project C.A.R.E.). The Division of Aging and Adult Services shall annually develop and implement a plan for use of these funds and beginning October 1, 2010, and annually thereafter, report the plan to the Governor's Advisory Council on Aging, the North Carolina Study Commission on Aging, and the Fiscal Research Division.

**IMPLEMENT INDEPENDENT ASSESSMENTS ON MENTAL HEALTH SERVICES**

**SECTION 10.36.(a)** The Department of Health and Human Services, Division of Medical Assistance, shall require that, prior to the delivery of enhanced mental health services in the Medicaid program, an independent assessment be conducted that meets all of the following criteria:

- (1) An initial assessment or a continuing need reassessment is performed by an independent assessment entity (IAE) that is not the provider of the services in question.
- (2) The IAE authorizes the type and amount of service to be provided based on the specific health condition and needs of the intended recipient of the service.

**SECTION 10.36.(b)** If the Department of Health and Human Services, Division of Medical Assistance, does not achieve the required savings as a result of implementation of the independent assessment activities set forth in subsection (a) of this section, then, in addition to the independent assessments required by subsection (a) of this section, the Department of Health and Human Services, Division of Medical Assistance, shall also require that targeted independent assessments be conducted prior to the delivery of services to each of the following categories of individuals:

- (1) Individuals exiting inpatient facilities.
- (2) High-cost/high-risk individuals with high behavioral health or medical needs.
- (3) Individuals for whom additional continuing care authorizations are being requested.
- (4) Individuals moving to a higher, more intensive level of care.

**SECTION 10.36.(c)** The Department of Health and Human Services, Division of Medical Assistance, shall provide a report of savings generated and other findings relating to the implementation of this section to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on or before April 1, 2011.

**DHSR ASSISTED LIVING ADMINISTRATOR/MEDICATION AIDE FEES**

**SECTION 10.36A.(a)** Part 2 of Article 1 of Chapter 131D of the General Statutes is amended by adding the following new section to read:

**"§ 131D-4.5A. Fees for medication aides.**

The Department may impose a fee, not to exceed twenty-five dollars (\$25.00), on an applicant seeking certification as an assisted living home medication aide to cover the costs of testing and materials in administering a certification examination."

**SECTION 10.36A.(b)** Article 20A of Chapter 90 of the General Statutes is amended by adding the following new section to read:

**"§ 90-288.15A. Fees.**

The Department may impose fees not to exceed the following amounts:

- |     |  |                                  |
|-----|--|----------------------------------|
| (1) | <u>Assisted Living Administrator Examination Fee</u>         | <u>\$50.00</u>                   |
| (2) | <u>Assisted Living Administrator Certificate Renewal Fee</u> | <u>\$30.00 every two years."</u> |

## DHHS BLOCK GRANTS

**SECTION 10.37.(a)** Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2011, according to the following schedule:

### TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) FUNDS

#### Local Program Expenditures

##### Division of Social Services

01.	Work First Family Assistance	\$ 77,597,502
02.	Work First County Block Grants	94,453,315
03.	Work First Electing Counties	2,378,213
04.	Work First – Boys and Girls Clubs	2,500,000
05.	Work First – After-School Services for At-Risk Children	2,049,642
06.	Work First – After-School Programs for At-Risk Youth in Middle Schools	500,000
07.	Work First – Connect, Inc. (Work Central)	1,000,000
08.	Work First – Citizens Schools Program	360,000
09.	Adoption Services – Special Children's Adoption Fund	3,000,000
10.	Family Violence Prevention	2,200,000
11.	Child Protective Services – Child Welfare Workers for Local DSS	14,452,391
12.	Child Welfare Collaborative	1,129,115

##### Division of Child Development

13.	Subsidized Child Care Program	61,087,077
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##### Division of Public Health

14.	Teen Pregnancy Initiatives	450,000
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#### DHHS Administration

15.	Division of Social Services	1,093,176
16.	Office of the Secretary	75,392

#### Transfers to Other Block Grants

##### Division of Child Development

17.	Transfer to the Child Care and Development Fund	84,330,900
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Division of Social Services

18.	Transfer to Social Services Block Grant for Child Protective Services – Child Welfare Training in Counties	2,300,000
19.	Transfer to Social Services Block Grant for Maternity Homes	943,002
20.	Transfer to Social Services Block Grant for Teen Pregnancy Prevention Initiatives	2,500,000
21.	Transfer to Social Services Block Grant for County Departments of Social Services for Children's Services	4,500,000
22.	Transfer to Social Services Block Grant for Foster Care Services	540,358

TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) FUNDS \$359,440,083

TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) EMERGENCY CONTINGENCY FUNDS RECEIVED THROUGH THE AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)

Local Program Expenditures

Division of Social Services

01.	Work First Family Assistance	\$ 9,780,494
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Division of Child Development

02.	Subsidized Child Care	23,625,329
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Department of Public Instruction

03.	More at Four	30,559,012
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TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) EMERGENCY CONTINGENCY FUNDS RECEIVED THROUGH THE AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) \$63,964,835

SOCIAL SERVICES BLOCK GRANT

Local Program Expenditures

Divisions of Social Services and Aging and Adult Services

01.	County Departments of Social Services (Transfer from TANF – \$4,500,000)	\$ 28,868,189
02.	State In-Home Services Fund	2,101,113
03.	State Adult Day Care Fund	2,155,301
04.	Child Protective Services/CPS Investigative Services-Child Medical Evaluation Program	609,455

05.	Foster Care Services (Transfer from TANF)	2,147,967
06.	Maternity Homes (Transfer from TANF)	943,002
07.	Special Children Adoption Incentive Fund	500,000
08.	Child Protective Services-Child Welfare Training for Counties (Transfer from TANF)	2,300,000
09.	Home and Community Care Block Grant (HCCBG)	1,834,077
10.	Children's Advocacy Centers	375,000
Division of Mental Health, Developmental Disabilities, and Substance Abuse Services		
11.	Mental Health Services Program	422,003
12.	Developmental Disabilities Services Program	5,000,000
13.	Mental Health Services-Adult and Child/Developmental Disabilities Program/ Substance Abuse Services-Adult	3,234,601
Division of Child Development		
14.	Subsidized Child Care Program	1,156,744
Division of Vocational Rehabilitation		
15.	Vocational Rehabilitation Services – Easter Seal Society/UCP Community Health Program	188,263
Division of Public Health		
16.	Teen Pregnancy Prevention Initiatives (Transfer from TANF)	2,500,000
DHHS Program Expenditures		
Division of Aging and Adult Services		
17.	UNC-CARES Training Contract	247,920
Division of Services for the Blind		
18.	Independent Living Program	3,633,077
Division of Health Service Regulation		
19.	Adult Care Licensure Program	411,897
20.	Mental Health Licensure and Certification Program	205,668

DHHS Administration

21.	Division of Aging and Adult Services	688,436
22.	Division of Social Services	892,624
23.	Office of the Secretary/Controller's Office	138,058
24.	Office of the Secretary/DIRM	87,483
25.	Division of Child Development	15,000
26.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	29,665
27.	Division of Health Service Regulation	235,625
28.	Office of the Secretary-NC Inter-Agency Council for Coordinating Homeless Programs	250,000
29.	Office of the Secretary	48,053
Transfers to Other State Agencies		
Department of Administration		
30.	NC Commission of Indian Affairs In-Home Services for the Elderly	203,198
Transfers to Other Block Grants		
Division of Public Health		
31.	Transfer to Preventive Health Services Block Grant for HIV/STD Prevention and Community Planning	145,819
TOTAL SOCIAL SERVICES BLOCK GRANT		\$ 61,568,238
LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT		
Local Program Expenditures		
Division of Social Services		
01.	Low-Income Energy Assistance Program (LIEAP)	\$ 70,909,401
02.	Crisis Intervention Program (CIP)	40,373,328
Local Administration		
Division of Social Services		
03.	County DSS Administration	6,362,505
DHHS Administration		
04.	Division of Social Services	275,000
05.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	8,128

06.	Office of the Secretary/DIRM	276,784
07.	Office of the Secretary/Controller's Office	12,332
Transfers to Other State Agencies		
Department of Commerce		
08.	Weatherization Program	500,000
09.	Heating Air Repair and Replacement Program (HARRP)	8,103,157
10.	Local Residential Energy Efficiency Service Providers – Weatherization	25,000
11.	Local Residential Energy Efficiency Service Providers – HARRP	266,375
12.	Department of Commerce Administration – Weatherization	25,000
13.	Department of Commerce Administration – HARRP	266,375
14.	Department of Administration – N.C. State Commission of Indian Affairs	129,807
TOTAL LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT		\$ 127,533,192
CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT		
Local Program Expenditures		
Division of Child Development		
01.	Subsidized Child Care Services (CCDF)	\$153,889,889
02.	Contract Subsidized Child Care Services Support	547,600
03.	Subsidized Child Care Services (Transfer from TANF)	84,330,900
04.	Quality and Availability Initiatives	23,726,564
05.	TEACH	3,800,000
Division of Social Services		
06.	Local Subsidized Child Care Services Support	\$19,340,596
DHHS Administration		
Division of Child Development		
07.	DCD Administrative Expenses	6,539,277
Division of Central Administration		

08.	DHHS Central Administration – DIRM Technical Services	774,317
TOTAL CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT		\$292,949,143
CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT RECEIVED THROUGH THE AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)		
Local Program Expenditures		
Division of Child Development		
01.	Subsidized Child Care Services (CCDF)	\$5,980,997
02.	Electronic Benefits Transfer System	4,000,000
DHHS Program Expenditures		
Division of Child Development		
03.	Quality and Availability Initiatives	2,904,787
TOTAL CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT RECEIVED THROUGH THE AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)		\$12,885,784
MENTAL HEALTH SERVICES BLOCK GRANT		
Local Program Expenditures		
01.	Mental Health Services – Adult	\$ 6,656,212
02.	Mental Health Services – Child	5,421,991
03.	Mental Health Services – UNC School of Medicine, Department of Psychiatry (STEP)	200,000
04.	Administration	100,000
TOTAL MENTAL HEALTH SERVICES BLOCK GRANT		\$ 12,378,203
SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT		
Local Program Expenditures		
Division of Mental Health, Developmental Disabilities, and Substance Abuse Services		
01.	Substance Abuse Services – Adult	\$ 22,008,080
02.	Substance Abuse Treatment Alternative for Women	8,107,303
03.	Substance Abuse – HIV and IV Drug	5,116,378
04.	Substance Abuse Prevention – Child	7,186,857



05.	Substance Abuse Services – Child	4,940,500
06.	Institute of Medicine	250,000
07.	Administration	250,000
Division of Public Health		
08.	Risk Reduction Projects	633,980
09.	Aid-to-Counties	209,576
TOTAL SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT		\$ 48,702,674

#### MATERNAL AND CHILD HEALTH BLOCK GRANT

##### Local Program Expenditures

###### Division of Public Health

01.	Children's Health Services	7,534,865
02.	Women's Health	7,701,691
03.	Oral Health	38,041

##### DHHS Program Expenditures

###### Division of Public Health

04.	Children's Health Services	1,368,778
05.	Women's Health	135,452
06.	State Center for Health Statistics	179,483
07.	Quality Improvement in Public Health	14,646
08.	Health Promotion	88,746
09.	Office of Minority Health	55,250
10.	Immunization Program – Vaccine Distribution	382,648

##### DHHS Administration

###### Division of Public Health

11.	Division of Public Health Administration	631,966
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TOTAL MATERNAL AND CHILD HEALTH BLOCK GRANT		\$ 18,131,566
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#### PREVENTIVE HEALTH SERVICES BLOCK GRANT

##### Local Program Expenditures

###### Division of Public Health

01.	NC Statewide Health Promotion	\$1,730,653
02.	Services to Rape Victims	197,112
03.	HIV/STD Prevention and Community Planning (Transfer from Social Services Block Grant)	145,819

DHHS Program Expenditures

Division of Public Health

04.	NC Statewide Health Promotion	1,623,117
05.	Oral Health	70,000
06.	State Laboratory of Public Health	16,600
<b>TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT</b>		<b>\$3,783,301</b>

COMMUNITY SERVICES BLOCK GRANT

Local Program Expenditures

Office of Economic Opportunity

01.	Community Action Agencies	\$ 17,968,944
02.	Limited Purpose Agencies	998,275

DHHS Administration

03.	Office of Economic Opportunity	998,274
<b>TOTAL COMMUNITY SERVICES BLOCK GRANT</b>		<b>\$ 19,965,493</b>

COMMUNITY SERVICES BLOCK GRANT RECEIVED THROUGH THE AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)

Local Program Expenditures

Office of Economic Opportunity

01.	Community Action Agencies	\$ 10,000,000
<b>TOTAL COMMUNITY SERVICES BLOCK GRANT RECEIVED THROUGH THE AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)</b>		<b>\$ 10,000,000</b>

**GENERAL PROVISIONS**

**SECTION 10.37.(b)** Information to Be Included in Block Grant Plans. – The Department of Health and Human Services shall submit a separate plan for each Block Grant received and administered by the Department, and each plan shall include the following:

- (1) A delineation of the proposed allocations by program or activity, including State and federal match requirements.
- (2) A delineation of the proposed State and local administrative expenditures.
- (3) An identification of all new positions to be established through the Block Grant, including permanent, temporary, and time-limited positions.

- (4) A comparison of the proposed allocations by program or activity with two prior years' program and activity budgets and two prior years' actual program or activity expenditures.
- (5) A projection of current year expenditures by program or activity.
- (6) A projection of federal Block Grant funds available, including unspent federal funds from the current and prior fiscal years.

**SECTION 10.37.(c)** Changes in Federal Fund Availability. – If the Congress of the United States increases the federal fund availability for any of the Block Grants or contingency funds and other grants related to existing Block Grants administered by the Department of Health and Human Services from the amounts appropriated in this section, the Department shall allocate the increase proportionally across the program and activity appropriations identified for that Block Grant in this section. In allocating an increase in federal fund availability, the Office of State Budget and Management shall not approve funding for new programs or activities not appropriated in this section.

If the Congress of the United States decreases the federal fund availability for any of the Block Grants or contingency funds and other grants related to existing Block Grants administered by the Department of Health and Human Services from the amounts appropriated in this section, the Department shall reduce State administration by at least the percentage of the reduction in federal funds. After determining the State administration, the remaining reductions shall be allocated proportionately across the program and activity appropriations identified for that Block Grant in this section. The Office of State Budget and Management shall report on these changes.

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

**SECTION 10.37.(d)** Appropriations from federal Block Grant funds are made for the fiscal year ending June 30, 2011, according to the schedule enacted for State fiscal year 2010-2011 or until a new schedule is enacted by the General Assembly.

**SECTION 10.37.(e)** All changes to the budgeted allocations to the Block Grants or contingency funds and other grants related to existing Block Grants administered by the Department of Health and Human Services that are not specifically addressed in this section shall be approved by the Office of State Budget and Management, and the Office of State Budget and Management shall consult with the Joint Legislative Commission on Governmental Operations for review prior to implementing the changes. The report shall include an itemized listing of affected programs, including associated changes in budgeted allocations. All changes to the budgeted allocations to the Block Grants shall be reported immediately to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division. This subsection does not apply to Block Grant changes caused by legislative salary increases and benefit adjustments.

#### **TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) FUNDS**

**SECTION 10.37.(f)** The sum of one million ninety-three thousand one hundred seventy-six dollars (\$1,093,176) appropriated in this section in TANF funds to the Department of Health and Human Services, Division of Social Services, for the 2010-2011 fiscal year shall be used to support administration of TANF-funded programs.

**SECTION 10.37.(g)** The sum of two million two hundred thousand dollars (\$2,200,000) appropriated under this section in TANF funds to the Department of Health and Human Services, Division of Social Services, for the 2010-2011 fiscal year shall be used to provide domestic violence services to Work First recipients. These funds shall be used to provide domestic violence counseling, support, and other direct services to clients. These funds shall not be used to establish new domestic violence shelters or to facilitate lobbying efforts. The Division of Social Services may use up to seventy-five thousand dollars (\$75,000) in TANF funds to support one administrative position within the Division of Social Services to implement this subsection.

Each county department of social services and the local domestic violence shelter program serving the county shall develop jointly a plan for utilizing these funds. The plan shall include the services to be provided and the manner in which the services shall be delivered. The county plan shall be signed by the county social services director or the director's designee and the domestic violence program director or the director's designee and submitted to the Division of Social Services by December 1, 2010. The Division of Social Services, in consultation with the Council for Women, shall review the county plans and shall provide consultation and technical assistance to the departments of social services and local domestic violence shelter programs, if needed.

The Division of Social Services shall allocate these funds to county departments of social services according to the following formula: (i) each county shall receive a base allocation of five thousand dollars (\$5,000); and (ii) each county shall receive an allocation of the remaining funds based on the county's proportion of the statewide total of the Work First caseload as of July 1, 2010, and the county's proportion of the statewide total of the individuals receiving domestic violence services from programs funded by the Council for Women as of July 1, 2010. The Division of Social Services may reallocate unspent funds to counties that submit a written request for additional funds.

**SECTION 10.37.(h)** The sum of two million forty-nine thousand six hundred forty-two dollars (\$2,049,642) appropriated in this section in TANF funds to the Department of Health and Human Services, Division of Social Services, for the 2010-2011 fiscal year shall be used to expand after-school programs and services for at-risk children. The Department shall develop and implement a grant program to award grants to community-based programs that demonstrate the ability to reach children at risk of teen pregnancy, school dropout, and gang participation. The Department shall award grants to community-based organizations that demonstrate the ability to develop and implement linkages with local departments of social services, area mental health programs, schools, and other human services programs in order to provide support services and assistance to the child and family. These funds may be used to fund one position within the Division of Social Services to coordinate at-risk after-school programs and shall not be used for other State administration.

**SECTION 10.37.(i)** The sum of fourteen million four hundred fifty-two thousand three hundred ninety-one dollars (\$14,452,391) appropriated in this section to the Department of Health and Human Services, Division of Social Services, in TANF funds for the 2010-2011 fiscal year for child welfare improvements shall be allocated to the county departments of social services for hiring or contracting staff to investigate and provide services in Child Protective Services cases; to provide foster care and support services; to recruit, train, license, and support prospective foster and adoptive families; and to provide interstate and postadoption services for eligible families.

**SECTION 10.37.(j)** The sum of three million dollars (\$3,000,000) appropriated in this section in TANF funds to the Department of Health and Human Services, Special Children Adoption Fund, for the 2010-2011 fiscal year shall be used in accordance with G.S. 108A-50.2, as enacted in Section 10.48 of S.L. 2009-451. The Division of Social Services, in consultation with the North Carolina Association of County Directors of Social Services and representatives of licensed private adoption agencies, shall develop guidelines for the awarding of funds to licensed public and private adoption agencies upon the adoption of children described in G.S. 108A-50 and in foster care. Payments received from the Special Children Adoption Fund by participating agencies shall be used exclusively to enhance the adoption services program. No local match shall be required as a condition for receipt of these funds.

**SECTION 10.37.(k)** The sum of five hundred thousand dollars (\$500,000) appropriated in this section to the Department of Health and Human Services, Division of Social Services, in TANF funds for the 2010-2011 fiscal year shall be used to expand after-school programs for at-risk children attending middle school. The Department shall develop and implement a grant program to award funds to community-based programs demonstrating the capacity to reach children at risk of teen pregnancy, school dropout, and gang participation. These funds shall not be used for training or administration at the State level. All funds shall be distributed to community-based programs, focusing on those communities where similar programs do not exist in middle schools.

**SECTION 10.37.(l)** In implementing the use of TANF funds, the Department of Health and Human Services shall review policies, programs, and initiatives to ensure that they support men in their role as fathers and strengthen fathers' involvement in their children's lives.

The Department shall encourage county departments of social services to ensure their Work First programs emphasize responsible fatherhood and increased participation by noncustodial fathers.

**SECTION 10.37.(m)** The sum of five hundred fifty thousand dollars (\$550,000) is appropriated in this section to the Department of Health and Human Services, Division of Social Services, for contractual follow up and referral services provided by Connect, Inc. on behalf of current and former Work First recipients. Additionally, the sum of four hundred fifty thousand dollars (\$450,000) is appropriated in this section to the Department of Health and Human Services, Division of Social Services, for TANF eligible subsidized employment expenditures occurring during the 2010-2011 fiscal year as part of the outreach component of The Benefit Bank initiative coordinated by Connect, Inc. and MDC, Inc.

As soon as is practicable, the Program Evaluation Division and Fiscal Research Division shall jointly evaluate TANF-funded services provided by Connect, Inc., including the Work Central Career Advancement Program (Call Center) and The Benefit Bank collaborative initiative with MDC, Inc. The Department of Health and Human Services shall furnish historical financial and contractual performance data to facilitate this evaluation.

**SECTION 10.37.(n)** The sum of two million five hundred thousand dollars (\$2,500,000) appropriated in this section to the Department in TANF funds for Boys and Girls Clubs for the 2010-2011 fiscal year shall be used to make grants for approved programs. The Department of Health and Human Services, in accordance with federal regulations for the use of TANF funds, shall administer a grant program to award funds to the Boys and Girls Clubs across the State in order to implement programs that improve the motivation, performance, and self-esteem of youths and to implement other initiatives that would be expected to reduce gang participation, school dropout, and teen pregnancy rates. The Department shall encourage and facilitate collaboration between the Boys and Girls Clubs and Support Our Students, Communities in Schools, and similar programs to submit joint applications for the funds if appropriate.

**SECTION 10.37.(o)** The sum of one million one hundred twenty-nine thousand one hundred fifteen dollars (\$1,129,115) appropriated in this section to the Department of Health and Human Services in TANF funds for the 2010-2011 fiscal year shall be used to continue support for the Child Welfare Collaborative.

**SECTION 10.37.(p)** The sum of three hundred sixty thousand dollars (\$360,000) appropriated to the Department of Health and Human Services, Division of Social Services, under this section in TANF funds for the 2010-2011 fiscal year shall be used to continue support for the Citizens Schools Program, a three-year urban/rural dropout prevention pilot program in the Durham and Vance County public school systems.

#### **TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) EMERGENCY CONTINGENCY FUNDS**

**SECTION 10.37.(q)** The sum of twenty-three million six hundred twenty-five thousand three hundred twenty-nine dollars (\$23,625,329) appropriated under this section from TANF Emergency Contingency funds to the Department of Health and Human Services, Division of Child Development, for the 2010-2011 fiscal year shall be used for subsidized child care services. Payment for subsidized child care services provided with TANF Emergency Contingency funds shall comply with all regulations and policies issued by the Division of Child Development for the subsidized child care program.

**SECTION 10.37.(r)** The sum of nine million seven hundred eighty thousand four hundred ninety-four dollars (\$9,780,494) appropriated under this section from TANF Emergency Contingency funds to the Department of Health and Human Services, Division of Social Services, for the 2010-2011 fiscal year shall be used to support assistance payments provided under the Work First Family Assistance program.

**SECTION 10.37.(s)** The sum of thirty million five hundred fifty-nine thousand twelve dollars (\$30,559,012) appropriated under this section from TANF Emergency Contingency funds to the Department of Public Instruction for the More At Four prekindergarten program for the 2010-2011 fiscal year shall be used to support expenditures on behalf of TANF-eligible children.

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

**SECTION 10.37.(t)** Social Services Block Grant funds appropriated to the North Carolina Inter-Agency Council for coordinating homeless programs, child medical evaluations, and community services provided by Children's Advocacy Centers are exempt from the provisions of 10A NCAC 71R .0201(3).

**SECTION 10.37.(u)** The sum of two million three hundred thousand dollars (\$2,300,000) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2010-2011 fiscal year shall be used to support various child welfare training projects as follows:

- (1) Provide a regional training center in southeastern North Carolina.
- (2) Provide training for residential child caring facilities.
- (3) Provide for various other child welfare training initiatives.

**SECTION 10.37.(v)** The sum of nine hundred forty-three thousand two dollars (\$943,002) appropriated in this section to the Department of Health and Human Services in the Social Services Block Grant for the 2010-2011 fiscal year shall be used to support maternity home services.

**SECTION 10.37.(w)** The sum of two million one hundred forty-seven thousand nine hundred sixty-seven dollars (\$2,147,967) appropriated in this section in the Social Services Block Grant for child caring agencies for the 2010-2011 fiscal year shall be allocated in support of State foster home children.

**SECTION 10.37.(x)** The Department of Health and Human Services is authorized, subject to the approval of the Office of State Budget and Management, to transfer Social Services Block Grant funding allocated for departmental administration between divisions that have received administrative allocations from the Social Services Block Grant.

**SECTION 10.37.(y)** Social Services Block Grant funds appropriated for the Special Children's Adoption Incentive Fund will require a fifty percent (50%) local match.

**SECTION 10.37.(z)** The sum of four hundred twenty-two thousand three dollars (\$422,003) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2010-2011 fiscal year shall be used to continue a Mental Health Services Program for children.

**SECTION 10.37.(aa)** The sum of three hundred seventy-five thousand dollars (\$375,000) appropriated in this section in the Social Services Block Grant for the 2010-2011 fiscal year shall be allocated to the Division of Social Services to support community services provided by Children's Advocacy Centers on behalf of children who are victims of child abuse.

#### **LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT**

**SECTION 10.37.(bb)** Additional emergency contingency funds received may be allocated for Energy Assistance Payments or Crisis Intervention Payments without prior consultation with the Joint Legislative Commission on Governmental Operations. Additional funds received shall be reported to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division upon notification of the award. The Department of Health and Human Services shall not allocate funds for any activities, including increasing administration, other than assistance payments, without prior consultation with the Joint Legislative Commission on Governmental Operations.

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

**SECTION 10.37.(cc)** Payment for subsidized child care services provided with federal TANF funds shall comply with all regulations and policies issued by the Division of Child Development for the subsidized child care program.

**SECTION 10.37.(dd)** If funds appropriated through the Child Care and Development Fund Block Grant for any program cannot be obligated or spent in that program within the obligation or liquidation periods allowed by the federal grants, the Department may move funds to child care subsidies, unless otherwise prohibited by federal requirements of the grant, in order to use the federal funds fully.

**SECTION 10.37.(ee)** If American Recovery and Reinvestment Act of 2009 funds appropriated through the Child Care and Development Fund Block Grant for any program cannot be obligated or spent in that program within the obligation or liquidation periods allowed by the federal grants, the Department may move funds to child care subsidies, unless otherwise prohibited by federal requirements of the grant, in order to use the federal funds fully.

## **SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT**

**SECTION 10.37.(ff)** The sum of two hundred fifty thousand dollars (\$250,000) appropriated in this section in the Substance Abuse Prevention and Treatment Block Grant to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 2010-2011 fiscal year for the North Carolina Institute of Medicine (NCIOM) shall be used to study the following:

- (1) The availability of Medicaid and State-funded mental health, developmental disabilities, and substance abuse services to active duty, reserve, and veteran members of the military and National Guard. The study should discuss the current availability of services, the extent of use, and any gaps in services.
- (2) Issues related to cost, quality, and access to appropriate and affordable health care for all North Carolinians. NCIOM may use funds appropriated for the 2007-2009 fiscal biennium to continue the work of its Health Access Study Group to study these issues. The Health Access Study Group may include in its study the matters contained in Sections 31.1, 31.2, and 31.3 of S.L. 2008-181 and also may monitor federal health-related legislation to determine how the legislation would impact costs, quality, and access to health care.
- (3) Short-term and long-term strategies to address issues within adult care homes that provide residence to persons who are frail and elderly and to persons suffering from mental illness.

The Institute shall make an interim report to the Governor's Office, the Joint Legislative Health Care Oversight Committee, and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services no later than January 15, 2011, which may include recommendations and proposed legislation, and shall issue its final report with findings, recommendations, and suggested legislation to the 2011 General Assembly upon its convening. In the event members of the General Assembly serve on the NCIOM Health Access Study Group, they shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1. The Health Access Study Group may include in its study the matters contained in Sections 31.1, 31.2, and 31.3 of S.L. 2008-181 and also may monitor federal health-related legislation to determine how the legislation would impact costs, quality, and access to health care.

## **MATERNAL AND CHILD HEALTH BLOCK GRANT**

**SECTION 10.37.(gg)** If federal funds are received under the Maternal and Child Health Block Grant for abstinence education, pursuant to section 912 of Public Law 104-193 (42 U.S.C. § 710), for the 2010-2011 fiscal year, then those funds shall be transferred to the State Board of Education to be administered by the Department of Public Instruction. The Department of Public Instruction shall use the funds to establish an abstinence until marriage education program and shall delegate to one or more persons the responsibility of implementing the program and G.S. 115C-81(e1)(4) and (4a). The Department of Public Instruction shall carefully and strictly follow federal guidelines in implementing and administering the abstinence education grant funds.

**SECTION 10.37.(hh)** The Department of Health and Human Services shall ensure that there will be follow-up testing in the Newborn Screening Program.

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

### **FEE INCREASES FOR PESTICIDE DEALERS, PESTICIDE APPLICATORS, AND PEST CONTROL CONSULTANTS**

**SECTION 11.1.(a)** G.S. 143-440 reads as rewritten:

**"§ 143-440. Restricted use pesticides regulated.**

(a) The Board may, by regulation after a public hearing, adopt and from time to time revise a list of restricted use pesticides for the State or for designated areas within the State. The Board may designate any pesticide or device as a "restricted use pesticide" upon the grounds that, in the judgment of the Board (either because of its persistence, its toxicity, or otherwise) it is so hazardous or injurious to persons, pollinating insects, animals, crops, wildlife, lands, or the environment, other than the pests it is intended to prevent, destroy,

control, or mitigate that additional restriction on its sale, purpose, use or possession are required.

(b) The Board may include in any such restricted use regulation the time and conditions of sale, distribution, or use of such restricted use pesticides, may prohibit the use of any restricted use pesticide for designated purposes or at designated times; may require the purchaser or user to certify that restricted use pesticides will be used only as labeled or as further restricted by regulation; may require the certification and recertification of private applicators and, charge a fee of up to ten dollars (\$10.00), with the fee set at a level to make the certification/recertification program self-supporting, and, after opportunity for a hearing, may suspend, revoke or modify the certification for violation of any provision of this Article, or any rule or regulation adopted thereunder; and may, if it deems it necessary to carry out the provisions of this Part, require that any or all restricted use pesticides shall be purchased, possessed, or used only under permit of the Board and under its direct supervision in certain areas and/or under certain conditions or in certain quantities or concentrations except that any person licensed to sell such pesticides may purchase and possess such pesticides without a permit. The Board may require all persons issued such permits to maintain records as to the use of the restricted use pesticides. The Board may authorize the use of restricted use pesticides by persons licensed under the North Carolina Structural Pest Control Act without a permit. A nonrefundable fee of ten dollars (\$10.00) shall be charged for each examination required by this section. This examination fee is in addition to the certification or recertification fee, and any other fee authorized pursuant to any other provision of Article 4C of Chapter 106 of the General Statutes.

(c) A fee of fifty dollars (\$50.00) shall be charged for examination of individuals seeking to be designated as Worker Protection Designated Trainers, in accordance with provisions of the Federal Worker Protection Standard set forth in 40 C.F.R. Part 170, and subsequent amendments to those regulations."

**SECTION 11.1.(b)** G.S. 143-448(b) reads as rewritten:

**"§ 143-448. Licensing of pesticide dealers; fees.**

...  
(b) Applications for a pesticide dealer license shall be in the form and shall contain the information prescribed by the Board. Each application shall be accompanied by a non-refundable fee of ~~fifty dollars (\$50.00)~~ seventy-five dollars (\$75.00). All licenses issued under this Part shall expire on December 31 of the year for which they are issued.

...."

**SECTION 11.1.(c)** G.S. 143-449(b) reads as rewritten:

**"§ 143-449. Qualifications for pesticide dealer license; examinations.**

...  
(b) Each applicant shall satisfy the Board as to his responsibility in carrying on the business of a pesticide dealer. Each applicant for an original license must demonstrate upon written, or written and oral, examination to be prescribed by the Board his knowledge of pesticides, their usefulness and their hazards; his competence as a pesticide dealer; and his knowledge of the laws and regulations governing the use and sale of pesticides. A nonrefundable fee of fifty dollars (\$50.00) shall be charged for each examination required by this section. This examination fee is in addition to any fee authorized pursuant to any other provision of Article 4C of Chapter 106 of the General Statutes.

...."

**SECTION 11.1.(d)** G.S. 143-452(b) reads as rewritten:

**"§ 143-452. Licensing of pesticide applicators; fees.**

...  
(b) Applications for pesticide applicator license shall be in the form and shall contain the information prescribed by the Board. Each application shall be accompanied by a non-refundable fee of ~~fifty dollars (\$50.00)~~ seventy-five dollars (\$75.00) for each pesticide applicator's license. In addition, an annual inspection fee of twenty-five dollars (\$25.00) shall be submitted for each aircraft to be licensed. Should any aircraft fail to pass inspection, making it necessary for a second inspection to be made, the Board shall require an additional twenty-five-dollar (\$25.00) inspection fee. In addition to the required inspection, unannounced inspections may be made without charge to determine if equipment is properly calibrated and maintained in conformance with the laws and regulations. All aircraft licensed to apply pesticides shall be identified by a license plate or decal furnished by the Board at no cost to the



licensee, which plate or decal shall be affixed on the aircraft in a location and manner prescribed by the Board. No applicator inspection or license fee, original or renewal, shall be charged to State agencies or local governments or their employees. Inspections of ground pesticide application equipment may be made. Any such equipment determined to be faulty or unsafe shall not be used for the purpose of applying a pesticide(s) until such time as proper repairs and/or alterations are made."

**SECTION 11.1.(e)** G.S. 143-453 reads as rewritten:

**"§ 143-453. Qualifications for pesticide applicator's license; examinations.**

(a) An applicant for a license must present satisfactory evidence to the Board concerning his qualifications for a pesticide applicator license. The contractor and each pilot involved in aerial application of pesticides shall be licensed.

Those qualifications, in the case of a pilot, shall include at least 125 hours and one year's flying experience as a pilot in the field of aerial pesticide application. A pilot lacking 125 hours and one year's experience as a pilot in the field of aerial pesticide application shall be licensed as an apprentice aerial pesticide applicator pilot. All aerial applications of pesticides by a licensed apprentice shall be conducted under the direct supervision of a licensed pesticide applicator pilot. The supervising pilot, while directly supervising an apprentice, shall operate out of the same airstrip as the apprentice and shall be available periodically throughout each day to provide advice and assistance to the apprentice. A nonrefundable fee of fifty dollars (\$50.00) shall be charged for the examination required by this subsection. Such examination fee shall be charged in addition to the fees authorized pursuant to subsection (b) of this section or any other provision of Article 4C of Chapter 106 of the General Statutes.

(b) Each applicant shall satisfy the Board as to his knowledge of the laws and regulations governing the use and application of pesticides in the classifications he has applied for (manually or with various equipment that he may have applied for a license to operate), and as to his responsibility in carrying on the business of a pesticide applicator. Each applicant for an original license must demonstrate upon written, or written and oral, examination to be prescribed by the Board his knowledge of pesticides, their usefulness and their hazards; his competence as a pesticide applicator; and his knowledge of the laws and regulations governing the use and application of pesticides in the classification for which he has applied. A nonrefundable fee of fifty dollars (\$50.00) shall be charged for the core examination, and an additional twenty dollars (\$20.00) shall be charged for each additional specific classification licensure. Such examination fees shall be charged in addition to the fees authorized pursuant to subsection (a) of this section or any other provision of Article 4C of Chapter 106 of the General Statutes.

...."

**SECTION 11.1.(f)** G.S. 143-455 reads as rewritten:

**"§ 143-455. Pest control consultant license.**

(a) No person shall perform services as a pest control consultant without first procuring from the Board a license. Applications for a consultant license shall be in the form and shall contain the information prescribed by the Board. The application for a license shall be accompanied by a non-refundable annual fee of  ~~fifty dollars (\$50.00)~~ seventy-five dollars (\$75.00).

(b) An applicant for a consultant license must present satisfactory evidence to the Board concerning his qualifications for such license. The Board may classify consultant licenses into one or more classifications or subclassifications based upon types of consulting services performed or to be performed. Such classifications and subclassifications may reflect the crops involved in the consulting service, the discipline or training of consultant, the discretion or lack of discretion involved in the consulting service, and the site or location of the service. Each classification and subclassification may be subject to separate testing procedures and requirements, and may be subject to its own minimum standards of training in specialized subject matter from a recognized college or university, or equivalent specialized consulting experience or training. A nonrefundable fee of fifty dollars (\$50.00) shall be charged for the consultant examination, and an additional twenty dollars (\$20.00) shall be charged for each additional specific classification licensure permitted by this subsection. Such examination fee shall be charged in addition to the fees authorized pursuant to subsection (a) of this section or any other provision of Article 4C of Chapter 106 of the General Statutes. Qualifications for licensing may be less stringent if the licensee is restricted to making recommendations

contained in publications recognized by the Board as appropriate for a specific consulting classification or subclassification.

...."

**SECTION 11.1.(g)** This section becomes effective July 14, 2010, and applies to fees assessed or collected on or after that date.

## **STRUCTURAL PEST CONTROL ACT FEE INCREASES**

**SECTION 11.2.(a)** G.S. 106-65.27 reads as rewritten:

**"§ 106-65.27. Examinations of applicants; fee; license not transferable.**

(a) Certified Applicator. – All applicants for a certified applicator's identification card shall demonstrate practical knowledge of the principles and practices of pest control and safe use of pesticides. Competency shall be determined on the basis of written examinations to be provided and administered by the Committee and, as appropriate, performance testing. Testing shall be based upon examples of problems and situations appropriate to the particular phase or subphase of structural pest control for which application is made and shall include, where relevant, the following areas of competency:

- (1) Label and labeling comprehension.
- (2) Safety factors associated with pesticides – toxicity, precautions, first aid, proper handling, etc.
- (3) Influence of and on the environment.
- (4) Pests – identification, biology, and habits.
- (5) Pesticides – types, formulations, compatibility, hazards, etc.
- (6) Equipment – types and uses.
- (7) Application techniques.
- (8) Laws and regulations.

An applicant for a certified applicator's identification card shall submit an examination fee of ~~ten dollars (\$10.00)~~ twenty-five dollars (\$25.00) for each phase or subphase of structural pest control in which the applicant chooses to be examined. An examination for more than one phase or subphase may be taken at the same time at any regularly scheduled examination. Frequency of such examinations shall be at the discretion of the Committee, provided that a minimum of two examinations be given annually. The examination will cover each phase or subphase of structural pest control for which application is being made.

(b) License. – Each applicant for an original license must demonstrate upon written examination, to be provided and administered by the Committee, his competency as a structural pest control operator for the phase or subphase in which he is applying for a license. Frequency of such examinations shall be at the discretion of the Committee, provided that a minimum of two examinations shall be given annually. The examination will cover each phase or subphase of structural pest control for which application is being made. All applicants for a license shall register with the Division on a prescribed form. A license examination fee of ~~twenty-five dollars (\$25.00)~~ fifty dollars (\$50.00) shall be charged for each phase or subphase of structural pest control in which the applicant chooses to be examined. An examination for more than one phase or subphase of structural pest control may be taken at the same time.

...."

**SECTION 11.2.(b)** G.S. 106-65.31 reads as rewritten:

**"§ 106-65.31. Annual certified applicator card and license fee; registration of servicemen, salesmen, solicitors, and estimators; identification cards.**

(a) Certified Applicator's Identification Card. – The fee for issuance or renewal of a certified applicator's identification card shall be ~~thirty dollars (\$30.00)~~ fifty dollars (\$50.00). Within 75 days after the employment of a certified applicator, the licensee shall apply to the Division for the issuance of a certified applicator's identification card. A certified applicator's identification card shall expire on June 30 of each year and shall be renewed annually. All certified applicators who fail or neglect to renew their card on or before June 30 but make application before January 1 of the following year may have their card renewed without having to be reexamined unless the applicant is scheduled for periodic reexamination under regulations adopted pursuant to G.S. 106-65.27(d)(3). All applicants submitting applications for the renewal of their cards after June 30 shall not use or supervise the use of restricted use pesticides until a new card has been issued.

Any certified applicator whose employment is terminated with a licensee or agent prior to the end of any license year may at any time prior to the end of the license year be reissued a

certified applicator's identification card for the remainder of the license year as an employee of another licensee or agency or as an individual for a fee of five dollars (\$5.00). The licensee shall notify the Division of the termination or change in status of any certified applicator.

Any certified applicator whose identification card is lost or destroyed or changed in any way may be reissued a new card for the remainder of the license year for a fee of five dollars (\$5.00).

(b) License. – The fee for the issuance or renewal of a license for any one phase of structural pest control shall be ~~one hundred fifty dollars (\$150.00)~~ two hundred dollars (\$200.00). Each additional phase shall be ~~sixty-five dollars (\$65.00)~~ seventy-five dollars (\$75.00). The fee for each subphase shall be fifteen dollars (\$15.00). Licenses shall expire on June 30 of each year and shall be renewed annually. All licensees who fail or neglect to renew their license on or before June 30, but who make application before January 1 of the following year, may have their license renewed without having to be reexamined, unless the applicant is scheduled for periodic reexamination under regulations adopted pursuant to G.S. 106-65.27(d)(3). No structural pest control work may be performed until the license has been renewed or until a new license has been issued.

Any licensee whose employment is terminated by his employer or any licensee who is transferred to another company or location other than the company or location shown on his license certificate, may at any time, have his license reissued for the remainder of the license year for a fee of ten dollars (\$10.00).

Any licensee whose license is lost or destroyed may secure a duplicate license for a fee of ten dollars (\$10.00).

(b1) Registration. – Within 75 days after the hiring of an employee who is either an estimator, salesman, serviceman, or solicitor, the licensee shall apply to the Division for the issuance of an identification card for such employee. The application must be accompanied by a fee of ~~twenty-five dollars (\$25.00)~~ forty dollars (\$40.00) for each card. The card shall be issued in the name of the employee and shall bear the name of the employing licensee, the employer's license number and phases, the name and address of the employer's business, and such other information as the Committee may specify. The identification card shall be carried by the employee on his person at all times while performing any phase of structural pest control work. The card must be displayed upon demand by the Commissioner, the Committee, the Division, or any representative thereof, or the person for whom any phase of structural pest control work is being performed. A registered technician's identification card must be renewed annually on or before June 30 by payment of a renewal fee of twenty-five dollars (\$25.00). If a card is lost or destroyed the licensee may secure a duplicate for a fee of five dollars (\$5.00). The licensee shall notify the Division of the termination or change in status of any registered technician. All identification cards expire when a license expires.

When a license is reissued, the licensee shall be responsible for registering and securing identification cards for all existing employees who engage in structural pest control within 10 days of the reissuance of the license.

A certified applicator who is not an employee of a licensed individual shall register the names of all employees under his supervision who are engaged in the performance of structural pest control with the Division and shall purchase a registered technician's identification card for each such employee.

...."

**SECTION 11.2.(c)** This section becomes effective July 14, 2010, and applies to fees assessed or collected on or after that date.

#### **TRANSFER ADMINISTRATION OF THE VOLUNTARY SPAY/NEUTER PROGRAM TO THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES; AMEND FUNDING FOR THE SPAY/NEUTER ACCOUNT**

**SECTION 11.4.(a)** The Spay/Neuter Program established under G.S. 19A-61 and the Spay/Neuter Account established under G.S. 19A-62 are transferred from the Department of Health and Human Services to the Department of Agriculture and Consumer Services. Any unexpended funds appropriated to the Department of Health and Human Services for the 2009-2010 fiscal year to implement the Spay/Neuter Program are transferred to the Department of Agriculture and Consumer Services.

**SECTION 11.4.(b)** G.S. 19A-61 reads as rewritten:  
**"§ 19A-61. Spay/Neuter Program established.**

There is established in the Department of ~~Health and Human Services~~Agriculture and Consumer Services a voluntary statewide program to foster the spaying and neutering of dogs and cats for the purpose of reducing the population of unwanted animals in the State. The program shall consist of the following components:

- (1) Education Program. – The Department shall establish a statewide program to educate the public about the benefits of having cats and dogs spayed and neutered. The Department may work cooperatively on the program with the North Carolina School of Veterinary Medicine, other State agencies and departments, county and city health departments and animal control agencies, and statewide and local humane organizations. The Department may employ outside consultants to assist with the education program.
- (2) Local Spay/Neuter Assistance Program. – The Department shall administer the Spay/Neuter Account established in G.S. 19A-62. Monies deposited in the account shall be available to reimburse eligible counties and cities for the direct costs of spay/neuter surgeries for cats and dogs made available to low-income persons."

**SECTION 11.4.(c)** G.S. 19A-62 reads as rewritten:

**"§ 19A-62. Spay/Neuter Account established.**

(a) Creation. – The Spay/Neuter Account is established as a nonreverting special revenue account in the Department of ~~Health and Human Services~~Agriculture and Consumer Services. The Account consists of the following:

- ~~(1) The portion of the fee imposed under G.S. 130A-190(b)(4) for obtaining a rabies vaccination tag from the Department of Health and Human Services.~~
- (2) ~~Ten dollars (\$10.00)~~Twenty dollars (\$20.00) of the additional fee imposed by G.S. 20-79.7 for an Animal Lovers special license plate.
- (3) Any other funds available from appropriations by the General Assembly or from contributions and grants from public or private sources.

(b) Use. – The revenue in the Account shall be used by the Department of ~~Health and Human Services~~Agriculture and Consumer Services as follows:

- ~~(1) If the revenue generated by the portion of the fee imposed under G.S. 130A-190(b)(3) is less than forty seven thousand five hundred dollars (\$47,500) for the fiscal year, then funds up to the difference between forty seven thousand five hundred dollars (\$47,500) and the amount of revenue generated may be used from this Account to fund rabies education and prevention programs.~~
- (2) ~~Up to Twenty~~twenty percent (20%) ~~shall~~may be used to develop and implement the statewide education program component of the Spay/Neuter Program established in G.S. 19A-61(a).
- (3) Up to twenty percent (20%) of the money in the Account may be used to defray the costs of administering the Spay/Neuter Program established in this Article.
- (4) Funds remaining after deductions for the education program and administrative expenses shall be distributed quarterly to eligible counties and cities seeking reimbursement for reduced-cost spay/neuter surgeries performed during the previous calendar year. A county or city is ineligible to receive funds under this subdivision unless it requires the owner to show proof of rabies vaccination at the time of the procedure or, if none, require vaccination at the time of the procedure.

(c) Report. – In February of each year, the Department must report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division. The report must contain information regarding all revenues and expenditures of the Spay/Neuter Account."

**SECTION 11.4.(d)** G.S. 19A-63 reads as rewritten:

**"§ 19A-63. Eligibility for distributions from Spay/Neuter Account.**

(a) A county or city is eligible for reimbursement from the Spay/Neuter Account if it meets the following condition:

- (1) The county or city offers one or more of the following programs to low-income persons on a year-round basis for the purpose of reducing the cost of spaying and neutering procedures for dogs and cats:

- a. A spay/neuter clinic operated by the county or city.
- b. A spay/neuter clinic operated by a private organization under contract or other arrangement with the county or city.
- c. A contract or contracts with one or more veterinarians, whether or not located within the county, to provide reduced-cost spaying and neutering procedures.
- d. Subvention of the spaying and neutering costs incurred by low-income pet owners through the use of vouchers or other procedure that provides a discount of the cost of the spaying or neutering procedure fixed by a participating veterinarian or other provider.
- e. Subvention of the spaying and neutering costs incurred by persons who adopt a pet from an animal shelter operated by or under contract with the county or city.

(2) Reserved for future codification purposes.

(b) For purposes of this Article, the term "low-income person" shall mean an individual who qualifies for one or more of the programs of public assistance administered by the Department of Health and Human Services pursuant to Chapter 108A of the General Statutes. Statutes or whose annual household income is under three hundred percent (300%) of the federal poverty level guidelines published by the United States Department of Health and Human Services.

(c) Each county shall make rules or publish guidelines that designate what proof a low-income person must submit to establish that the person qualifies for public assistance under subsection (b) of this section or has an annual household income lower than three hundred percent (300%) of the federal poverty level guidelines published by the United States Department of Health and Human Services."

**SECTION 11.4.(e)** G.S. 19A-64 reads as rewritten:

**"§ 19A-64. Distributions to counties and cities from Spay/Neuter Account.**

(a) Reimbursable Costs. – Counties and cities eligible for distributions from the Spay/Neuter Account may receive reimbursement for the direct costs of a spay/neuter surgical procedure for a dog or cat owned by a low-income person ~~meeting the Department's eligibility requirements for spay/neuter services as defined in G.S. 19A-63(b).~~ Reimbursable costs shall include anesthesia, medication, and veterinary services. Counties and cities shall not be reimbursed for the administrative costs of providing reduced-cost spay/neuter services or capital expenditures for facilities and equipment associated with the provision of such services.

(b) Application. – A county or city eligible for reimbursement of spaying and neutering costs from the Spay/Neuter Account shall apply to the Department of ~~Health and Human Services~~ Agriculture and Consumer Services by the last day of January, April, July, and October of each year to receive a distribution from the Account for that quarter. The application shall be submitted in the form required by the Department and shall include an itemized listing of the costs for which reimbursement is sought.

(c) Distribution. – The Department shall make payments from the Spay/Neuter Account to eligible counties and cities who have made timely application for reimbursement within 30 days of the closing date for receipt of applications for that quarter. In the event that total requests for reimbursement exceed the amounts available in the Spay/Neuter Account for distribution, the monies available will be distributed as follows:

- (1) Fifty percent (50%) of the monies available in the Spay/Neuter Account shall be reserved for reimbursement for eligible applicants within development tier one areas as defined in G.S. 143B-437.08. The remaining fifty percent (50%) of the funds shall be used to fund reimbursement requests from eligible applicants in development tier two and three areas as defined in G.S. 143B-437.08.
- (2) Among the eligible counties and cities in development tier one areas, reimbursement shall be made to each eligible county or city ~~in proportion to the number of dogs and cats that have received rabies vaccinations during the preceding fiscal year in that county or city as compared to the number of dogs and cats that have received rabies vaccinations during the preceding fiscal year by all of the eligible applicants in development tier one areas.~~ pursuant to rules adopted by the Department.

- (3) Among the eligible counties and cities in development tier two and three areas, reimbursement shall be made to each eligible county or city ~~in proportion to the number of dogs and cats that have received rabies vaccinations during the preceding fiscal year in that county or city as compared to the number of dogs and cats that have received rabies vaccinations during the preceding fiscal year by all of the eligible applicants in development tier two and three areas pursuant to rules adopted by the Department.~~
- (4) Should funds remain available from the fifty percent (50%) of the Spay/Neuter Account designated for development tier one areas after reimbursement of all claims by eligible applicants in those areas, the remaining funds shall be made available to reimburse eligible applicants in development tier two and three areas."

**SECTION 11.4.(f)** G.S. 19A-65 reads as rewritten:

**"§ 19A-65. Annual Report Required From Every Animal Shelter in Receipt of State or Local Funding.**

Every county or city animal shelter, or animal shelter operated under contract with a county or city or otherwise in receipt of State or local funding shall prepare an annual report in the form required by the Department of Agriculture and Consumer Services setting forth the numbers, by species, of animals received into the shelter, the number adopted out, the number returned to owner, and the number destroyed. The report shall also contain the total operating expenses of the shelter and the cost per animal handled. The report shall be filed with the Department of ~~Health and Human Services~~ Agriculture and Consumer Services by ~~August 1~~ March 1 of each year. A city or county that does not timely file the report required by this section is not eligible to receive reimbursement payments under G.S. 19A-64 during the calendar year in which the report was to be filed."

**SECTION 11.4.(g)** Article 5 of Chapter 19A of the General Statutes is amended by adding a new section to read:

**"§ 19A-66. Notification of available funding.**

Prior to January 1 of each year, the Department of Agriculture and Consumer Services shall notify counties and cities that have, prior to that notification deadline, established eligibility for distribution of funds from the Spay/Neuter Account pursuant to G.S. 19A-63, of the following:

- (1) The amount of funding in the Spay/Neuter Account that the Department will have available for distribution to each county or city receiving notification to pay reimbursement requests submitted by the county or city during the calendar year following the notification deadline; and
- (2) The amount of additional funding, if any, the Department estimates, but does not guarantee, may be available to pay reimbursement requests submitted by the notified county or city to the Department during the calendar year following the notification deadline."

**SECTION 11.4.(h)** G.S. 130A-190(b) reads as rewritten:

"(b) Fee. – Rabies vaccination tags, links, and rivets may be obtained from the ~~Department~~ Department of Health and Human Services. The Secretary is authorized to collect ~~establish by rule~~ a fee for the rabies tags, links, and rivets in accordance with this subsection. The fee for each tag is the sum of the following:

- (1) The actual cost of the rabies tag, links, and rivets.
- (2) Transportation costs.
- (3) ~~Five cents (5¢).~~ Fifteen cents (15¢). This portion of the fee shall be used to fund rabies education and prevention programs.
- (4) ~~Twenty cents (20¢). This portion of the fee shall be credited to the Spay/Neuter Account established in G.S. 19A-62 and used to fund statewide spay/neuter programs. This portion of the fee shall not be imposed for tags provided to persons who operate establishments primarily for the purpose of boarding or training hunting dogs or who own and vaccinate 10 or more dogs per year."~~

**SECTION 11.4.(i)** G.S. 20-79.7(a) reads as rewritten:

"(a) Fees. – Upon request, the Division shall provide and issue free of charge one registration plate to a recipient of a Legion of Valor award, a 100% disabled veteran, and an ex-prisoner of war. All other special registration plates, including additional Legion of Valor,

100% Disabled Veteran, and Ex-Prisoner of War plates, are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

<u>Special Plate</u>	<u>Additional Fee Amount</u>
Animal Lovers	\$30.00
Back Country Horsemen of NC	\$30.00
Coastal Conservation Association	\$30.00
Crystal Coast	\$30.00
El Pueblo	\$30.00
First in Forestry	\$30.00
Historical Attraction	\$30.00
Home Care and Hospice	\$30.00
HOMES4NC	\$30.00
Hospice Care	\$30.00
In God We Trust	\$30.00
Maggie Valley Trout Festival	\$30.00
National Kidney Foundation	\$30.00
North Carolina 4-H Development Fund	\$30.00
North Carolina Libraries	\$30.00
Personalized	\$30.00
Share the Road	\$30.00
State Attraction	\$30.00
Stock Car Racing Theme	\$30.00
Support Our Troops	\$30.00
AIDS Awareness	\$25.00
Buffalo Soldiers	\$25.00
Collegiate Insignia	\$25.00
Goodness Grows	\$25.00
High School Insignia	\$25.00
Kids First	\$25.00
Olympic Games	\$25.00
National Multiple Sclerosis Society	\$25.00
National Wild Turkey Federation	\$25.00
NC Agribusiness	\$25.00
NC Children's Promise	\$25.00
NC Coastal Federation	\$30.00
Nurses	\$25.00
Rocky Mountain Elk Foundation	\$25.00
Special Olympics	\$25.00
Surveyor Plate	\$25.00
The V Foundation for Cancer Research Division	\$25.00
University Health Systems of Eastern Carolina	\$25.00
Alpha Phi Alpha Fraternity	\$20.00
ALS Association, Jim "Catfish" Hunter Chapter	\$20.00
<del>Animal Lovers</del>	<del>\$20.00</del>
ARC of North Carolina	\$20.00
Audubon North Carolina	\$20.00
Autism Society of North Carolina	\$20.00
Be Active NC	\$20.00
Brain Injury Awareness	\$20.00
Breast Cancer Earlier Detection	\$20.00
Buddy Pelletier Surfing Foundation	\$20.00
Daughters of the American Revolution	\$20.00
Ducks Unlimited	\$20.00
Greyhound Friends of North Carolina	\$20.00
Guilford Battleground Company	\$20.00
Juvenile Diabetes Research Foundation	\$20.00
Harley Owners' Group	\$20.00
Litter Prevention	\$20.00
March of Dimes	\$20.00

NC Tennis Foundation	\$20.00
NC Trout Unlimited	\$20.00
NC Wildlife Habitat Foundation	\$20.00
Omega Psi Phi Fraternity	\$20.00
Prince Hall Mason	\$20.00
Save the Sea Turtles	\$20.00
Scenic Rivers	\$20.00
School Technology	\$20.00
SCUBA	\$20.00
Soil and Water Conservation	\$20.00
Special Forces Association	\$20.00
Support Public Schools	\$20.00
US Equine Rescue League	\$20.00
Wildlife Resources	\$20.00
Zeta Phi Beta Sorority	\$20.00
Carolina's Aviation Museum	\$15.00
Leukemia & Lymphoma Society	\$15.00
Lung Cancer Research	\$15.00
Shag Dancing	\$15.00
Active Member of the National Guard	None
100% Disabled Veteran	None
Ex-Prisoner of War	None
Gold Star Lapel Button	None
Legion of Valor	None
Purple Heart Recipient	None
Silver Star Recipient	None
All Other Special Plates	\$10.00."

**SECTION 11.4.(j)** G.S. 20-79.7(b) reads as rewritten:

"(b) Distribution of Fees. – The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) of this section among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, and the Parks and Recreation Trust Fund, which is established under G.S. 113-44.15, as follows:

<u>Special Plate</u>	<u>SRPA</u>	<u>CCAPA</u>	<u>NHTF</u>	<u>PRTF</u>
AIDS Awareness	\$10	\$15	0	0
Alpha Phi Alpha Fraternity	\$10	\$10	0	0
ALS Association, Jim "Catfish" Hunter Chapter	\$10	\$10	0	0
Animal Lovers	\$10	<del>\$10</del> \$20	0	0
ARC of North Carolina	\$10	\$10	0	0
Audubon North Carolina	\$10	\$10	0	0
Autism Society of North Carolina	\$10	\$10	0	0
Back Country Horsemen of NC	\$10	\$20	0	0
Be Active NC	\$10	\$10	0	0
Brain Injury Awareness	\$10	\$10	0	0
Breast Cancer Earlier Detection	\$10	\$10	0	0
Buddy Pelletier Surfing Foundation	\$10	\$10	0	0
Buffalo Soldiers	\$10	\$15	0	0
Carolina's Aviation Museum	\$10	\$5	0	0
Coastal Conservation Association	\$10	\$20	0	0
Crystal Coast	\$10	\$20	0	0
Daughters of the American Revolution	\$10	\$10	0	0
Ducks Unlimited	\$10	\$10	0	0



El Pueblo	\$10	\$20	0	0
First in Forestry	\$10	\$10	\$10	0
Goodness Grows	\$10	\$15	0	0
Greyhound Friends of North Carolina	\$10	\$10	0	0
Guilford Battleground Company	\$10	\$10	0	0
Harley Owners' Group	\$10	\$10	0	0
High School Insignia	\$10	\$15	0	0
Historical Attraction	\$10	\$20	0	0
Home Care and Hospice	\$10	\$20	0	0
HOMES4NC	\$10	\$20	0	0
Hospice Care	\$10	\$20	0	0
In God We Trust	\$10	\$20	0	0
In-State Collegiate Insignia	\$10	\$15	0	0
Juvenile Diabetes Research Foundation	\$10	\$10	0	0
Kids First	\$10	\$15	0	0
Leukemia & Lymphoma Society	\$10	\$5	0	0
Litter Prevention	\$10	\$10	0	0
Lung Cancer Research	\$10	\$5	0	0
Maggie Valley Trout Festival	\$10	\$20	0	0
March of Dimes	\$10	\$10	0	0
National Kidney Foundation	\$10	\$20	0	0
National Multiple Sclerosis Society	\$10	\$15	0	0
National Wild Turkey Federation	\$10	\$15	0	0
NC Agribusiness	\$10	\$15	0	0
NC Children's Promise	\$10	\$15	0	0
NC Coastal Federation	\$10	\$20	0	0
NC 4-H Development Fund	\$10	\$20	0	0
NC Tennis Foundation	\$10	\$10	0	0
NC Trout Unlimited	\$10	\$10	0	0
North Carolina Libraries	\$10	\$20	0	0
NC Wildlife Habitat Foundation	\$10	\$10	0	0
Nurses	\$10	\$15	0	0
Olympic Games	\$10	\$15	0	0
Omega Psi Phi Fraternity	\$10	\$10	0	0
Out-of-state Collegiate Insignia	\$10	0	\$15	0
Personalized	\$10	0	\$15	\$5
Prince Hall Mason	\$10	\$10	0	0
Rocky Mountain Elk Foundation	\$10	\$15	0	0
Save the Sea Turtles	\$10	\$10	0	0
Scenic Rivers	\$10	\$10	0	0
School Technology	\$10	\$10	0	0
SCUBA	\$10	\$10	0	0
Shag Dancing	\$10	\$5	0	0
Share the Road	\$10	\$20	0	0
Soil and Water Conservation	\$10	\$10	0	0
Special Forces Association	\$10	\$10	0	0
Special Olympics	\$10	\$15	0	0
State Attraction	\$10	\$20	0	0
Stock Car Racing Theme	\$10	\$20	0	0
Support Our Troops	\$10	\$20	0	0
Support Public Schools	\$10	\$10	0	0
Surveyor Plate	\$10	\$15	0	0

The V Foundation for Cancer Research	\$10	\$15	0	0
University Health Systems of Eastern Carolina	\$10	\$15	0	0
US Equine Rescue League	\$10	\$10	0	0
Wildlife Resources	\$10	\$10	0	0
Zeta Phi Beta Sorority	\$10	\$10	0	0
All other Special Plates	\$10	0	0	0."

**SECTION 11.4.(k)** The Department of Agriculture and Consumer Services may study the State's role in reducing the number of unwanted dogs and cats and in ensuring the humane treatment of dogs and cats by breeders, shelters, and other facilities that house dogs and cats. As part of this study, the Department may do the following:

- (1) Conduct a comprehensive evaluation of the need for revisions of or additions to existing regulatory authority designed to address animal welfare issues in the State, including a review of existing State and federal law.
- (2) Evaluate the existing needs among county and State agencies for improving responses to animal welfare incidents.
- (3) Consider the extent to which the existing infrastructure of the State Animal Response Team may be expanded to handle animal emergencies that involve companion animals and the feasibility and needs for such an expansion.
- (4) Survey local government to determine the total fiscal demand for a voluntary statewide program to foster the spaying and neutering of dogs and cats for the purpose of reducing the population of unwanted animals.
- (5) Review data regarding the economic impact of animal sheltering and other animal welfare programs, including the costs of such programs to counties and the State, and identify ways that the State might reduce the number of animals being sent to animal shelters and whether more cost-effective means exist to control the pet population without compromising animal welfare.
- (6) Evaluate the needs of the Animal Welfare program within the Department, specifically with regard to dealing with inquiries from the public, inspection capability and frequency, and staff development and training for Department personnel and others in the State that conduct animal welfare work.
- (7) Consult with other organizations and entities it deems appropriate.
- (8) Examine any other issues the Department deems pertinent to its charge under this subsection.

**SECTION 11.4.(l)** The Department of Agriculture and Consumer Services shall conduct the study set out in subsection (k) of this section within funds available for the 2010-2011 fiscal year. The Department may make interim reports as it deems necessary and shall report its findings and recommendations to the Chairs of the House Agriculture Committee, the Senate Agriculture, Environment, and Natural Resources Committee, and the House and Senate Appropriations Subcommittees on Natural and Economic Resources on or before May 1, 2011.

**SECTION 11.4.(m)** G.S. 20-81.12(b11) reads as rewritten:

"(b11) Animal Lovers Plates. – The Division must receive 300 or more applications before an animal lovers plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of the animal lovers plate to the Spay/Neuter Account established in G.S. ~~19A-60~~19A-62."

**SECTION 11.4.(n)** This section becomes effective October 1, 2010.

## **RECLASSIFY ONE VACANT POSITION IN DACS FOR THE NC FARM TO SCHOOL PROGRAM**

**SECTION 11.5.** The Department of Agriculture and Consumer Services shall reclassify one vacant position within the Department and shall fill this reclassified position in a timely manner in order to provide support for the NC Farm to School Program within the Food Distribution Division of the Department.

## **PART XII. DEPARTMENT OF LABOR**

### **DEPARTMENT OF LABOR/APPRENTICESHIP PROGRAM**

**SECTION 12.1.** G.S. 94-12 reads as rewritten:

**"§ 94-12. Fees.**

The following fees are imposed on each apprentice who is covered by a written apprenticeship agreement entered into under this Chapter: (i) a new registration fee of fifty dollars (\$50.00); and (ii) an annual fee of fifty dollars (\$50.00). ~~Each fee authorized by this section is payable as thirty dollars (\$30.00) by the sponsor and twenty dollars (\$20.00) by the apprentice. The sponsor shall collect the fees authorized by this section from the apprentice and remit the total fees owed by the sponsor and the apprentice to the Department of Labor. The fees are departmental receipts and must be applied to the costs of administering the apprenticeship program. The Commissioner may adopt rules pursuant to Chapter 150B of the General Statutes to implement this section. The provisions of this section shall not apply to the State, a department or agency of the State, or any political subdivision of the State or an apprentice of the State, a department or agency of the State, or any political subdivision of the State."~~

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

**CONSOLIDATE THREE DENR SUBUNITS WITHIN THE NEW DIVISION OF ENVIRONMENTAL ASSISTANCE AND OUTREACH**

**SECTION 13.1.(a)** The Division of Environmental Assistance and Outreach is established as a new division within the environmental area of the Department of Environment and Natural Resources. All functions, powers, duties, and obligations previously vested in the following subunits of the Department of Environment and Natural Resources are transferred to, vested in, and consolidated within the Division of Environmental Assistance and Outreach by a Type I transfer, as defined in G.S. 143A-6:

- (1) The Customer Service Center.
- (2) The Division of Pollution Prevention and Environmental Assistance.
- (3) The Small Business Ombudsman.

**SECTION 13.1.(b)** G.S. 18B-902(h) reads as rewritten:

"(h) Recycling Plan Required. – Each applicant for an on-premises malt beverage permit, on-premises unfortified wine permit, on-premises fortified wine permit, or a mixed beverages permit shall prepare and submit with the application a plan for the collection and recycling of all recyclable beverage containers of all beverages to be sold at retail on the premises. A permittee who is not able to find a recycler for its beverage containers may apply to the Alcoholic Beverage Control Commission for a one-year stay of the requirement to implement a recycling program in compliance with G.S. 18B-1006.1. The application shall be made in a form specified by the Commission, shall detail the efforts made by the permittee to provide for the collection and recycling of beverage containers, and shall specify the impediments to implementation of a recycling plan. The Commission shall submit all such applications to the Division of Pollution Prevention and Environmental Assistance and Outreach of the Department of Environment and Natural Resources for review and certification. The Division of ~~Pollution Prevention and Environmental Assistance and Outreach~~ shall investigate each application and prepare a summary of its investigation and shall submit the summary to the Commission along with a notation indicating certification or denial of the application. A permittee whose application for a stay is certified by the Division of ~~Pollution Prevention and Environmental Assistance and Outreach~~ shall not be required to comply with the recycling requirement of the alcoholic beverage laws and regulations during the one-year stay period so certified."

**SECTION 13.1.(c)** G.S. 130A-309.12(a)(6) reads as rewritten:

- "(6) Providing funding for the activities of the Division of ~~Pollution Prevention and Environmental Assistance~~ Assistance and Outreach."

**SECTION 13.1.(d)** G.S. 130A-309.63(b)(2) reads as rewritten:

- "(2) The Department may use up to forty percent (40%) of the revenue in the Account to make grants to encourage the use of processed scrap tire materials. These grants may be made to encourage the use of tire-derived fuel, crumb rubber, carbon black, or other components of tires for use in products such as fuel, tires, mats, auto parts, gaskets, flooring material, or other applications of processed tire materials. These grants shall be made in consultation with the Department of Commerce, the Division of ~~Pollution~~

~~Prevention and Environmental Assistance and Outreach~~ of the Department, and, where appropriate, the Department of Transportation. Grants to encourage the use of processed scrap tire materials shall not be used to process tires."

**SECTION 13.1.(e)** G.S. 136-28.8(g) reads as rewritten:

"(g) On or before October 1 of each year, the Department shall report to the Division of ~~Pollution Prevention and Environmental Assistance and Outreach~~ of the Department of Environment and Natural Resources as to the amounts and types of recycled materials that were specified or used in contracts that were entered into during the previous fiscal year. On or before December 1 of each year, the Division of ~~Pollution Prevention and Environmental Assistance and Outreach~~ shall prepare a summary of this report and submit the summary to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Transportation Oversight Committee. The summary of this report shall also be included in the report required by G.S. 130A-309.06(c)."

**SECTION 13.1.(f)** G.S. 143-58.2(d) reads as rewritten:

"(d) The Department of Administration, in cooperation with the Division of ~~Pollution Prevention and Environmental Assistance and Outreach~~ of the Department of Environment and Natural Resources, shall identify materials and supplies with recycled content that meet appropriate standards for use by State departments, institutions, agencies, community colleges, and local school administrative units."

**SECTION 13.1.(g)** The Revisor of Statutes shall make any other conforming statutory changes necessary to reflect the transfer under subsection (a) of this section that are not included in this section.

#### **CONSOLIDATE TWO DENR OFFICES INTO NEW OFFICE OF ENVIRONMENTAL EDUCATION AND PUBLIC AFFAIRS**

**SECTION 13.1A.(a)** The Office of Environmental Education and Public Affairs is established as a new office within the administrative area of the Department of Environment and Natural Resources. All functions, powers, duties, and obligations previously vested in the following offices of the Department of Environment and Natural Resources are transferred to, vested in, and consolidated within the Office of Environmental Education and Public Affairs by a Type I transfer, as defined in G.S. 143A-6:

- (1) North Carolina Office of Environmental Education.
- (2) Office of Public Affairs.

**SECTION 13.1A.(b)** The title of Part 4B of Article 7 of Chapter 143B of the General Statutes reads as rewritten:

"Part 4B. Office of Environmental ~~Education~~ Education and Public Affairs."

**SECTION 13.1A.(c)** G.S. 143B-285.22 reads as rewritten:

#### **"§ 143B-285.22. Creation.**

There is hereby created a ~~North Carolina~~ the Office of Environmental Education and Public Affairs (hereinafter referred to as "Office") within the Department of Environment and Natural Resources."

**SECTION 13.1A.(d)** G.S. 143B-285.23 reads as rewritten:

#### **"§ 143B-285.23. Powers and duties of the Secretary of Environment and Natural Resources.**

The Secretary of Environment and Natural Resources shall:

- (1) Establish an Office of Environmental Education and Public Affairs to:
  - a. Serve as a clearinghouse of environmental information for the State.

...

...."

**SECTION 13.1A.(e)** The catch line of G.S. 143B-285.25 reads as rewritten:

#### **"§ 143B-285.25. Liaison between the Office of Environmental Education and Public Affairs and the Department of Public Instruction."**

**SECTION 13.1A.(f)** The Revisor of Statutes shall make any other conforming statutory changes that are necessary to reflect the transfers under subsection (a) of this section.

#### **CONSOLIDATE TWO SUBUNITS IN DENR INTO NEW OFFICE OF CONSERVATION, PLANNING, AND COMMUNITY AFFAIRS**

**SECTION 13.1B.** The Office of Conservation, Planning, and Community Affairs is established as a new office within the Office of the Secretary of Environment and Natural Resources of the Department of Environment and Natural Resources. All functions, powers, duties, and obligations previously vested in the following subunits of the Department of Environment and Natural Resources are transferred to, vested in, and consolidated within the Office of Conservation, Planning, and Community Affairs by a Type I transfer, as defined in G.S. 143A-6:

- (1) Office of Conservation and Community Affairs.
- (2) Natural Resources Planning and Conservation.

**STUDY THE MERGER OF THE DIVISION OF ENVIRONMENTAL HEALTH IN DENR AND THE DIVISION OF PUBLIC HEALTH IN DHHS; AMEND ON-SITE WASTEWATER CERTIFICATION**

**SECTION 13.2.(a)** The Division of Environmental Health of the Department of Environment and Natural Resources and the Division of Public Health of the Department of Health and Human Services jointly shall study the desirability and the feasibility of merging these two divisions. Under the first phase of this study, the Division of Environmental Health and the Division of Public Health shall accumulate all of the following information and no later than October 1, 2010, submit a report that includes all this information to the Fiscal Research Division and to the Environmental Review Commission:

- (1) A list of each program in both the Division of Environmental Health and the Division of Public Health.
- (2) A description of each program under subdivision (1) of this subsection.
- (3) A list of all actual expenditures and receipts for each program under subdivision (1) of this subsection, starting with the 2005-2006 fiscal year through the 2009-2010 fiscal year.
- (4) A list of all certified expenditures and receipts for each program under subdivision (1) of this subsection for the 2010-2011 fiscal year.
- (5) The number of full-time equivalent positions employed for each program under subdivision (1) of this subsection, starting with the 2005-2006 fiscal year through the 2010-2011 fiscal year.

**SECTION 13.2.(b)** Under the second phase of this study, the Division of Environmental Health of the Department of Environment and Natural Resources and the Division of Public Health of the Department of Health and Human Services shall consider the information accumulated under subsection (a) of this section as well as all of the following:

- (1) The current structure and management of these two divisions.
- (2) Each program within one of these two divisions that duplicates or overlaps any program within the other division.
- (3) The gains and losses in efficiency that could result from merging these two divisions.
- (4) The gains and losses in operating costs, receipts, or any other expenditures or costs that could result from merging these two divisions.
- (5) Were these two divisions merged, where the merged division should be located, the Department of Environment and Natural Resources or the Department of Health and Human Services, and the reasons for this conclusion.
- (6) Any other issue deemed pertinent to the study.

**SECTION 13.2.(c)** No later than January 15, 2011, the Division of Environmental Health of the Department of Environment and Natural Resources and the Division of Public Health of the Department of Health and Human Services shall submit a final report that includes the findings, recommendations, and any legislative proposals of the joint study under subsection (a) and subsection (b) of this section to the House and Senate Appropriations Subcommittees on Natural and Economic Resources and the Fiscal Research Division.

**SECTION 13.2.(d)** The Environmental Review Commission also shall study the desirability and the feasibility of merging the Division of Environmental Health of the Department of Environment and Natural Resources and the Division of Public Health of the Department of Health and Human Services and shall, no later than January 15, 2011, report its findings, recommendations, and any legislative proposals to the 2011 General Assembly. In conducting this study, the Environmental Review Commission shall consider all of the

information provided to the Environmental Review Commission under subsection (a) of this section and all of the issues to be considered under subdivisions (1) through (6) of subsection (b) of this section.

**SECTION 13.2.(e)** G.S. 90A-71 reads as rewritten:

**"§ 90A-71. Definitions.**

The following definitions apply in this Article:

- (1) "Board" means the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board.
- (2) "Contractor" means a person who constructs, installs, or repairs, or offers to construct, install, or repair an on-site wastewater system in the State.
- (3) "Conventional wastewater system" has the same meaning as in G.S. 130A-343(a)(3).
- (4) "Department" means the Department of Environment and Natural Resources.
- (5) "Inspector" means a person who conducts an inspection ~~of an on-site wastewater system at any time after the local health department has issued an operation permit pursuant to G.S. 130A-337.~~in accordance with rules adopted by the Board.
- (5a) "Inspection" means an examination of an on-site wastewater system permitted under the provisions of Article 11 of Chapter 130A of the General Statutes that satisfies all of the following criteria:
  - a. Is requested by a lending institution, realtor, prospective homebuyer, or other impacted party as a condition of sale, refinancing, or transfer of title.
  - b. Meets the minimum requirements established by the Board.
- (6) "On-site wastewater system" means any wastewater system permitted under the provisions of Article 11 of Chapter 130A of the General Statutes that does not discharge to a treatment facility or the surface waters of the State.
- (7) "Person" means all persons, including individuals, firms, partnerships, associations, public or private institutions, municipalities, or political subdivisions, governmental agencies, or private or public corporations organized and existing under the laws of this State or any other state or country.
- (8) "Wastewater treatment facility" means a mechanical or chemical treatment facility serving a site with multiple wastewater sources."

**SECTION 13.2.(f)** G.S. 90A-72 reads as rewritten:

**"§ 90A-72. Certification required; applicability.**

(a) Certification Required. – No person shall construct, install, or repair or offer to construct, install, or repair an on-site wastewater system ~~in the State~~permitted under Article 11 of Chapter 130A of the General Statutes without being certified as a contractor at the required level of certification for the specified system. No person shall conduct an inspection or offer to conduct an inspection of an on-site wastewater system ~~as permitted under Article 11 of Chapter 130A of the General Statutes~~ without being certified as an inspector at the required level of certification for the specified system in accordance with the provisions of this Article.

(b) Applicability. – This Article does not apply to the following:

- (1) A person who is employed ~~by, or performs labor and services for,~~by a certified contractor or inspector in connection with the construction, installation, repair, or inspection of an on-site wastewater system performed under the direct and personal supervision of the certified contractor or ~~inspector.~~inspector in charge.
- (2) A person who constructs, installs, or repairs an on-site wastewater system described as a single septic tank with a gravity-fed ~~distribution system~~gravel trench dispersal media when located on land owned by that person and that is intended solely for use by that person and members of that person's immediate ~~family.~~family who reside in the same dwelling.
- (3) A person licensed under Article 1 of Chapter 87 of the General Statutes who constructs or installs an on-site wastewater system ancillary to the building being ~~constructed.~~constructed or who provides corrective services and labor for an on-site wastewater system ancillary to the building being constructed.

- (4) A person who is certified by the Water Pollution Control System Operators Certification Commission and contracted to provide necessary operation and maintenance on the permitted on-site wastewater system.
- (5) A person permitted under Article 21 of Chapter 143 of the General Statutes who is constructing a water pollution control facility necessary to comply with the terms and conditions of a National Pollutant Discharge Elimination System (NPDES) permit.
- (6) A person licensed under Article 1 of Chapter 87 of the General Statutes as a licensed public utilities contractor who is installing or expanding a wastewater treatment facility, including a collection system, designed by a registered professional engineer.
- (7) A plumbing contractor licensed under Article 2 of Chapter 87 of the General Statutes, so long as the plumber is not performing plumbing work that includes the installation or repair of a septic tank or similar depository, or lines or appurtenances downstream from the point where the house or building sewer lines from the plumbing system meet the septic tank or similar depository.
- (8) A person employed by the Department, a local health department, or a local health district, when conducting a regulatory inspection of an on-site wastewater system for purposes of determining compliance."

**SECTION 13.2.(g)** G.S. 90A-73(a)(2) reads as rewritten:

"(2) One member appointed by the Governor who, at the time of appointment, is a certified ~~water treatment facility operator pursuant to Article 2 of Chapter 90A of the General Statutes,~~ water pollution control system operator pursuant to Article 3 of this Chapter, to a term that expires on 1 July of years evenly divisible by three."

**SECTION 13.2.(h)** G.S. 90A-73(c), 90A-73(d), and 90A-73(i) are repealed.

**SECTION 13.2.(i)** G.S. 90A-74 reads as rewritten:

**"§ 90A-74. Powers and duties of the Board.**

The Board shall have the following general powers and duties:

- ...
- (4) To develop and administer examinations for ~~each grade level of certification-specific grade levels of certification as approved by the Board.~~ The Board may approve applications by recognized associations for certification of its members after a review of the requirements of the association to ensure that they are equivalent to the requirements of the Board.
- ...
- (10a) To employ staff necessary to carry out the provisions of this Article and to determine the compensation, duties, and other terms and conditions of employment of its staff.
- (10b) To employ professional, clerical, investigative, or special personnel necessary to carry out the provisions of this Article.
- (11) To conduct other services necessary to carry out the purposes of this Article."

**SECTION 13.2.(j)** G.S. 90A-75 is amended by adding a new subsection to read:

"(c1) Use of Fees. – All fees collected pursuant to this Article shall be held by the Board and used by the Board for the sole purpose of administering this Article."

**SECTION 13.2.(k)** G.S. 90A-76 is repealed.

**SECTION 13.2.(l)** G.S. 90A-77(a) reads as rewritten:

"(a) Certification. – The Board shall issue a certificate of the appropriate grade level to an applicant who satisfies all of the following conditions:

- (1) Is at least 18 years of age.
- (2) Submits a properly completed application to the Board.
- (3) ~~If the applicant has prior experience providing on-site wastewater system services, submits affidavits of three persons not related to the applicant for whom the applicant provided on-site wastewater services.~~ Completes the basic on-site wastewater education program approved by the Board for the specific grade level.

- (4) ~~If the applicant has no prior experience, completes the basic on-site wastewater education program approved by the Board.~~
- (5) Completes any additional training program designed by the Board specific to the grade level for which the applicant is applying.
- (6) Pays the applicable fees set by the Board for the particular application and grade level.
- (7) ~~For the specific grade levels greater than conventional systems level, as determined by the Board,~~ passes a written or oral examination that tests the applicant's proficiency in all of the following areas:
  - a. Principles of public and environmental health associated with on-site wastewater systems.
  - b. Principles of construction and safety.
  - c. Technical and practical knowledge of on-site wastewater systems typical to the specified grade level.
  - d. Laws and rules related to the installation, construction, repair, or inspection of the specified on-site wastewater system."

**SECTION 13.2.(m)** G.S. 90A-81(c) reads as rewritten:

"(c) Injunction. – The Board may ~~ask the Attorney General to~~ in its own name seek an injunction to restrain any person, firm, partnership, or corporation from violating the provisions of this Article or rules adopted by the Board. ~~The Attorney General~~ Board may bring an action for an injunction ~~in the name of the State~~ in the superior court of any county in which the violator resides or the violator's principal place of business is located. In any proceedings for an injunction, it shall not be necessary to allege or prove either that an adequate remedy at law does not exist, or that substantial or irreparable damage would result from the continued violation. Members of the Board shall not be personally or professionally liable for any act or omission pursuant to this subsection. The Board shall not be required to post a bond in connection with any action to obtain an injunction."

**SECTION 13.2.(n)** Any funds remaining as of June 30, 2010, in the On-Site Wastewater Certification Fund created in G.S. 90A-76 as a nonreverting account within the Department of Environment and Natural Resources shall be credited to the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board and shall be used in accordance with G.S. 90A-75, as amended by this section.

**SECTION 13.2.(o)** This transfer is effective July 1, 2010, and funds transferred shall be net of any changes enacted by this section.

**SUSTAINABLE COMMUNITIES TASK FORCE**

**SECTION 13.5.(a)** Article 7 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 31. North Carolina Sustainable Communities Task Force.

**"§ 143B-344.34. North Carolina Sustainable Communities Task Force – findings.**

(a) The General Assembly finds that the rapid growth of the urban and suburban areas of North Carolina and the economic challenges facing many of the State's urban cores, rural areas, and smaller communities create a significant need for the strategic use of resources to plan and accommodate healthy and equitable development without compromising natural systems and the needs of future generations of North Carolinians.

(b) The General Assembly finds that the following principles describe sustainable development for North Carolina's communities:

- (1) Better transportation choices. – Offering safe, reliable, and economical motorized and nonmotorized transportation options to decrease household transportation costs, reduce dependence on foreign oil, improve air quality, reduce greenhouse gas emissions, and promote public health.
- (2) Equitable, affordable housing. – Encouraging the provision to North Carolina citizens of all ages, incomes, races, and ethnicities expanded location-, water-, and energy-efficient housing choices that increase mobility, decrease the impact on existing water and energy infrastructure, and lower the combined cost of housing and transportation.
- (3) Enhanced economic competitiveness. – Expanding business access to markets and improving North Carolina's economic competitiveness through



- reliable and timely access to employment centers, educational opportunities, services, and other basic needs by workers.
- (4) Support of existing communities. – Targeting public funds toward existing communities that are using strategies such as transit-oriented, mixed-use development, and land recycling to increase community revitalization, enhance the efficiency and cost-effectiveness of public works investments, and protect rural landscapes.
  - (5) Coordination and leverage of State policies and investment. – Aligning State and local government policies and funding to remove barriers to collaboration, leverage funding, and increase the accountability and effectiveness of government in planning for future growth.
  - (6) Recognize and support communities and neighborhoods. – Preserving and enhancing the unique characteristics of rural, urban, and suburban communities by investing in healthy, safe, and walkable neighborhoods.

**"§ 143B-344.35. North Carolina Sustainable Communities Task Force – creation; purpose; duties.**

There is created within the Department of Environment and Natural Resources the North Carolina Sustainable Communities Task Force to lead and support the State's sustainable communities initiatives. The duties of the Task Force shall be as follows:

- (1) To apply for and receive, on behalf of the State, funding from federal, public, or private initiatives, grant programs, or donors that will foster sustainable development in North Carolina.
- (2) To promote regional partnerships and to assist local governments and regional or interlocal organizations in North Carolina in seeking and managing funding from federal, public, or private initiatives, grant programs, or donors related to the planning, development, or redevelopment of the State's communities in a sustainable manner.
- (3) To identify federal funding opportunities related to sustainable development.
- (4) To provide technical assistance to eligible State agencies, local governments, nonprofits or regional collaborations, and partnerships in applying for federal and other funding opportunities. This technical assistance shall include the development of scenario planning tools, progress measurement metrics, and public participation strategies for use by all applicants.
- (5) To recommend policies for the support, promotion, and encouragement of sustainable communities to the Secretaries of the Departments of Administration, Commerce, Environment and Natural Resources, Health and Human Services, and Transportation, the General Assembly, and the Governor.
- (6) To recommend annually to the Governor appropriations for sustainable development programs.
- (7) To develop a common local government sustainable practices scoring system incorporating the principles set forth in G.S. 143B-344.34(b).
- (8) To pursue opportunities to combine the efforts of State agencies related to development and infrastructure; to study how existing regional and interlocal organizations could improve their organization and reduce unnecessary overlap and duplication of services; and to better integrate State efforts and investments with regional and local efforts. The Task Force shall include in its recommendations under subdivisions (5) and (6) of this section any recommendations for legislation necessary to implement any potential improvements identified under this subdivision.

**"§ 143B-344.36. North Carolina Sustainable Communities Task Force – membership; term; compensation; sunset.**

(a) Membership and Advice. – The Task Force shall consist of 13 members who reflect the diversity of the State. The Secretaries of Commerce, Environment and Natural Resources, and Transportation and the Director of the North Carolina Housing Finance Agency shall each designate a representative to the Task Force from their agencies. The Secretary of Administration shall designate a representative from that Department who is familiar with the management and development of State-owned lands and buildings. The Secretary of Health and Human Services shall designate a representative from the Division of Public Health of the

Department of Health and Human Services who is familiar with the impact of the built environment on human health. The Governor shall appoint one member who is a representative of a nonprofit organization involved in the planning, advocacy, or creation of sustainable development. The President Pro Tempore of the Senate shall appoint three members: one member who is a representative of a county government, one member who is a representative of the building industry, and one member who is a representative of a council of government or other regional collaborative organization. The Speaker of the House of Representatives shall appoint three members: one member who is a representative of a city government, one member who is a representative of the banking industry, and one member with professional training in planning who is a member of the North Carolina Chapter of the American Planning Association.

The Secretaries of Administration, Commerce, Environment and Natural Resources, Health and Human Services, and Transportation, or their designees, shall advise the Task Force on sustainable development activities within the responsibility of their respective departments and shall cooperate with the Task Force in jointly seeking funds from federal, public, or private initiatives, grant programs, or donors.

(b) Terms, Vacancies. – The members of the Task Force appointed by the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives shall have a term of office of four years and shall serve until their successors are appointed and qualified. An appointment to fill a vacancy shall be for the unexpired balance of the term. The remaining members of the Task Force shall serve at the pleasure of the appointing authority.

(c) Compensation. – The public members of the Task Force shall receive per diem and necessary travel and subsistence expenses payable to members of State boards and agencies as set forth by G.S. 138-5 and G.S. 138-6, respectively.

(d) Sunset. – This Part expires June 30, 2016.

**"§ 143B-344.37. North Carolina Sustainable Communities Grant Fund.**

(a) Establishment. – The North Carolina Sustainable Communities Grant Fund is established in the Department of Environment and Natural Resources, and the North Carolina Sustainable Communities Task Force within that Department shall be responsible for administering the Fund.

(b) Purposes. – Funds in the North Carolina Sustainable Communities Grant Fund shall be used, as available, to provide funding to regional bodies, cities, or counties to improve regional planning efforts that integrate housing and transportation decisions, to increase the capacity to improve land use and zoning and to provide up to fifty percent (50%) of any required local matching funds for recipients of Federal Sustainable Communities Planning Grants and any other federal grants related to sustainable development and requiring local matching funds. In order to receive funds under this section, regions must meet all of the following requirements:

- (1) The regional body, city, or county is a part of a regional sustainable development partnership that includes any of the metro regions as defined in G.S. 143B-344.38(b). Partnerships may also include any Metropolitan Planning Organizations, Regional Planning Organizations, regional transit agencies, and representation from involved State agencies.
- (2) The partnership has submitted a work plan to the Task Force describing the activities to be funded and the public comment process by which activities are selected and prioritized.
- (3) All members of the partnership have adopted a jointly developed memorandum of agreement describing how coordinated planning activities will be undertaken.

(c) Funding Guidelines. – In awarding any grant funding, the Task Force shall utilize the common local government sustainable practices scoring system developed in accordance with G.S. 143B-344.35(7). In its consideration of grant applications, the Task Force may also consider any offers by a partnership to provide matching funds.

**"§ 143B-344.38. North Carolina Sustainable Communities Task Force – reports.**

(a) Beginning in 2011, the Task Force shall report to the Governor, the chairs of the House Commerce, Small Business, and Entrepreneurship Committee and the Senate Commerce Committee, and the Joint Legislative Commission on Governmental Operations no later than October 1 each year. The report shall include the following elements:

- (1) Policy recommendations, suggested legislation, and recommended appropriations made pursuant to subdivisions (5), (6), and (8) of G.S. 143B-344.35.
- (2) Population, employment, building permit, and related socioeconomic data for each metro region of the State, including 25-year projections of population and employment and any other demographic trends the Task Force finds relevant, with commentary on any changing trends in the data that might affect planning for sustainable development and infrastructure. Where possible, the Task Force shall use data already collected by the State Demographer, the United States Census Bureau, and any other State or federal agency.
- (3) An inventory and description of State policies and programs that influence either positively or negatively the ability to develop sustainable communities.
- (4) Funding applied for and received in the prior fiscal year.
- (5) A list of the projects for which funding was distributed to local governments and regional or interlocal organizations in North Carolina for sustainable planning, development, or redevelopment under G.S. 143B-344.35.
- (6) A list of the projects for which the Task Force provided technical assistance under G.S. 143B-344.35(4).
- (7) The remaining funds available and all grants distributed to regional sustainable development partnerships under G.S. 143B-344.37.
- (8) An overview of all State funding initiatives (including State-allocated federal funding initiatives) used to support housing, infrastructure, water quality, and land preservation, including, at a minimum, the following:
  - a. The Clean Water Management Trust Fund.
  - b. The Parks and Recreation Trust Fund.
  - c. The Agricultural Development and Farmland Preservation Trust Fund.
  - d. The Natural Heritage Trust Fund.
  - e. The Highway Fund and the Highway Trust Fund.
  - f. The Congestion Relief and Intermodal Transportation 21<sup>st</sup> Century Fund.
  - g. The North Carolina Main Street Program and the Main Street Solutions Fund.
  - h. The Housing Trust Fund and the low-income housing tax credit funds administered by the Housing Finance Agency.
  - i. Funds from the Public School Building Capital Fund used by counties for the purchase of land for public school buildings.
  - j. The tax credits for renewable energy property, historic rehabilitation, and mill rehabilitation set forth in Chapter 105 of the General Statutes.

The overview should include the current funding level, changes in funding over the previous fiscal year, and how the funding initiative has contributed to sustainable development, or, in the case of a tax credit, the number and geographical distribution of taxpayers taking the credit, the amount of credits claimed, and how the credit has contributed to sustainable development.

(b) For purposes of this section, "metro region of the State" includes the following Statistical Areas defined by the United States Census Bureau:

- (1) The Research Triangle region (made up of the Durham-Chapel Hill and the Raleigh-Cary Metropolitan Statistical Areas).
- (2) The North Carolina portion of the Charlotte-Gastonia-Concord Metropolitan Statistical Area.
- (3) The Greensboro-Winston-Salem-High Point Combined Statistical Area.
- (4) The Asheville Metropolitan Statistical Area.
- (5) The Hickory-Lenoir-Morganton Metropolitan Statistical Area.
- (6) The Fayetteville Metropolitan Statistical Area.
- (7) The Wilmington Metropolitan Statistical Area.

- (8) The Greenville Metropolitan Statistical Area.
- (9) The Jacksonville Metropolitan Statistical Area.
- (10) The Rocky Mount Metropolitan Statistical Area.
- (11) The Goldsboro Metropolitan Statistical Area.
- (12) Any other Metropolitan Statistical Area that includes counties of the State and that has a population of 100,000 or more within the State."

**SECTION 13.5.(b)** G.S. 120-123 is amended by adding a new subdivision to read:  
 "(79) The North Carolina Sustainable Communities Task Force, as established in Article 7 of Chapter 143B of the General Statutes."

**SECTION 13.5.(c)** Reports. – The Departments of Administration, Commerce, Health and Human Services, Transportation, and Environment and Natural Resources shall report by October 1 each year, beginning in 2010, to the chairs of the House Commerce, Small Business, and Entrepreneurship Committee and the Senate Commerce Committee and the Joint Legislative Commission on Governmental Operations. The report shall provide information regarding each Department's progress in implementing the sustainable development principles set forth in G.S. 143B-344.34 as enacted by subsection (a) of this section.

**SECTION 13.5.(d)** Staffing. – The Department of Environment and Natural Resources shall transfer the vacant District Planner position in the Division of Coastal Management to the Task Force and shall fill the position in a timely manner in order to provide support for the operations and activities of the Task Force. For administrative purposes, the Task Force shall be located in the Office of the Secretary of Environment and Natural Resources. The Department's Office of Conservation, Planning, and Community Affairs will provide appropriate administrative and clerical support for the activities of the Task Force. Additionally, the Office will work to promote the goals of the Task Force and to integrate its activities with existing programs of the Office.

**SECTION 13.5.(e)** Sunset. – This section expires June 30, 2016.

#### **DAM SAFETY FEE**

**SECTION 13.6.(a)** A one-time Dam Evaluation Fee of one thousand one hundred dollars (\$1,100) per equivalent dam unit shall be paid to the Department of Environment and Natural Resources by electric utility companies in a lump sum payment based on the number of equivalent dam units owned by each company that fall under the jurisdiction of the Part 3 of Article 21 of Chapter 143 of the General Statutes. Fees collected pursuant to this section shall be used to support one time-limited engineering position and operating funds necessary to perform the evaluation and integration of regulated power plant dams into the Department's dam safety inventory program. These fees shall remain available to the Department and shall not revert until the evaluation and integration of regulated power plants is complete.

**SECTION 13.6.(b)** This section becomes effective October 1, 2010.

#### **INCREASE HAZARDOUS WASTE FEES**

**SECTION 13.8.(a)** G.S. 130A-294.1 reads as rewritten:

"§ 130A-294.1. Fees applicable to generators and transporters of hazardous waste, and to hazardous waste storage, treatment, and disposal facilities.

...  
 (e) A person who generates either one kilogram or more of any acute hazardous waste as listed in 40 C.F.R. § 261.30(d) or § 261.33(e) as revised 1 July 1987, or 1000 kilograms or more of hazardous waste, in any calendar month during the year beginning 1 July and ending 30 June shall pay an annual fee of one thousand four hundred dollars ~~(\$1,000)~~ (\$1,400).

(f) A person who generates 100 kilograms or more of hazardous waste in any calendar month during the year beginning 1 July and ending 30 June but less than 1000 kilograms of hazardous waste in each calendar month during that year shall pay an annual fee of one hundred ~~twenty-five~~ seventy-five dollars ~~(\$125.00)~~ (\$175.00).

(g) A person who generates one kilogram or more of acute hazardous waste or 1000 kilograms or more of hazardous waste in any calendar month during the calendar year shall pay, in addition to any fee under subsections (e) and (f) of this section, a tonnage fee of fifty seventy cents ~~(\$0.50)~~ (\$0.70) per ton or any part thereof of hazardous waste generated during that year up to a maximum of 25,000 tons.

...

(j) A person who transports hazardous waste shall pay an annual fee of ~~six-eight~~ hundred ~~forty~~ dollars (~~\$600.00~~)-(~~\$840.00~~).

(k) A storage, treatment, or disposal facility shall pay an annual activity fee of one thousand ~~two-six~~ hundred ~~eighty~~ dollars (~~\$1,200~~) (~~\$1,680~~) for each activity.

(l) A commercial hazardous waste storage, treatment, or disposal facility shall pay annually, in addition to the fees applicable to all hazardous waste storage, treatment, or disposal facilities, a single tonnage charge of ~~one dollar and seventy-five cents (\$1.75)~~ two dollars and forty-five cents (\$2.45) per ton or any part thereof of hazardous waste stored, treated, or disposed of at the facility. A manufacturing facility that receives hazardous waste generated from the use of a product typical of its manufacturing process for the purpose of recycling is exempt from this tonnage charge. A facility must have a permit issued under this Article which includes the recycling activity and specifies the type and amount of waste allowed to be received from off-site for recycling.

(m) An applicant for a permit for a hazardous waste storage, treatment, or disposal facility that proposes to operate as a commercial facility shall pay an application fee for each proposed activity as follows:

- |     |                    |  |
|-----|--------------------|--|
| (1) | Storage facility   | <del>\$10,000</del> ; <u>\$14,000.</u> |
| (2) | Treatment facility | <del>\$15,000</del> ; <u>\$21,000.</u> |
| (3) | Disposal facility  | <del>\$25,000</del> ; <u>\$35,000.</u> |

...."

**SECTION 13.8.(b)** This section becomes effective July 1, 2010. However, the Department of Environment and Natural Resources shall not collect the fees established pursuant to this section until on or after July 14, 2010.

#### **INCREASE ADMINISTRATIVE CAP FOR INACTIVE HAZARDOUS WASTE SITES PROGRAM; ADD RECIPIENTS TO ANNUAL REPORT REQUIREMENT**

**SECTION 13.9.(a)** G.S. 130A-295.9(1) reads as rewritten:

"(1) Funds credited pursuant to G.S. 105-187.63(1) to the Inactive Hazardous Sites Cleanup Fund shall be used by the Department of Environment and Natural Resources to fund the assessment and remediation of pre-1983 landfills, except up to ~~seven percent (7%)~~ thirteen percent (13%) of the funds credited under this subdivision may be used to fund administrative expenses related to the assessment and remediation of pre-1983 landfills and other inactive hazardous waste sites."

**SECTION 13.9.(b)** G.S. 130A-310.10(a) reads as rewritten:

"(a) The Secretary shall report on inactive hazardous sites to the Joint Legislative Commission on Governmental Operations, the Environmental Review Commission, and the Fiscal Research Division on or before 1 October of each year. The report shall include at least:

- (1) The Inactive Hazardous Waste Sites Priority List;

...."

#### **FUNDS FOR CLEANUP AND MONITORING OF TEXFI SITE CONTAMINATION**

**SECTION 13.9A.** There is appropriated from the Solid Waste Management Trust Fund to the Department of Environment and Natural Resources, Division of Waste Management, the sum of fifty thousand dollars (\$50,000) for the 2010-2011 fiscal year to be used for the cleanup and monitoring of the groundwater and other contamination located at the Texfi site in Fayetteville and for any emergency cleanup activities needed at that site.

#### **STRENGTHEN PLASTIC BAG RECYCLING**

**SECTION 13.10.(a)** G.S. 130A-309.121 reads as rewritten:

##### **"§ 130A-309.121. Definitions.**

As used in this Part, the following definitions apply:

- (1) Plastic bag. – A carryout bag composed primarily of thermoplastic synthetic polymeric material, which is provided by a store to a customer at the point of sale and incidental to the purchase of other goods.
- (2) Prepared foods retailer. – A retailer primarily engaged in the business of selling prepared foods, as that term is defined in G.S. 105-164.3, to consumers.

- (2a) Recycled content. – Content that is either postconsumer, postindustrial, or a mix of postconsumer and postindustrial.
- (3) Recycled paper bag. – A paper bag that meets all of the following requirements:
  - a. The bag is manufactured from ~~one hundred percent (100%)~~ at least forty percent (40%) recycled content, including postconsumer content, postindustrial content, or a mix of postconsumer and postindustrial content.
  - b. The bag displays the words "made from recycled material" and "recyclable."
- (4) Retail Chain. – Five or more stores located within the State that are engaged in the same general field of business and (i) conduct business under the same business name or (ii) operate under common ownership or management or pursuant to a franchise agreement with the same franchisor.
- (5) Retailer. – A person who offers goods for sale in this State to consumers and who provides a single-use plastic bag to the consumer to carry or transport the goods for free or for a nominal charge, goods and (i) has more than 5,000 square feet of retail or wholesale space or (ii) is one of a retail chain.
- (6) Reusable bag. – A durable plastic bag with handles that is specifically designed and manufactured for multiple reuse and is made of one of the following materials: at least 2.25 mils thick
  - a. Nonwoven polypropylene or other plastic material with a minimum weight of 80 grams per square meter, and is specifically designed and manufactured for multiple reuse or a bag made of
  - b. cloth or other machine washable fabric with handles.

**SECTION 13.10.(b)** G.S. 130A-309.123(a) reads as rewritten:

**"§ 130A-309.123. Substitution of paper bags restricted.**

(a) A retailer subject to G.S. 130A-309.122 may substitute paper bags for the plastic bags banned by that section, but only if all of the following conditions are met:

- (1) The paper bag is a recycled paper bag.
- (2) The retailer offers ~~one of the following incentives~~ a cash refund to any customer who uses the customer's own reusable bags instead of the bags provided by the retailer: ~~(i) a cash refund; (ii) a store coupon or credit for general store use; or (iii) a value or reward under the retailer's customer loyalty or rewards program for general store use.~~ retailer. The amount of the ~~incentive refund~~ shall be equal to or greater than the cost to the retailer of providing a recycled paper bag, multiplied by the number of reusable bags filled with the goods purchased by the customer."

**SECTION 13.10.(c)** From funds available to the Department of Environment and Natural Resources, the Division of Waste Management and the Division of Environmental Assistance and Outreach shall: (i) monitor plastic bag use reduction resulting from the implementation of Part 2G of Article 9 of Chapter 130A of the General Statutes and shall report to the Environmental Review Commission on or before January 15, 2012, on the impacts the ban enacted by that Part has had on plastic bag litter in coastal waterways adjacent to areas where that Part applies; and (ii) provide written notification of the requirements of this section to all affected retailers by September 1, 2010.

**SECTION 13.10.(d)** Any retailer with less than 5,000 square feet of retail space that is not part of a retail chain may provide customers with plastic bags that do not comply with Part 2G of Article 9 of Chapter 130A of the General Statutes, provided that the bags were purchased or contracted for purchase prior to May 1, 2010. For purposes of this subsection, "retail chain" means five or more stores located within the State that are engaged in the same general field of business and (i) conduct business under the same business name or (ii) operate under common ownership or management or pursuant to a franchise agreement with the same franchisor.

**SECTION 13.10.(e)** Subsections (a), (b), and (d) of this section become effective October 1, 2010. Subsection (d) of this section expires May 1, 2011.

**PARKS AND RECREATION TRUST FUND/AUTHORITY TO CONSIDER OPERATING EXPENSES**

**SECTION 13.11.** G.S. 113-44.15 reads as rewritten:

**"§ 113-44.15. Parks and Recreation Trust Fund.**

(a) Fund Created. – There is established a Parks and Recreation Trust Fund in the State Treasurer's Office. The Trust Fund shall be a nonreverting special revenue fund consisting of gifts and grants to the Trust Fund, monies credited to the Trust Fund pursuant to G.S. 105-228.30(b), and other monies appropriated to the Trust Fund by the General Assembly. Investment earnings credited to the assets of the Fund shall become part of the Fund.

(b) Use. – Funds in the Trust Fund are annually appropriated to the North Carolina Parks and Recreation Authority and, unless otherwise specified by the General Assembly or the terms or conditions of a gift or grant, shall be allocated and used as follows:

- (1) Sixty-five percent (65%) for the State Parks System for capital projects, repairs and renovations of park facilities, and land acquisition, and to retire debt incurred for these purposes under Article 9 of Chapter 142 of the General Statutes.
- (2) Thirty percent (30%) to provide matching funds to local governmental units or public authorities as defined in G.S. 159-7 on a dollar-for-dollar basis for local park and recreation purposes. The appraised value of land that is donated to a local government unit or public authority may be applied to the matching requirement of this subdivision. These funds shall be allocated by the North Carolina Parks and Recreation Authority based on criteria patterned after the Open Project Selection Process established for the Land and Water Conservation Fund administered by the National Park Service of the United States Department of the Interior.
- (3) Five percent (5%) for the Coastal and Estuarine Water Beach Access Program.

(b1) Geographic Distribution. – In allocating funds in the Trust Fund under this section, the North Carolina Parks and Recreation Authority shall make geographic distribution across the State to the extent practicable.

(b2) Administrative Expenses. – Of the funds appropriated to the North Carolina Parks and Recreation Authority from the Trust Fund each year, no more than three percent (3%) may be used by the Department for operating expenses associated with managing capital improvements projects, acquiring land, and administration of local grants programs.

(b3) Operating Expenses for State Parks System Allocations. – In allocating funds in the Trust Fund under subdivision (1) of subsection (b) of this section, the North Carolina Parks and Recreation Authority shall consider the operating expenses associated with each capital project, repair and renovation project, and each land acquisition. In considering the operating expenses, the North Carolina Parks and Recreation Authority shall determine both:

- (1) The minimal anticipated operating expenses, which are determined by the minimum staff and other operating expenses needed to maintain the project.
- (2) The optimal anticipated operating budget, which is determined by the level of staff and other operating expenses required to achieve a more satisfactory level of operation under the project.

(c) Reports. – The North Carolina Parks and Recreation Authority shall report no later than October 1 of each year to the Joint Legislative Commission on Governmental Operations, the House and Senate Appropriations Subcommittees on Natural and Economic Resources, the Fiscal Research Division, and the Environmental Review Commission on allocations from the Trust Fund from the prior fiscal year. For funds allocated from the Trust Fund under subdivision (b1) of this section, this report shall include the operating expenses determined under subdivisions (1) and (2) of subsection (b3) of this section.

..."

**RECLASSIFY SEVEN VACANT POSITIONS IN THE DIVISION OF PARKS AND RECREATION**

**SECTION 13.12.** The Division of Parks and Recreation of the Department of Environment and Natural Resources shall reclassify seven vacant positions within the Division and shall fill these reclassified positions in a timely manner in order to provide support for new or expanding parks within the State Parks System, as defined in G.S. 113-44.9.

**STATE PARKS SYSTEM PLAN**

**SECTION 13.13.** G.S. 113-44.11 is amended by adding a new subsection to read:

"(d) No later than October 1 of each year, the Department shall submit electronically the State Parks System Plan to the Environmental Review Commission, the Senate and the House of Representatives Appropriations Subcommittees on Natural and Economic Resources, and the Fiscal Research Division. Concurrently, the Department shall submit a summary of each change to the Plan that was made during the previous fiscal year."

#### **NO NEW FEES FOR PARKING IN STATE PARKS**

**SECTION 13.14.** Notwithstanding any provision to the contrary, the funds appropriated to the Department of Environment and Natural Resources for State Parks for the 2010-2011 fiscal year shall not be reduced or replaced with fees for parking at State Parks, unless these fees were charged prior to the 2010-2011 fiscal year. No fees shall be charged and no fees shall be collected for parking in a State Park during the 2010-2011 fiscal year, unless these fees were charged prior to the 2010-2011 fiscal year.

#### **AUTHORITY FOR THE DEPARTMENT OF REVENUE TO SHARE INFORMATION WITH DENR**

**SECTION 13.15.** G.S. 105-259(b) is amended by adding a new subdivision to read:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person except as provided in this subsection. Standards used or to be used for the selection of returns for examination and data used or to be used for determining the standards may not be disclosed for any purpose. All other tax information may be disclosed only if the disclosure is made for one of the following purposes:

...  
(41) To furnish the Division of Forest Resources of the Department of Environment and Natural Resources pertinent contact and financial information concerning companies that are involved in the primary processing of timber products so that the Secretary of Environment and Natural Resources is able to comply with G.S. 113A-193 under the Primary Forest Product Assessment Act."

#### **DIVISION OF MARINE FISHERIES AND DIVISION OF FOREST RESOURCES AIRCRAFT MAINTENANCE**

**SECTION 13.16.(a)** The Division of Marine Fisheries of the Department of Environment and Natural Resources shall use mechanics employed by the Division of Forest Resources of the Department of Environment and Natural Resources for the purpose of performing aircraft maintenance for all aircraft of the Division of Marine Fisheries except for a particular instance when this would be impracticable.

**SECTION 13.16.(b)** The Division of Forest Resources of the Department of Environment and Natural Resources shall perform aircraft maintenance using its mechanics for all aircraft of the Division of Marine Fisheries, except for a particular instance when this would be impracticable. The Division of Forest Resources shall develop a process to establish priorities for the aviation maintenance needs of all the aircraft in both the Division of Forest Resources and the Division of Marine Fisheries.

#### **PURCHASE OF COMPUTER SOFTWARE BY DENR FOR DENR AIRCRAFT FLIGHTS AND MAINTENANCE RECORDKEEPING**

**SECTION 13.17.** The Department of Environment and Natural Resources shall purchase computer software to be used to establish and maintain a record of the flights and the maintenance of aircraft of the Department of Environment and Natural Resources. For the purchase under this section, the Department of Environment and Natural Resources shall use funds realized from the sale of aircraft by the divisions within the department that operate aircraft. The Department of Environment and Natural Resources shall work with the Division of Marine Fisheries, the Division of Forest Resources, and the Aviation Division of the Department of Transportation to develop the specifications for this software system and to evaluate the best product available to accomplish the purpose set forth in this section. The Department should evaluate all available options, including the purchase of a commercially



available system and the purchase of a license to use a software system that is currently used by another State agency. The purchase under this section is subject to all State laws and rules regarding the procurement of distributed information technology assets, as defined in G.S. 147-33.81.

#### **REPORT ON DENR AVIATION ACTIVITIES**

**SECTION 13.18.(a)** No later than October 1, 2010, the Department of Environment and Natural Resources shall submit a report to the Joint Legislative Commission on Governmental Operations, the House of Representatives and Senate Appropriations Subcommittees on Natural and Economic Resources, and the Fiscal Research Division. The report shall:

- (1) Describe the uses of the State aircraft fleet within the control of either the Division of Forest Resources of the Department of Environment and Natural Resources or the Division of Marine Fisheries of the Department of Environment and Natural Resources; and
- (2) Describe the progress of the Department of Environment and Natural Resources in implementing the eight management practices that were recommended by the Program Evaluation Division of the General Assembly in its report entitled "Selling 25 Underutilized Aircraft May Yield Up to \$8.1 Million and Save \$1.5 Million Annually" (Report 2010-04), based upon its study of the State's aircraft fleets, as authorized by Section 14.6 of S.L. 2009-451.

**SECTION 13.18.(b)** The Department of Environment and Natural Resources shall include in its report under subsection (a) of this section a summary of the Conklin & de Decker report that is due to be submitted to the Division of Forest Resources in August 2010, including any recommendations included in the Conklin & de Decker report and a description of the Department's plan to implement the Conklin & de Decker report recommendations.

#### **CLOSE/TRANSFER CERTAIN DENR SPECIAL FUNDS**

**SECTION 13.21.(a)** The Office of State Budget and Management, in conjunction with the Office of the State Controller and the Department of Environment and Natural Resources, shall transfer to the Division of Soil and Water Conservation (General Fund code 14300-1310) any unencumbered cash balance as of June 30, 2010, of each of the following special funds within the Department and then close each of these special funds:

- (1) SWC – CREP (Special Fund code 24308-2313).
- (2) SWC – EEP Agreement (Special Fund code 24308-2317).

**SECTION 13.21.(b)** The Office of State Budget and Management, in conjunction with the Office of the State Controller and the Department of Environment and Natural Resources, shall transfer to the Division of Water Quality (General Fund code 14300-1635) the operating budget, positions, and any unencumbered cash balance as of June 30, 2010, in the special fund DWQ – Lab Certification Fees (Special Fund code 24300-2335) within the Department and then close this special fund.

**SECTION 13.21.(c)** The Office of State Budget and Management, in conjunction with the Office of the State Controller and the Department of Environment and Natural Resources, shall transfer to the General Fund any unencumbered cash balance as of June 30, 2010, in each of the following special funds within the Department and then close each of these special funds:

- (1) DWM – Kernersville Site (Special Fund code 24308-2116).
- (2) DWM – Meadowview Site (Special Fund code 24308-2118).
- (3) DWR – Streamwatch Project (Special Fund code 24308-2180).
- (4) DAQ – Terrorism Defense (Special Fund code 24308-2343).
- (5) MNS – E A Publications (Special Fund code 24308-2461).
- (6) MNS – Mus Nat Sci/School Science Fairs (Special Fund code 24308-2462).
- (7) MNS – Mus Nat Sci/Scientific Pub. (Special Fund code 24308-2465).
- (8) DFR – Hurricane Frances (Special Fund code 24310-2786).
- (9) DFR – Hurricane Ivan (Special Fund code 24310-2797).
- (10) DFR – Dare Bomb Range Isabel Interest (Special Fund code 24310-2249).

**SECTION 13.21.(d)** The Office of State Budget and Management, in conjunction with the Office of the State Controller and the Department of Environment and Natural

Resources, shall transfer to Special Fund code 24317 any unencumbered cash balance as of June 30, 2010, of each of the following special funds within the Department and then close each of these special funds:

- (1) SWC – Agricultural Cost Share Programs (Special Fund code 24308-2510).
- (2) SWC – Animal Waste Cost Share (Special Fund code 24308-2520).
- (3) NC07 – Network Date IT Project (Special Fund code 24308-2931).

**SECTION 13.21.(e)** The Office of State Budget and Management, in conjunction with the Office of the State Controller and the Department of Environment and Natural Resources, shall transfer to Special Fund code 64305 any unencumbered cash balance as of June 30, 2010, of the special fund DWM – Noncommercial Leaking Petroleum Storage (Special Fund code 64308-6371) within the Department and then close this special fund.

**SECTION 13.21.(f)** The Office of State Budget and Management, in conjunction with the Office of the State Controller and the Department of Environment and Natural Resources, shall transfer to Special Fund code 24300 the operating budget, positions, and any unencumbered cash balance as of June 30, 2010, of each special fund within the Department with Special Fund code 24308 that is not subject to closure under the provisions of other subsections of this section.

## **PART XIV. DEPARTMENT OF COMMERCE**

### **ONE NORTH CAROLINA FUND**

**SECTION 14.1.** Section 14.1 of S.L. 2009-451 reads as rewritten:

**"SECTION 14.1.** Of the funds appropriated in this act to the One North Carolina Fund for the ~~2009-2010~~2010-2011 fiscal year, the Department of Commerce may use up to three hundred thousand dollars (\$300,000) to cover its expenses in administering the One North Carolina Fund and other economic development incentive grant programs during the ~~2009-2010~~2010-2011 fiscal year."

### **NER BLOCK GRANTS**

**SECTION 14.2.(a)** Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2011, according to the following schedule:

#### **COMMUNITY DEVELOPMENT BLOCK GRANT**

01. State Administration	\$ 1,000,000
02. Scattered Site Housing	16,500,000
03. Economic Development	7,210,000
04. Small Business/Entrepreneurship	3,000,000
05. NC Catalyst	8,240,000
06. State Technical Assistance	450,000
07. Infrastructure	8,000,000
08. Capacity Building	600,000
<b>TOTAL COMMUNITY DEVELOPMENT BLOCK GRANT – 2010 Program Year</b>	<b>\$ 45,000,000</b>

**SECTION 14.2.(b)** Decreases in Federal Fund Availability. – If federal funds are reduced below the amounts specified above after the effective date of this act, then every program in each of these federal block grants shall be reduced by the same percentage as the reduction in federal funds.

**SECTION 14.2.(c)** Increases in Federal Fund Availability for Community Development Block Grant. – Any block grant funds appropriated by the Congress of the United

States in addition to the funds specified in this section shall be expended as follows: each program category under the Community Development Block Grant shall be increased by the same percentage as the increase in federal funds.

**SECTION 14.2.(d)** Limitations on Community Development Block Grant Funds. – Of the funds appropriated in this section for the Community Development Block Grant, the following shall be allocated in each category for each program year: up to one million dollars (\$1,000,000) may be used for State Administration; up to sixteen million five hundred thousand dollars (\$16,500,000) may be used for Scattered Site Housing; up to seven million two hundred ten thousand dollars (\$7,210,000) may be used for Economic Development; up to three million dollars (\$3,000,000) may be used for Small Business/Entrepreneurship; not less than eight million two hundred forty thousand dollars (\$8,240,000) shall be used for NC Catalyst; up to four hundred fifty thousand dollars (\$450,000) may be used for State Technical Assistance; up to eight million dollars (\$8,000,000) may be used for Infrastructure; six hundred thousand dollars (\$600,000) may be used for Capacity Building. If federal block grant funds are reduced or increased by the Congress of the United States after the effective date of this act, then these reductions or increases shall be allocated in accordance with subsection (b) or (c) of this section, as applicable.

**SECTION 14.2.(e)** Increase Capacity for Nonprofit Organizations. – Assistance to nonprofit organizations to increase their capacity to carry out CDBG-eligible activities in partnership with units of local government is an eligible activity under any program category in accordance with federal regulations. Capacity building grants may be made from funds available within program categories, program income, or unobligated funds.

**SECTION 14.2.(f)** The Department of Commerce shall consult with the Joint Legislative Commission on Governmental Operations prior to reallocating Community Development Block Grant Funds. Notwithstanding the provisions of this subsection, whenever the Director of the Budget finds that:

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

**SECTION 14.2.(g)** By September 1, 2010, the Division of Community Assistance, Department of Commerce, shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the use of Community Development Block Grant Funds appropriated in the prior fiscal year.

## **NER BLOCK GRANTS/REALLOCATE 2010 PROGRAM YEAR FUNDING**

**SECTION 14.2A.** Section 14.8 of S.L. 2009-451 reads as rewritten:

**"SECTION 14.8.(a)** Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2010, according to the following schedule:

### **COMMUNITY DEVELOPMENT BLOCK GRANT**

01. State Administration	\$1,000,000	<u>1,078,849</u>
02. <del>Urgent Needs and</del> Contingency	<del>1,000,000</del>	<u>1,000,000</u>
03. Scattered Site Housing	<del>13,200,000</del>	<u>14,685,989</u>
04. Economic Development	<del>8,710,000</del>	<u>9,474,832</u>

05. Small Business/Entrepreneurship	1,000,000
<del>06. Community Revitalization</del>	<del>13,000,000</del>
07. State Technical Assistance	<del>450,000</del> 489,424
08. Housing Development	<del>1,500,000</del> 1,421,225
<del>09. Infrastructure</del>	<del>5,140,000</del>
10. <u>NC CDBG Economic Recovery</u>	<u>20,792,112</u>

TOTAL COMMUNITY DEVELOPMENT  
BLOCK GRANT – ~~2009-2010~~ Program Year \$45,000,00048,942,431

"SECTION 14.8.(b) Decreases in Federal Fund Availability. – If federal funds are reduced below the amounts specified above after the effective date of this act, then every program in each of these federal block grants shall be reduced by the same percentage as the reduction in federal funds.

"SECTION 14.8.(c) Increases in Federal Fund Availability for Community Development Block Grant. – Any block grant funds appropriated by the Congress of the United States in addition to the funds specified in this section shall be expended as follows: each program category under the Community Development Block Grant shall be increased by the same percentage as the increase in federal funds.

"SECTION 14.8.(d) Limitations on Community Development Block Grant Funds. – Of the funds appropriated in this section for the Community Development Block Grant, the following shall be allocated in each category for each program year: up to ~~one million dollars (\$1,000,000)~~one million seventy-eight thousand eight hundred forty-nine dollars (\$1,078,849) may be used for State Administration; ~~not less than one million dollars (\$1,000,000) available de-obligated funds~~ may be used for Urgent Needs and Contingency; up to ~~thirteen million two hundred thousand dollars (\$13,200,000)~~fourteen million six hundred eighty-five thousand nine hundred eighty-nine dollars (\$14,685,989) may be used for Scattered Site Housing; ~~eight million seven hundred ten thousand dollars (\$8,710,000)~~ nine million four hundred seventy-four thousand eight hundred thirty-two dollars (\$9,474,832) may be used for Economic Development; ~~up to one million dollars (\$1,000,000)~~ may be used for Small Business/Entrepreneurship; ~~not less than thirteen million dollars (\$13,000,000) shall be used for Community Revitalization;~~ up to ~~four hundred fifty thousand dollars (\$450,000)~~four hundred eighty-nine thousand four hundred twenty-four dollars (\$489,424) may be used for State Technical Assistance; up to ~~one million five hundred thousand dollars (\$1,500,000)~~one million four hundred twenty-one thousand two hundred twenty-five dollars (\$1,421,225) may be used for Housing Development; up to ~~five million one hundred forty thousand dollars (\$5,140,000)~~ may be used for Infrastructure. twenty million seven hundred ninety-two thousand one hundred twelve dollars (\$20,792,112) may be used for North Carolina Community Development Block Grant Economic Recovery. If federal block grant funds are reduced or increased by the Congress of the United States after the effective date of this act, then these reductions or increases shall be allocated in accordance with subsection (b) or (c) of this section, as applicable.

"SECTION 14.8.(e) Increase Capacity for Nonprofit Organizations. – Assistance to nonprofit organizations to increase their capacity to carry out CDBG-eligible activities in partnership with units of local government is an eligible activity under any program category in accordance with federal regulations. Capacity building grants may be made from funds available within program categories, program income, or unobligated funds.

"SECTION 14.8.(f) The Department of Commerce shall consult with the Joint Legislative Commission on Governmental Operations prior to reallocating Community Development Block Grant Funds. Notwithstanding the provisions of this subsection, whenever the Director of the Budget finds that:

- (1) A reallocation is required because of an emergency that poses an imminent threat to public health or public safety, the Director of the Budget may

authorize the reallocation without consulting the Commission. The Department of Commerce shall report to the Commission on the reallocation no later than 30 days after it was authorized and shall identify in the report the emergency, the type of action taken, and how it was related to the emergency.

- (2) The State will lose federal block grant funds or receive less federal block grant funds in the next fiscal year unless a reallocation is made. The Department of Commerce shall provide a written report to the Commission on the proposed reallocation and shall identify the reason that failure to take action will result in the loss of federal funds. If the Commission does not hear the issue within 30 days of receipt of the report, the Department may take the action without consulting the Commission.

**"SECTION 14.8.(g)** By ~~September 1, 2009~~, September 1, 2010, the Division of Community Assistance, Department of Commerce, shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the use of Community Development Block Grant Funds appropriated in the prior fiscal year."

## **STATE AGENCIES AND INSTITUTIONS/GREATER ENERGY EFFICIENCY REPORTING AND COMPLIANCE**

**SECTION 14.3.** G.S. 143-64.12 reads as rewritten:

**"§ 143-64.12. Authority and duties of the Department; State agencies and State institutions of higher learning.**

(a) The Department of Commerce through the State Energy Office shall develop a comprehensive program to manage energy, water, and other utility use for State agencies and State institutions of higher learning and shall update this program annually. Each State agency and State institution of higher learning shall develop and implement a management plan that is consistent with the State's comprehensive program under this subsection to manage energy, water, and other utility ~~use-use,~~ and that addresses any findings or recommendations resulting from the energy audit required by subsection (b1) of this section. The energy consumption per gross square foot for all State buildings in total shall be reduced by twenty percent (20%) by 2010 and thirty percent (30%) by 2015 based on energy consumption for the 2002-2003 fiscal year. Each State agency and State institution of higher learning shall update its management plan annually and include strategies for supporting the energy consumption reduction requirements under this subsection. Each community college shall submit to the State Energy Office an annual written report of utility consumption and costs.

...  
(b1) The Department of Administration, as part of the Facilities Condition and Assessment Program, shall identify and recommend energy conservation maintenance and operating procedures that are designed to reduce energy consumption within the facility of a State agency or a State institution of higher learning and that require no significant expenditure of funds. Every State agency or State institution of higher learning shall implement these recommendations. Where energy management equipment is proposed for any facility of a State agency or of a State institution of higher learning, the maximum interchangeability and compatibility of equipment components shall be required. As part of the Facilities Condition and Assessment Program under this section, the Department of ~~Administration-Administration,~~ in consultation with the State Energy Office, shall develop an energy audit and a procedure for conducting energy audits. Every five years the Department shall conduct an energy audit for each State agency or State institution of higher ~~learning-learning,~~ and the energy audits conducted shall serve as a preliminary energy survey. The State Energy Office shall be responsible for system-level detailed surveys.

(b2) The Department of Administration shall submit a report of the energy audit required by subsection (b1) of this section to the affected State agency or State institution of higher learning and to the State Energy Office. The State Energy Office shall review each audit and, in consultation with the affected State agency or State institution of higher learning, incorporate the audit findings and recommendations into the management plan required by subsection (a) of this section.

...  
(h) When conducting ~~an energy audit~~ a facilities condition and assessment under this section, the Department of Administration shall identify and recommend to the State Energy

Office any facility of a State agency or State institution of higher learning as suitable for building commissioning to reduce energy consumption within the facility or as suitable for installing an energy savings measure pursuant to a guaranteed energy savings contract under Part 2 of this Article.

...  
(j) The State Energy Office shall submit a report by December 1 of each year to the Joint Legislative Commission on Governmental Operations describing the comprehensive program to manage energy, water, and other utility use for State agencies and State institutions of higher learning required by subsection (a) of this section. The report shall also contain the following:

- (1) A comprehensive overview of how State agencies and State institutions of higher learning are managing energy, water, and other utility use and achieving efficiency gains.
- (2) Any new measures that could be taken by State agencies and State institutions of higher learning to achieve greater efficiency gains, including any changes in general law that might be needed.
- (3) A summary of the State agency and State institutions of higher learning management plans required by subsection (a) of this section and the energy audits required by subsection (b1) of this section.
- (4) A list of the State agencies and State institutions of higher learning that did and did not submit management plans required by subsection (a) of this section and a list of the State agencies and State institutions of higher learning that received an energy audit.
- (5) Any recommendations on how management plans can be better managed and implemented."

#### **LOCAL WORKFORCE DEVELOPMENT BOARDS/CONSUMER CHOICE REQUIREMENTS**

**SECTION 14.4.** G.S. 143B-438.11(a) is amended by adding the following new subdivision to read as follows:

"(a) Duties. – Local Workforce Development Boards shall have the following powers and duties:

- ...  
(8) To provide the appropriate guidance and information to Workforce Investment Act consumers to ensure that they are prepared and positioned to make informed choices in selecting a training provider. Each local workforce development board shall ensure that consumer choice is properly maintained in the one-stop centers and that consumers are provided the full array of public and private training provider information."

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

**SECTION 14.5.** Section 14.4 of S.L. 2009-451 reads as rewritten:

"**SECTION 14.4.(a)** Funds appropriated to the Department of Commerce for the ~~2009-2010~~2010-2011 fiscal year for the Wanchese Seafood Industrial Park that are unexpended and unencumbered as of ~~June 30, 2009~~June 30, 2011, shall not revert to the General Fund on ~~June 30, 2009~~June 30, 2011, but shall remain available to the Department to be expended by the Wanchese Seafood Industrial Park for operations, maintenance, repair, and capital improvements in accordance with Article 23C of Chapter 113 of the General Statutes. These funds shall be in addition to funds available to the North Carolina Seafood Industrial Park Authority for operations, maintenance, repair, and capital improvements under Article 23C of Chapter 113 of the General Statutes.

~~"**SECTION 14.4.(b)** Funds appropriated to the Department of Commerce for the 2009-2010 fiscal year for the Oregon Inlet Project that are unexpended and unencumbered as of June 30, 2009, shall not revert to the General Fund on June 30, 2009, but shall remain available to the Department to be expended by the Wanchese Seafood Industrial Park for securing adequate channel maintenance of the Oregon Inlet and for operations, maintenance, repair, and capital improvements in accordance with Article 23C of Chapter 113 of the General Statutes. These funds shall be in addition to funds available to the North Carolina Seafood Industrial~~

~~Park Authority for operations, maintenance, repair, and capital improvements under Article 23C of Chapter 113 of the General Statutes.~~

~~"SECTION 14.4.(c) This section becomes effective June 30, 2009-June 30, 2010."~~

#### **CONSOLIDATE PASSENGER AIRCRAFT**

**SECTION 14.6.(a)** The Executive Aircraft Division of the Department of Commerce is transferred to the Division of Aviation of the Department of Transportation. This transfer shall have all the elements of a Type I transfer, as defined by G.S. 143A-6.

**SECTION 14.6.(b)** G.S. 143B-437.011 is repealed.

**SECTION 14.6.(c)** Article 7 of Chapter 136 of the General Statutes is amended by adding a new section to read:

**"§ 136-102.9. Use of aircraft managed by the Department of Transportation.**

Of the aircraft managed by the Department of Transportation, the use of aircraft for economic development purposes shall take precedence over all other uses except in cases of emergency or disaster response. The Department of Transportation shall annually review the rates charged for the use of aircraft and shall adjust the rates, as necessary, to account for upgraded aircraft and inflationary increases in operating costs, including jet fuel prices. If an aircraft is used to attend athletic events or for any other purpose related to collegiate athletics, the rate charged shall be equal to the direct cost of operating the aircraft as established by the aircraft's manufacturer, adjusted for inflation."

#### **MAIN STREET SOLUTIONS FUND**

**SECTION 14.6A.** G.S. 143B-472.35 reads as rewritten:

**"§ 143B-472.35. Establishment of fund; use of funds; application for grants; disbursal; repayment; inspections; rules; reports.**

(a) A fund to be known as the Main Street Solutions Fund is established in the Department of Commerce. This Fund shall be administered by the Department of Commerce. The Department of Commerce shall be responsible for receipt and disbursement of all funds as provided in this section. Interest earnings shall be credited to the Main Street Solutions Fund.

(a1) The Main Street Solutions Fund is a reimbursable, matching grant program. The Department of Commerce and the North Carolina Main Street Center are authorized to award grants from the Main Street Solutions Fund totaling not more than two hundred thousand dollars (\$200,000) to each eligible local government. Funds from eligible local governments, main street organizations, downtown organizations, downtown economic development organizations, and sources other than the State or federal government must be committed to match the amount of any grant from the Main Street Solutions Fund on the basis of a minimum of two non-State dollars (\$2.00) for every one dollar (\$1.00) provided by the State from the Main Street Solutions Fund.

(a2) Definitions. – For purposes of this section, the following definitions shall apply:

- (1) Active North Carolina main street community. – A community in a Tier 1, 2, or 3 county that has been selected by the Department of Commerce to participate in the Main Street Program or the Small Town Main Street Program and that meets the reporting and eligibility requirements of the respective Program.
- (2) Designated micropolitan. – A geographic entity containing an urban core and having a population of between 10,000 and 50,000 people, according to the most recent federal decennial census.
- (3) Designated downtown area. – A designated area within a community that is considered the primary, traditional downtown business district of the community.
- (4) Downtown economic development organization. – An agency that is part of a public-private partnership intended to develop and recruit business opportunities or to undertake economic development projects that will create jobs.
- (5) Downtown organization. – An agency that is part of a public-private partnership on the local level and whose core mission is to revitalize a traditional downtown business district.
- (6) Eligible local government. – A municipal government that is located in a designated micropolitan or an active North Carolina main street community.

- (7) Historic properties. – Properties that have been designated as historically significant by the National Register of Historic Places or a local historic properties commission.
- (8) Interlocal small business economic development project. – A project or group of projects in a cluster of communities or counties or in a region that share a common economic development strategy for small business growth and job creation.
- (9) Main Street Organization. – An agency working in a public-private partnership on the local level, guided by a professional downtown manager, board of directors, or revitalization committee, and charged with administering the local Main Street Program initiative and facilitating revitalization initiatives in the traditional downtown business district through appropriate design, promotion, and economic restructuring activities.
- (10) Main Street Program. – The program developed by the National Trust for Historic Preservation to promote downtown revitalization through economic development within the context of historic preservation.
- (11) Mixed-use centers. – Areas zoned and developed for a mix of uses, including retail, service, professional, governmental, institutional, and residential.
- (12) Main Street Center. – The agency within the North Carolina Department of Commerce, Office of Urban Development, which receives applications and makes decisions with respect to Main Street Solutions Fund grant applications from eligible local governments.
- (13) Private investment. – A project or group of projects in a designated downtown area that will spur private investment and improve property. A project must be owned and maintained by a private entity and must provide a direct benefit to small businesses.
- (14) Public improvements and public infrastructure. – The improvement of property or infrastructure that is owned and maintained by a city or county.
- (15) Revolving loan programs for private investment. – A property redevelopment or small business assistance fund that is administered on the local level and that may be used to stabilize or appropriately redevelop properties located in the downtown area in connection with private investment or that may be used to provide necessary operating capital for small business creation or expansion in connection with private investment in a designated downtown area.
- (16) Small business. – An independently owned and operated business with less than 100 employees and with annual revenues of less than six million dollars (\$6,000,000).
- (17) Small Town Main Street Program. – A program based upon the Main Street Program developed by the National Trust for Historic Preservation to promote downtown revitalization through economic development within the context of historic preservation. The purpose of the Small Town Main Street Program is to provide guidance to local communities that have a population of less than 7,500 and do not have a downtown manager.
- (18) Tier 1, 2, or 3 counties. – North Carolina counties annually ranked by the Department of Commerce based upon the counties' economic well-being and assigned a Tier designation. The 40 most distressed counties are designated as Tier 1, the next 40 as Tier 2, and the 20 least distressed as Tier 3.

(a3) The purpose of the Main Street Program is to provide economic development planning assistance and coordinated grant support to designated micropolitans located in Tier 2 and 3 counties and to active North Carolina main street communities. To achieve the purposes of the Main Street Program, the Main Street Center shall develop criteria for community participation and shall provide technical assistance and strategic planning support to eligible local governments. Local governments, in collaboration with a main street organization, downtown organization, or downtown economic development organization, and the small businesses that will directly benefit from these funds may apply for grants from the Main Street Solutions Fund as provided in this section.

(a4) The Secretary of Commerce, through the Main Street Center, shall award grants from the Main Street Solutions Fund to eligible designated micropolitans and active North



Carolina main street communities. Grant funds awarded from the Main Street Solutions Fund shall be used as provided by the provisions of this section and any rules or regulations adopted by the Secretary of Commerce.

~~(b) Funds in the Main Street Solutions Fund shall be available only to micropolitan cities in development tier two and three counties designated micropolitans in Tier 2 and 3 counties and to active North Carolina main street communities in the State. For purposes of this section, a "micropolitan city" is a city located within the State with a population, according to the most recent U.S. census, of between 10,000 and 50,000 people. Funds in the Main Street Solutions Fund shall be used for any of the following eligible activities:~~

~~(1) The acquisition or rehabilitation of properties in connection with private investment in a designated downtown area.~~

~~(1a) Downtown economic development initiatives that do any of the following:~~

~~a. Encourage the development or redevelopment of traditional downtown areas by increasing the capacity for mixed-use centers of activity within downtown core areas. Funds may be used to support the rehabilitation of properties, utility infrastructure improvements, new construction, and the development or redevelopment of parking lots or facilities. Projects under this sub-subdivision must foster private investment and provide direct benefit to small business retention, expansion, or recruitment.~~

~~b. Attract and leverage private-sector investments and entrepreneurial growth in downtown areas through strategic planning efforts, market studies, and downtown master plans in association with direct benefit to small business retention, expansion, or recruitment.~~

~~c. Attract and stimulate the growth of business professionals and entrepreneurs within downtown core areas.~~

~~d. Establish revolving loan programs for private investment and small business assistance in downtown historic properties.~~

~~e. Encourage public improvement projects that are necessary to create or stimulate private investment in the designated downtown area and provide a direct benefit to small businesses.~~

~~(2) The establishment of revolving loan programs for private investment in a designated downtown area.~~

~~(2a) Historic preservation initiatives outside of downtown core areas that enhance: (i) community economic development and small business retention, expansion, or recruitment; and (ii) regional or community job creation.~~

~~(3) The subsidization of interest rates for these revolving loan programs.~~

~~(3a) Public improvements and public infrastructure outside of downtown core areas that are consistent with sound municipal planning and that support community economic development, small business retention, expansion, or recruitment, and regional or community job creation.~~

~~(4) The establishment of facade incentive grants in connection with private investment in a designated downtown area.~~

~~(4a) Interlocal small business economic development projects designed to enhance regional economic growth and job creation.~~

~~(5) Market studies, design studies, design assistance, or strategic planning efforts, provided the activity can be shown to lead directly to private investment in a designated downtown area.~~

~~(6) Any approved project that provides construction or rehabilitation in a designated downtown area and can be shown to lead directly to private investment in the designated downtown area.~~

~~(7) Public improvements and public infrastructure within a designated downtown area, provided these improvements are necessary to create or stimulate private investment in the designated downtown area.~~

~~(e) Any micropolitan city located within a development tier two or three county may apply for assistance from the Main Street Solutions Fund by submitting an application to the Main Street Center in the Division of Community Assistance, Department of Commerce. Any~~

city affiliated with the North Carolina Main Street Center Program may apply for a grant for a proposed project.

(c1) The application shall include each of the following:

- (1) ~~A copy of the consensus local economic development plan developed by the micropolitan city in conjunction with the Department's Main Street Program and the city's regional economic development commission or its local council of government or both.~~
- (1a) The proposed activities for which the funds are to be used and the projected cost of the project.
- (2) The amount of grant funds requested for these activities.
- (3) Projections of the dollar amount of public and private investment that ~~is~~ are expected to occur in the designated micropolitan or designated downtown area as a direct result of the ~~city's~~ proposed activities.
- (4) ~~Whether local public dollars are required to match any grant funds according to the provisions of subdivision (g)(2) of this section, and if so, the amount of local public funds required.~~
- (5) An explanation of the nature of the private investment in the designated micropolitan or designated downtown area that will result from the ~~city's~~ proposed activities.
- (6) Projections of the time needed to complete the ~~city's~~ proposed activities.
- (7) Projections of the time needed to realize the private investment that is expected to result from the ~~city's~~ proposed activities.
- (8) ~~Identification of the proposed source of funds to be used for repayment of any loan obligations.~~
- (9) Any additional or supplemental information requested by the Division.

(d) ~~A committee, comprised of representatives of: the Division of Community Assistance of the Department of Commerce, the North Carolina Main Street Program, the Local Government Commission, and the League of Municipalities shall do each of the following:~~

- (1) ~~Review a city's application.~~
- (2) ~~Determine whether the activities listed in the application are activities that are eligible for a grant.~~
- (3) ~~Determine which applicants are selected to receive funds from the Main Street Solutions Fund.~~

A city-local government whose application is denied may file a new or amended application.

(e) ~~A Main Street City that is selected may not receive a grant pursuant to this section totaling less than twenty thousand dollars (\$20,000) or more than three hundred thousand dollars (\$300,000).~~

(f) Repealed by Session Laws 2009-451, s. 14.10, effective July 1, 2009.

- (g) (1) A city-local government that has been selected to receive a grant shall use the full amount of the grant for the activities that were approved pursuant to ~~subsection (d)~~ the provisions of this section. Funds are deemed used if the city-local government is legally committed to spend the funds on the approved activities.
- (2) ~~If a city has received approval to use the grant for public improvements or public infrastructure, that city shall be required to raise, before funds for these public improvements may be drawn from the city's account, local public funds to match the amount of the grant from the Main Street Solutions Fund on the basis of at least one local public dollar (\$1.00) for every one dollar (\$1.00) from the Main Street Solutions Fund. This match requirement applies only to those funds received for public improvements or public infrastructure and is in addition to the requirement set forth in subdivision (1) of this subsection.~~
- (3) A city-local government that fails to satisfy the condition set forth in subdivision (1) of this subsection shall lose any funds that have not been used within three years of being selected. These unused funds shall be credited to the Main Street Solutions Fund. A city-local government that fails to satisfy the conditions set forth in ~~subdivisions (1) and (2)~~ subdivision (1) of this subsection may file a new application.

- (4) Any funds repaid or credited to the Main Street Solutions Fund pursuant to subdivision (3) of this subsection shall be available to other applicants as long as the Main Street Solutions Fund is in effect.
- (h) Repealed by Session Laws 2009-451, s. 14.10, effective July 1, 2009.
- (i) After a project financed ~~in whole or in part~~ pursuant to this section has been completed, the ~~city-local government~~ shall report the actual cost of the project to the Department of Commerce. ~~If the actual cost of the project exceeds the projected cost upon which the grant was based, the city may submit an application to the Department of Commerce for a grant for the difference. If the actual cost of the project is less than the projected cost, the city shall arrange to pay the difference to the Main Street Solutions Fund according to terms set by the Department.~~
- (j) Inspection of a project for which a grant has been awarded may be performed by personnel of the Department of Commerce. No person may be approved to perform inspections who is an officer or employee of the unit of local government to which the grant was made or who is an owner, officer, employee, or agent of a contractor or subcontractor engaged in the construction of any project for which the grant was made.
- (k) The Department of Commerce may adopt, modify, and repeal rules establishing the procedures to be followed in the administration of this section and regulations interpreting and applying the provisions of this section, as provided in the Administrative Procedure Act.
- (l) The Department of Commerce and ~~cities-local governments~~ that have been selected to receive a grant from the Main Street Solutions Fund shall prepare and file on or before September 1 of each year with the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division a consolidated report for the preceding fiscal year concerning the allocation of grants authorized by this section.
- The portion of the annual report prepared by the Department of Commerce shall set forth for the preceding fiscal year itemized and total allocations from the Main Street Solutions Fund for grants. The Department of Commerce shall also prepare a summary report of all allocations made from the fund for each fiscal year; the total funds received and allocations made and the total unallocated funds in the Fund.
- The portion of the report prepared by the ~~city-local government~~ shall include each of the following:
- (1) The total amount of public and private funds that was committed and the amount that was invested in the designated micropolitan or designated downtown area during the preceding fiscal year.
  - (2) ~~The total amount of local public matching funds that was raised, if required by subdivision (g)(2) of this section.~~
  - (3) The total amount of grants received from the Main Street Solutions Fund during the preceding fiscal year.
  - (4) Repealed by Session Laws 2009-451, s. 14.10, effective July 1, 2009.
  - (5) A description of how the grant funds and funds from public and private investors were used during the preceding fiscal year.
  - (6) Details regarding the types of private investment created or stimulated, the dates of this activity, the amount of public money involved, and any other pertinent information, including any jobs created, businesses started, and number of jobs retained due to the approved activities.
- (m) The Department of Commerce may annually use up to ~~fifty thousand dollars~~ (\$50,000)seventy-five thousand dollars (\$75,000) of the funds in the Main Street Solutions Fund for expenses related to the administration of the Fund."

## AMEND JDIG REPORTING REQUIREMENTS

**SECTION 14.8.** G.S. 143B-437.55 reads as rewritten:

"§ 143B-437.55. **Applications; fees; reports; study.**

...

(c) Annual Reports. – The Committee shall publish a report on the Job Development Investment Grant Program on or before April 30 of each year. The Committee shall submit the report electronically to the House of Representatives Finance Committee, the Senate Finance Committee, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division. The report shall include the following:

...  
(d) Quarterly Reports. – The Committee shall publish a report on the Job Development Investment Grant Program within two months of the end of each quarter. This report shall include a listing of each grant awarded during the preceding quarter, including the name of the business, the cost/benefit analysis conducted by the Committee during the application process, a description of the project, and the amount of the grant expected to be made under the agreement during the current fiscal year. The Committee shall submit the report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division.

(e) Study. – The Committee shall conduct a study to determine the minimum funding level required to implement the Job Development Investment Grant Program successfully. The Committee shall report the results of this study to the House of Representatives Finance Committee, the Senate Finance Committee, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division no later than ~~March 1~~ April 1 of each year."

## **INDUSTRIAL DEVELOPMENT FUND/REPORTING REQUIREMENTS**

**SECTION 14.9.** G.S. 143B-437.01 reads as rewritten:

### **"§ 143B-437.01. Industrial Development Fund.**

...  
(c) Reports. – The Department of Commerce shall report ~~annually to the General Assembly~~ to the Joint Legislative Commission on Governmental Operations on September 1 of each year concerning the applications made to the fund and the payments made from the fund and the impact of the payments on job creation in the State. The Department of Commerce shall also report quarterly to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the use of the moneys in the fund, including information regarding to whom payments were made, in what amounts, and for what purposes.

(c1) In addition to the reporting requirements of subsection (c) of this section, the Department of Commerce shall report ~~annually to the General Assembly~~ to the Joint Legislative Commission on Governmental Operations on September 1 of each year concerning the payments made from the Utility Account and the impact of the payments on job creation in the State. The Department of Commerce shall also report quarterly to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the use of the moneys in the Utility Account including information regarding to whom payments were made, in what amounts, and for what purposes.

...."

## **WINE AND GRAPE GROWERS COUNCIL/REPORTING REQUIREMENT**

**SECTION 14.10.** G.S. 143B-437.90 is amended by adding a new subdivision to

read:

### **"§ 143B-437.90. North Carolina Wine and Grape Growers Council – Creation; powers and duties.**

There is created the North Carolina Wine and Grape Growers Council of the Department of Commerce. The North Carolina Wine and Grape Growers Council shall have the following powers and duties:

...  
(14) By September 1 of each year, to report to the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division on the activities of the Council, the status of the wine and grape industry in North Carolina and the United States, progress on the development and implementation of the State Viticulture Plan, and any contracts or agreements entered into by the Council for research, education, or marketing."

## **TOURIST DESTINATION MARKETING**

**SECTION 14.10A.** Section 14.11 of S.L. 2009-451 reads as rewritten:

**"SECTION 14.11.(a)** The Department of Commerce shall promote historically underutilized businesses and supplier diversity within the State when marketing the State of North Carolina. Promotional efforts may include advertising with minority media outlets and with minorities in the motorsports industry. The Department and businesses that contract with the Department to promote historically underutilized businesses and supplier diversity shall make a good-faith effort to achieve diversity in the bidding and awarding of marketing and advertising contracts.

**"SECTION 14.11.(b)** The Department of Commerce shall report on its efforts during the prior fiscal year to promote historically underutilized businesses, supplier diversity, and advertising in minority media outlets to the Joint Legislative Commission on Governmental Operations by September 1, 2010, and September 1, 2011."

#### **PROMOTE NORTH CAROLINA DISTILLED SPIRITS**

**SECTION 14.12.(a)** G.S. 18B-800 is amended by adding a new subsection to read:

**"(e)** Each ABC store shall display spirits which are distilled in North Carolina in an area dedicated solely to North Carolina products."

**SECTION 14.12.(b)** G.S. 18B-902(d) is amended by adding a new subdivision to read:

**"(42)** Spirituos liquor tasting permit – \$100.00."

**SECTION 14.12.(c)** G.S. 18B-1001 is amended by adding a new subdivision to read:

**"(19)** Spirituos liquor tasting permit. – The holder of any distillery permit authorized by G.S. 18B-1105 may conduct a consumer tasting event on the premises of the distillery subject to the following conditions:

- a. Any person pouring spirituos liquor at a tasting shall be an employee of the distillery and at least 21 years of age.
- b. The person pouring the spirituos liquor shall be responsible for checking the identification of patrons being served at the tasting.
- c. Each consumer is limited to tasting samples of 0.25 ounce of each spirituos liquor which total no more than 1.5 ounces of spirituos liquor in any calendar day.
- d. The consumer shall not be charged for any spirituos liquor tasting sample.
- e. The spirituos liquor used in the consumer tasting event shall be distilled at the distillery where the event is being held by the permit holder conducting the event.
- f. A consumer tasting event shall not be allowed when the sale of spirituos liquor is otherwise prohibited.
- g. Tasting samples are not to be offered to, or allowed to be consumed by, any person under the legal age for consuming spirituos liquor.

The distillery permit holder shall be solely liable for any violations of this Chapter occurring in connection with the tasting. The Commission shall adopt rules to assure that the tastings are limited to samplings and not a subterfuge for the unlawful sale or distribution of spirituos liquor and that the tastings are not used by industry members for unlawful inducements to retail permit holders."

**SECTION 14.12.(d)** This section becomes effective October 1, 2010.

#### **EMPLOYMENT SECURITY COMMISSION FUNDS**

**SECTION 14.13.** Section 14.17 of S.L. 2009-451 reads as rewritten:

**"SECTION 14.17.(a)** Funds from the Employment Security Commission Reserve Fund shall be available to the Employment Security Commission of North Carolina to use as collateral to secure federal funds and to pay the administrative costs associated with the collection of the Employment Security Commission Reserve Fund surcharge. The total administrative costs paid with funds from the Reserve in the ~~2009-2010~~2010-2011 fiscal year shall not exceed two million five hundred thousand dollars (\$2,500,000).

**"SECTION 14.17.(b)** There is appropriated from the Employment Security Commission Reserve Fund to the Employment Security Commission of North Carolina the sum of twenty

million dollars (\$20,000,000) for the ~~2009-2010~~2010-2011 fiscal year to be used for the following purposes:

- (1) Nineteen million five hundred thousand dollars (\$19,500,000) for the operation and support of local Employment Security Commission offices.
- (2) Two hundred thousand dollars (\$200,000) ~~for the State Occupational Information Coordinating Committee to develop and operate an interagency to operate the system to track that tracks~~ former participants in State education and training programs.
- (3) Three hundred thousand dollars (\$300,000) to maintain compliance with Chapter 96 of the General Statutes, which directs the Commission to employ the Common Follow-Up Management Information System to evaluate the effectiveness of the State's job training, education, and placement programs.

**"SECTION 14.17.(c)** There is appropriated from the Employment Security Commission Reserve Fund to the Employment Security Commission of North Carolina an amount not to exceed one million dollars (\$1,000,000) for the ~~2009-2010~~2010-2011 fiscal year to fund State initiatives not currently funded through federal grants.

**"SECTION 14.17.(d)** There is appropriated from the Employment Security Commission Reserve Fund to the Employment Security Commission of North Carolina an amount not to exceed ~~one million five hundred thousand dollars (\$1,500,000)~~one million two hundred thousand dollars (\$1,200,000) for the ~~2009-2010~~2010-2011 fiscal year to fund a system upgrade to the Common Follow-Up Management Information System.

~~**"SECTION 14.17.(e)** The Employment Security Commission of North Carolina may use funds in the Employment Security Commission Reserve Fund to contract with nonprofit organizations to provide dislocated workers with assistance in obtaining health care benefits, receiving vocational training, and securing employment.~~

**"SECTION 14.17.(f)** There is appropriated from the Worker Training Trust Fund to the Employment Security Commission of North Carolina the sum of one million dollars (\$1,000,000) for the 2010-2011 fiscal year to fund the 'Tar Heel Works Program' which provides work based training opportunities to recipients of unemployment insurance benefits. The Tar Heels Works Program must meet all of the following factors:

- (1) The training, even though it includes actual operation of the facilities of the employer, is similar to what would be given in a vocational school or academic educational instruction.
- (2) The training is for the benefit of the trainee.
- (3) The trainees do not displace regular employees, but work under their close observation.
- (4) The employer who provides the training derives no immediate advantage from the activities of the trainees and, on occasion, the employer's operations may actually be impeded.
- (5) The trainees are not necessarily entitled to a job at the conclusion of the training period.
- (6) The employer and the trainees understand that the trainees are not entitled to wages for the time spent in training.

**"SECTION 14.17.(g)** Of the funds credited to and held in the State of North Carolina's account in the Unemployment Trust Fund by the Secretary of the Treasury of the United States pursuant to and in accordance with section 903 of the Social Security Act and pursuant to Title II of P.L. 111-5, the Assistance for Unemployed Workers and Struggling Families Act, the Employment Security Commission of North Carolina may expend the sum of two hundred five million sixty-three thousand five hundred fifty-two dollars (\$205,063,552) as follows: (i) one hundred million dollars (\$100,000,000) shall be used to design and build the integrated unemployment insurance benefit and tax accounting system; and (ii) the remaining funds shall be used for the operation of the unemployment insurance program."

## **SET REGULATORY FEE FOR UTILITIES COMMISSION**

**SECTION 14.14.** Section 14.26 of S.L. 2009-451 reads as rewritten:

**"SECTION 14.26.(a)** The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is twelve one-hundredths of one percent (0.12%) for each public utility's North Carolina jurisdictional revenues earned during each quarter that begins on or after ~~July 1, 2009~~July 1, 2010.

"**SECTION 14.26.(b)** The electric membership corporation regulatory fee imposed under G.S. 62-302(b1) for the ~~2009-2010~~2010-2011 fiscal year is two hundred thousand dollars (\$200,000).

"**SECTION 14.26.(c)** This section becomes effective ~~July 1, 2009~~July 1, 2010."

#### **REGIONAL ECONOMIC DEVELOPMENT COMMISSIONS ALLOCATIONS**

**SECTION 14.15.(a)** Funds appropriated in this act to the Department of Commerce for regional economic development commissions shall be allocated to the following commissions in accordance with subsection (b) of this section: Western North Carolina Regional Economic Development Commission, Research Triangle Regional Partnership, Southeastern North Carolina Regional Economic Development Commission, Piedmont Triad Partnership, Northeastern North Carolina Regional Economic Development Commission, North Carolina's Eastern Region Economic Development Partnership, and Carolinas Partnership, Inc.

**SECTION 14.15.(b)** Funds appropriated pursuant to subsection (a) of this section shall be allocated to each regional economic development commission as follows:

- (1) First, the Department shall establish each commission's allocation by determining the sum of allocations to each county that is a member of that commission. Each county's allocation shall be determined by dividing the county's development factor by the sum of the development factors for eligible counties and multiplying the resulting percentage by the amount of the appropriation. As used in this subdivision, the term "development factor" means a county's development factor as calculated under G.S. 143B-437.08; and
- (2) Next, the Department shall subtract from funds allocated to the North Carolina's Eastern Region Economic Development Partnership the sum of two hundred thirty thousand three hundred twenty-five dollars and thirty-three cents (\$230,325.33) in the 2010-2011 fiscal year, which sum represents: (i) the total interest earnings in the prior fiscal year on the estimated balance of the seven million five hundred thousand dollars (\$7,500,000) appropriated to the Global TransPark Development Zone in Section 6 of Chapter 561 of the 1993 Session Laws; and (ii) the total interest earnings in the prior fiscal year on loans made from the seven million five hundred thousand dollars (\$7,500,000) appropriated to the Global TransPark Development Zone in Section 6 of Chapter 561 of the 1993 Session Laws; and
- (3) Next, the Department shall redistribute the sum of two hundred thirty thousand three hundred twenty-five dollars and thirty-three cents (\$230,325.33) in the 2010-2011 fiscal year to the seven regional economic development commissions named in subsection (a) of this section. Each commission's share of this redistribution shall be determined according to the development factor formula set out in subdivision (1) of this subsection. This redistribution shall be in addition to each commission's allocation determined under subdivision (1) of this subsection.

**SECTION 14.15.(c)** No more than one hundred twenty thousand dollars (\$120,000) in State funds shall be used for the annual salary of any one employee of a regional economic development commission.

**SECTION 14.15.(d)** The General Assembly finds that successful economic development requires the collaboration of the State, regions of the State, counties, and municipalities. Therefore, the regional economic development commissions are encouraged to seek supplemental funding from their county and municipal partners to continue and enhance their efforts to attract and retain business in the State.

#### **E-NC AUTHORITY/REPORTING REQUIREMENT**

**SECTION 14.16.** G.S. 143B-437.47 reads as rewritten:

"§ 143B-437.47. (This part has a delayed repeal date. See notes.) Powers, duties, and goals of the Authority.

...

(e) Reports. – ~~The~~ By September 1 of each year, the Authority shall submit ~~quarterly reports~~ a report to the Governor, the Joint Legislative Oversight Committee on Information Technology, and the Joint Legislative Commission on Governmental Operations. ~~The reports report~~ shall summarize the Authority's activities during the ~~quarter~~ prior State fiscal year and contain any information about the Authority's activities that is requested by the Governor, the Committee, or the Commission."

#### **DEFENSE AND SECURITY TECHNOLOGY ACCELERATOR/REPORTING REQUIREMENT**

**SECTION 14.17.** By September 1, 2010, and September 1, 2011, the Defense and Security Technology Accelerator shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on prior State fiscal year program activities, objectives, and accomplishments and prior State fiscal year itemized expenditures and fund sources.

#### **NC INDIAN ECONOMIC DEVELOPMENT INITIATIVE/RTI INTERNATIONAL/REPORTING REQUIREMENTS**

**SECTION 14.17A.** The North Carolina Indian Economic Development Initiative and RTI International shall do the following:

- (1) By September 1 of 2011, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on prior State fiscal year program activities, objectives, and accomplishments, and prior State fiscal year itemized expenditures and fund sources.
- (2) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

#### **COUNCIL OF GOVERNMENT FUNDS**

**SECTION 14.18.** Section 14.21(a) of S.L. 2009-451 reads as rewritten:

**"SECTION 14.21.(a)** Of the funds appropriated in this act to the Department of Commerce, the sum of four hundred twenty-five thousand dollars (\$425,000) for the 2009-2010 fiscal year and the sum of ~~four hundred twenty-five thousand dollars (\$425,000)~~ four hundred three thousand seven hundred fifty dollars (\$403,750) for the 2010-2011 fiscal year shall only be used as provided by this section. Each regional council of government or lead regional organization is allocated up to twenty-five thousand dollars (\$25,000) for the 2009-2010 and the 2010-2011 fiscal years."

#### **STRATEGIC PLAN ON THE COMMERCIALIZATION OF LIFE SCIENCE TECHNOLOGIES**

**SECTION 14.18A.** The North Carolina Biotechnology Center shall prepare a strategic plan to accelerate the commercialization of promising life science technologies and discoveries being developed in universities and private companies in North Carolina and the related development and production of new commercial products. The plan shall describe the potential national and international market for these products. The plan shall assess the economic potential of such acceleration including the potential for statewide job creation, tax base expansion, additional revenues for State and local government, and related economic development. The plan shall outline the funding and administrative infrastructure required and shall describe the sources of potential financial support including federal, State, local, private, and philanthropic sources. In preparing this strategic plan, the Center shall involve other organizations in North Carolina that have an interest in this subject. The Center shall present its findings and a suggested strategic plan to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division by January 15, 2011.

#### **RURAL ECONOMIC DEVELOPMENT CENTER**

**SECTION 14.19.** Section 14.27(a) of S.L. 2009-451 reads as rewritten:

**"SECTION 14.27.(a)** Of the funds appropriated in this act to the North Carolina Rural Economic Development Center, Inc. (Rural Center), the sum of four million six hundred two thousand four hundred thirty-six dollars (\$4,602,436) for the 2009-2010 fiscal year and the sum of ~~four million five hundred twenty-seven thousand four hundred thirty-six dollars~~



~~(\$4,527,436)~~ three million nine hundred eighty-one thousand eight hundred sixty-four dollars (\$3,981,864) for the 2010-2011 fiscal year shall be allocated as follows:

	2009-2010	2010-2011	
Center Administration, Technical Assistance, & Oversight	\$1,555,000	<del>\$1,523,000</del>	<u>\$1,446,850</u>
Research and Demonstration Grants	\$351,000	<del>\$344,000</del>	<u>\$326,800</u>
Institute for Rural Entrepreneurship	\$136,000	<del>\$134,000</del>	<u>\$127,300</u>
Community Development Grants	\$987,436	<del>\$987,436</del>	<u>\$938,064</u>
Microenterprise Loan Program	\$185,000	<del>\$182,000</del>	<u>\$172,900</u>
Water/Sewer/Business Development Matching Grants	\$840,000	<del>\$821,000</del>	<u>\$779,950</u>
Statewide Water/Sewer Database	\$ 95,000	<del>\$93,000</del>	<u>\$88,350</u>
Agricultural Advancement Consortium	\$110,000	<del>\$107,000</del>	<u>\$101,650</u>

**RURAL ECONOMIC DEVELOPMENT CENTER/INFRASTRUCTURE PROGRAM**

**SECTION 14.20.** Section 14.28 of S.L. 2009-451 reads as rewritten:

**"SECTION 14.28.(a)** Of the funds appropriated in this act to the North Carolina Rural Economic Development Center, Inc. (Rural Center), the sum of nineteen million three hundred five thousand dollars (\$19,305,000) for the 2009-2010 fiscal year and the sum of ~~nineteen million three hundred five thousand dollars (\$19,305,000)~~ eighteen million three hundred thirty-nine thousand seven hundred fifty dollars (\$18,339,750) for the 2010-2011 fiscal year shall be allocated as follows:

- (1) To continue the North Carolina Infrastructure Program. The purpose of the Program is to provide grants to local governments to construct critical water and wastewater facilities and to provide other infrastructure needs, including technology needs, to sites where these facilities will generate private job-creating investment. At least ~~fifteen million dollars (\$15,000,000)~~ fourteen million two hundred fifty thousand dollars (\$14,250,000) of the funds appropriated in this act for ~~each year of the biennium~~ the 2010-2011 fiscal year must be used to provide grants under this Program.
- (2) To provide matching grants to local governments in distressed areas and equity investments in public-private ventures that will productively reuse vacant buildings and properties, with priority given to towns or communities with populations of less than 5,000.
- (3) To provide economic development research and demonstration grants.

**"SECTION 14.28.(b)** The Rural Center may contract with other State agencies, constituent institutions of The University of North Carolina, and colleges within the North Carolina Community College System for certain aspects of the North Carolina Infrastructure Program, including design of Program guidelines and evaluation of Program results.

**"SECTION 14.28.(c)** ~~During each year of the 2009-2011 biennium,~~ For the 2010-2011 fiscal year, the Rural Center may use up to ~~three hundred eighty-five thousand dollars (\$385,000)~~ three hundred sixty-five thousand seven hundred fifty dollars (\$365,750) of the funds appropriated in this act to cover its expenses in administering the North Carolina Economic Infrastructure Program.

**"SECTION 14.28.(d)** Of the funds appropriated in subsection (a) of this section to the Rural Center for the 2009-2010 fiscal year, the sum of one million five hundred forty-four thousand four hundred dollars (\$1,544,400) shall be transferred to the Department of Environment and Natural Resources to be used to provide the State match to draw down maximum federal funds for the Clean Water State Revolving Loan Fund.

**"SECTION 14.28.(e)** By September 1 of each year, and more frequently as requested, the Rural Center shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division concerning the progress of the North Carolina Economic Infrastructure Program in the prior State fiscal year."

**OPPORTUNITIES INDUSTRIALIZATION CENTERS FUNDS**

**SECTION 14.21.** Section 14.30(a) of S.L. 2009-451 reads as rewritten:

**"SECTION 14.30.(a)** Of the funds appropriated in this act to the North Carolina Rural Economic Development Center, Inc. (Rural Center), the sum of three hundred forty-three

thousand dollars (\$343,000) for the 2009-2010 fiscal year and the sum of ~~three hundred thirty six thousand dollars (\$336,000)~~ three hundred nineteen thousand two hundred dollars (\$319,200) for the 2010-2011 fiscal year shall be equally distributed among the certified Opportunities Industrialization Centers (OI Centers)."

#### **RURAL CENTER/REALLOCATION OF CLEAN WATER BOND FUNDS**

**SECTION 14.22.** Notwithstanding the provisions of S.L. 1998-132, S.L. 2000-156, and S.L. 2001-416, if the North Carolina Rural Economic Development Center, Inc. (Rural Center) determines that there has been a change in any fiscal year in the relative needs for funds between the supplemental, capacity, and unsewered communities categories of Clean Water Bond funding, the Rural Center may reallocate funds between these categories. The Board of Directors of the Rural Center must approve in advance any reallocation under this section. At least 30 days before making a reallocation under this section, the Rural Center must consult with the Joint Legislative Commission on Governmental Operations.

### **PART XV. JUDICIAL DEPARTMENT**

#### **COLLECTION OF WORTHLESS CHECK FUNDS**

**SECTION 15.1.** Notwithstanding the provisions of G.S. 7A-308(c), the Judicial Department may use any balance remaining in the Collection of Worthless Check Fund on June 30, 2010, for the purchase or repair of office or information technology equipment during the 2010-2011 fiscal year. Prior to using any funds under this section, the Judicial Department shall report to the Joint Legislative Commission on Governmental Operations and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the equipment to be purchased or repaired and the reasons for the purchases.

#### **OFFICE OF INDIGENT DEFENSE SERVICES EXPANSION FUNDS**

**SECTION 15.3.** Section 15.12 of S.L. 2009-451 reads as rewritten:

"**SECTION 15.12.** The Judicial Department, Office of Indigent Defense Services, may use up to the sum of two million five hundred one thousand one hundred fifty dollars (\$2,501,150) in appropriated funds during the 2009-2010 fiscal year and up to the sum of two million four hundred thirty-three thousand seven hundred dollars (\$2,433,700) in appropriated funds during the 2010-2011 fiscal year for the expansion of existing public defender offices currently providing legal services to the indigent population under the oversight of the Office of Indigent Defense Services, or for the creation of new public defender offices within existing public defender districts currently providing those services, by creating up to 20 new attorney positions and 10 new support staff ~~positions~~ positions during the 2009-2010 fiscal year. In addition, the Office of Indigent Defense Services may use up to the sum of one million dollars (\$1,000,000) in appropriated funds to create up to 12 new attorney positions and six new support positions during the 2010-2011 fiscal year. These funds may be used for salaries, benefits, equipment, and related expenses. Prior to using funds for this purpose, the Office of Indigent Defense Services shall report to the Chairs of the House of Representatives and the Senate Appropriations Subcommittees on Justice and Public Safety on the proposed expansion."

#### **CORRECT DEATH PENALTY LITIGATION FUNDING AMOUNT**

**SECTION 15.4.** Section 15.3 of S.L. 2009-451 reads as rewritten:

"**SECTION 15.3.** Of the funds appropriated in this act to the Office of Indigent Defense Services for the 2009-2011 fiscal biennium, the Office may use up to the sum of three hundred seventy-six thousand one hundred twenty-five dollars (\$376,125) for the 2009-2010 fiscal year and up to the sum of ~~three hundred seventy six thousand one hundred twenty five dollars (\$376,125)~~ four hundred fifty-two thousand six hundred four dollars (\$452,604) for the 2010-2011 fiscal year to contract with the Center for Death Penalty Litigation to provide training, consultation, brief banking, and other assistance to attorneys representing indigent capital defendants. The Office of Indigent Defense Services shall report by February 1 of each year in the biennium to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the activities funded by this section."

#### **INCREASE CERTAIN COURT FEES**

**SECTION 15.5.(a)** G.S. 7A-304(a) reads as rewritten:

**"§ 7A-304. Costs in criminal actions.**

(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected, except that when the judgment imposes an active prison sentence, costs shall be assessed and collected only when the judgment specifically so provides, and that no costs may be assessed when a case is dismissed.

...  
(4) For support of the General Court of Justice, the sum of ~~ninety-five dollars and fifty cents (\$95.50)~~one hundred dollars and fifty cents (\$100.50) in the district court, including cases before a magistrate, and the sum of one hundred two dollars and fifty cents (\$102.50) in the superior court, to be remitted to the State Treasurer. For a person convicted of a felony in superior court who has made a first appearance in district court, both the district court and superior court fees shall be assessed. The State Treasurer shall remit the sum of two dollars and five cents (\$2.05) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4, and ninety-five cents (\$.95) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.19.

...  
(6) For support of the General Court of Justice, the sum of two hundred dollars (\$200.00) is payable by a defendant who fails to appear to answer the charge as scheduled, unless within 20 days after the scheduled appearance, the person either appears in court to answer the charge or disposes of the charge pursuant to G.S. 7A-146, and the sum of ~~twenty-five dollars (\$25.00)~~fifty dollars (\$50.00) is payable by a defendant who fails to pay a fine, penalty, or costs within 20 days of the date specified in the court's judgment. Upon a showing to the court that the defendant failed to appear because of an error or omission of a judicial official, a prosecutor, or a law-enforcement officer, the court shall waive the fee for failure to appear. These fees shall be remitted to the State Treasurer.

....  
**SECTION 15.5.(b)** G.S. 7A-305(a)(2) reads as rewritten:

**"§ 7A-305. Costs in civil actions.**

(a) In every civil action in the superior or district court, except for actions brought under Chapter 50B of the General Statutes, shall be assessed:

...  
(2) For support of the General Court of Justice, the sum of ~~ninety-three dollars (\$93.00)~~one hundred twenty-five dollars (\$125.00) in the superior court, except that if a case is assigned to a special superior court judge as a complex business case under G.S. 7A-45.3, an additional one thousand dollars (\$1,000) shall be paid upon its assignment, and the sum of ~~seventy-three dollars (\$73.00)~~eighty dollars (\$80.00) in the district court except that if the case is assigned to a magistrate the sum shall be fifty-five dollars (\$55.00). Sums collected under this subdivision shall be remitted to the State Treasurer. The State Treasurer shall remit the sum of two dollars and five cents (\$2.05) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4, and ninety-five cents (\$.95) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.19."

**SECTION 15.5.(c)** This section becomes effective October 1, 2010, and applies to fees assessed or collected on or after that date.

**CHILD SUPPORT FEE MODIFICATION**

**SECTION 15.6.** G.S. 110-134 reads as rewritten:

**"§ 110-134. Filing of affidavits, agreements, and orders; fees.**

All affidavits, agreements, and resulting orders entered into under the provisions of G.S. 110-132 and G.S. 110-133 shall be filed by the clerk of superior court in the county in which they are entered. The filing fee for the institution of an action through the entry of an order under either of these provisions shall be ~~four dollars (\$4.00)~~ in an amount equal to that provided in G.S. 7A-308(a)(18)."

## **EXPERT FEES**

**SECTION 15.7.** G.S. 7A-314(d) reads as rewritten:

"(d) An expert witness, other than a salaried State, county, or municipal law-enforcement officer, shall receive such compensation and allowances as the court, or the Judicial Standards Commission, in its discretion, may authorize. A law-enforcement officer who appears as an expert witness shall receive reimbursement for travel expenses only, as provided in subsection (b) of this section. Compensation of experts acting on behalf of the court or prosecutorial offices shall be paid in accordance with the rules established by the Administrative Office of the Courts. Compensation of experts provided under G.S. 7A-454 shall be in accordance with rules established by the Office of Indigent Defense Services."

## **PROVIDE CERTAIN COUNTERCLAIM FEES IN DOMESTIC VIOLENCE ACTIONS**

**SECTION 15.8.(a)** G.S. 7A-305(a1) reads as rewritten:

"(a1) Costs apply to any and all additional and subsequent actions filed by amendment or counterclaim to the original action brought under Chapter 50B of the General Statutes, unless such additional and subsequent amendment or counterclaim to the action is ~~also brought under~~ limited to requests for relief authorized by Chapter 50B of the General Statutes."

**SECTION 15.8.(b)** This section becomes effective October 1, 2010, and applies to counterclaims filed on or after that date.

## **MODIFY FEES FOR RESUMPTION OF MAIDEN OR FORMER NAME**

**SECTION 15.9.(a)** G.S. 50-12 reads as rewritten:

### **"§ 50-12. Resumption of maiden or premarriage surname.**

(a) Any woman whose marriage is dissolved by a decree of absolute divorce may, upon application to the clerk of court of the county in which she resides or where the divorce was granted setting forth her intention to do so, change her name to any of the following:

- (1) Her maiden name; or
- (2) The surname of a prior deceased husband; or
- (3) The surname of a prior living husband if she has children who have that husband's surname.

(a1) A man whose marriage is dissolved by decree of absolute divorce may, upon application to the clerk of court of the county in which he resides or where the divorce was granted setting forth his intention to do so, change the surname he took upon marriage to his premarriage surname.

(b) The application and fee required by subsection (e) of this section shall be addressed presented to the clerk of the court of the county in which such divorced person resides or where the divorce was granted, and shall set forth the full name of the former spouse of the applicant, the name of the county and state in which the divorce was granted, and the term or session of court at which such divorce was granted, and shall be signed by the woman in her full maiden name, or by the man in his full premarriage surname. The clerks of court of the several counties of the State shall record and index such applications in such manner as shall be required by the Administrative Office of the Courts.

(c) If an applicant, since the divorce, has adopted one of the surnames listed in subsection (a) or (a1) of this section, the applicant's use and adoption of that name is validated.

(d) In the complaint, or counterclaim for divorce filed by any person in this State, the person may petition the court to adopt any surname as provided by this section, and the court is authorized to incorporate in the divorce decree an order authorizing the person to adopt that surname.

(e) For support of the General Court of Justice, a fee in the amount of ten dollars (\$10.00) shall be assessed against each person requesting the resumption of maiden or premarriage surname in accordance with this section. Sums collected under this section shall be remitted to the State Treasurer."

**SECTION 15.9.(b)** This section becomes effective October 1, 2010, and applies to fees assessed or collected on or after that date.

#### **INCREASE ATTORNEY APPOINTMENT FEE**

**SECTION 15.11.(a)** G.S. 7A-455.1 reads as rewritten:

"§ 7A-455.1. **Appointment fee in criminal cases.**

(a) In every criminal case in which counsel is appointed at the trial level, the judge shall order the defendant to pay to the clerk of court an appointment fee of ~~fifty dollars (\$50.00)~~ sixty dollars (\$60.00). No fee shall be due unless the person is convicted.

(b) The mandatory ~~fifty-dollar (\$50.00)~~ sixty-dollar (\$60.00) fee may not be remitted or revoked by the court and shall be added to any amounts the court determines to be owed for the value of legal services rendered to the defendant and shall be collected in the same manner as attorneys' fees are collected for such representation.

(c) Repealed by Session Laws 2005-250 s. 3, effective August 4, 2005.

(d) Inability, failure, or refusal to pay the appointment fee shall not be grounds for denying appointment of counsel, for withdrawal of counsel, or for contempt.

(e) The appointment fee required by this section shall be assessed only once for each attorney appointment, regardless of the number of cases to which the attorney was assigned. An additional appointment fee shall not be assessed if the charges for which an attorney was appointed were reassigned to a different attorney.

(f) Of each appointment fee collected under this section, the sum of ~~forty-five dollars (\$45.00)~~ fifty-five dollars (\$55.00) shall be credited to the Indigent Persons' Attorney Fee Fund and the sum of five dollars (\$5.00) shall be credited to the Court Information Technology Fund under G.S. 7A-343.2. These fees shall not revert.

(g) The Office of Indigent Defense Services shall adopt rules and develop forms to govern implementation of this section."

**SECTION 15.11.(b)** This section becomes effective October 1, 2010, and applies to fees assessed or collected on or after that date.

#### **MODIFICATION TO THE DUTIES OF THE DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE COURTS WITH RESPECT TO PAYMENT OF INTERPRETERS AND EXPERT WITNESSES**

**SECTION 15.12.** G.S. 7A-343 is amended by adding two new subdivisions to read:

"(9e) Prescribe policies and procedures for the appointment and payment of deaf and hearing-impaired interpreters, in accordance with G.S. 8B-8(a), for those cases specified in G.S. 8B-8(b) and (c). These policies and procedures shall be applied uniformly throughout the General Court of Justice. After consultation with the Joint Legislative Commission on Governmental Operations, the Director may also convert contractual hearing-impaired interpreter positions to permanent State positions when the Director determines that it is more cost-effective to do so.

(9f) Prescribe policies and procedures for the payment of those experts acting on behalf of the court or prosecutorial offices, as provided for in G.S. 7A-314(d)."

#### **ESTABLISH A PILOT PROGRAM FOR ELECTRONIC FILING IN DOMESTIC VIOLENCE AND CIVIL NO-CONTACT CASES IN ALAMANCE COUNTY**

**SECTION 15.13.(a)** A pilot program for electronic filing in domestic violence cases is established in District Court District 15A. In order to implement the program, the chief district court judge in District Court District 15A may adopt local rules that permit the clerk of superior court for Alamance County to accept electronically filed complaints requesting Chapter 50B of the General Statutes ex parte domestic violence protective orders, and Chapter 50C of the General Statutes ex parte civil no-contact orders, that are transmitted from the Alamance County Family Justice Center.

**SECTION 15.13.(b)** This section expires June 30, 2012.

#### **PART XVI. DEPARTMENT OF JUSTICE**

## **REPORTING BY MEDICAID FRAUD CONTROL UNIT**

**SECTION 16.1.** Article 1 of Chapter 114 of the General Statutes is amended by adding a new section to read:

**"§ 114-2.5A. Report by the Medicaid Fraud Control Unit required annually.**

By September 1 of each year, the Medicaid Fraud Control Unit of the Department of Justice shall file a written report about its activities with the Chairs of the Appropriations Subcommittees on Justice and Public Safety and Health and Human Services of the Senate and House of Representatives and with the Fiscal Research Division of the Legislative Services Office. This report may be combined with the report required by G.S. 1-617 and shall include the following information about the Unit's activities during the previous fiscal year:

- (1) The number of matters reported to the Unit.
- (2) The number of cases investigated.
- (3) The number of criminal convictions and civil settlements.
- (4) The total amount of funds recovered in each case.
- (5) The allocation of recovered funds in each case to (i) the federal government; (ii) the State Medical Assistance Program; (iii) the Civil Penalty and Forfeiture Fund; (iv) the Department of Justice; and (v) other victims."

## **PART XVII. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY**

### **AMEND LAW ENFORCEMENT SUPPORT SERVICES FEE AUTHORITY**

**SECTION 17.1.(a)** The General Assembly finds that a centralized evidence and DNA storage facility will provide local law enforcement agencies and clerks of court with a lower cost storage alternative, reducing or eliminating the need for local entities to provide their own storage and streamlining the evidence storage process.

**SECTION 17.1.(b)** G.S. 143B-475.2 is repealed.

**SECTION 17.1.(c)** Part 7 of Article 11 of Chapter 143B of the General Statutes is amended by adding a new section to read:

**"§ 143B-508.1. Fees for services provided by the Division.**

Fees shall be established and collected by the Department for all program services provided by the Law Enforcement Support Services Division, except for Department of Defense property being transferred pursuant to the National Defense Authorization Act of 1997. The fees collected are departmental receipts and are applied to the Division's costs in providing services to these entities. The fees apply to the following:

- (1) A law enforcement agency that receives any services from the Division.
- (2) An agency for which the Department stores evidence."

**SECTION 17.1.(d)** Subsections (b) and (c) of this section become effective July 1, 2010, and fees established pursuant to subsection (c) of this section apply to program services provided on or after that date.

### **REQUIRE DEVELOPMENT AND REPORTING OF LESS FEE SCHEDULE**

**SECTION 17.2.(a)** The Department of Crime Control and Public Safety, Law Enforcement Support Services Division (LESS), shall, in consultation with the Fiscal Research Division of the General Assembly, develop a fee schedule for the services provided by LESS. In developing this fee schedule, the Department shall consider the following:

- (1) Fees charged in other states for similar services.
- (2) Utilization rates for each of the three main program areas of LESS for the last five years.
- (3) Actual workload requirements for each of the three main program areas of LESS, including the average time to complete a single transaction for each of the programs. For example, the Division shall determine, on average, how many person hours it takes to log in a piece of evidence for storage.
- (4) Projected evidence storage needs for the next five years.
- (5) Projected space costs and the feasibility of purchasing a permanent storage facility rather than continuing to lease space.

**SECTION 17.2.(b)** The fee schedule required to be developed pursuant to this section shall be reported to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the Fiscal Research Division of the General Assembly not later than October 1, 2010.

## **TRANSFER TUITION ASSISTANCE PROGRAM**

**SECTION 17.3.(a)** The North Carolina National Guard Tuition Assistance Program of the Department of Crime Control and Public Safety is transferred to the State Education Assistance Authority. This transfer shall have all of the elements of a Type I transfer, as defined in G.S. 143A-6.

**SECTION 17.3.(b)** Article 15 of Chapter 127A of the General Statutes is recodified as Part 2 of Article 23 of Chapter 116 of the General Statutes, G.S. 116-209.50 through G.S. 116-209.55. The remainder of Article 23 of Chapter 116 of the General Statutes is recodified as Part 1 of Article 23 of Chapter 116 of the General Statutes and shall be designated "State Education Assistance Authority".

**SECTION 17.3.(c)** Part 2 of Article 23 of Chapter 116 of the General Statutes, as recodified as Part 2 of Article 23 of Chapter 116 of the General Statutes by subsection (b) of this section, reads as rewritten:

"Part 2. North Carolina National Guard Tuition Assistance Act of 1975.

### **"§ 116-209.50. Short title.**

This Article shall be known and may be cited as the North Carolina National Guard Tuition Assistance Act of 1975.

### **"§ 116-209.51. Purpose.**

The General Assembly of North Carolina, recognizing that the North Carolina National Guard is the only organized, trained and equipped military force subject to the control of the State, hereby establishes a program of tuition assistance for qualifying guard members for the purpose of encouraging voluntary membership in the guard, improving the educational level of its members, and thereby benefiting the State as a whole.

### **"§ 116-209.52. Definitions.**

(a) Academic Year. – Any period of 365 days beginning with the first day of enrollment for a course of instruction.

(a1) Business or Trade School. – Any school within the State of North Carolina which is licensed by the State Board of Education and listed by that Board as an approved private business school or an approved private trade school.

(b) Private Educational Institutions. – Any junior college, senior college or university which is operated and governed by private interests not under the control of the federal, State or any local government, which is located within and licensed by the State of North Carolina, which does not operate for profit, whose curriculum is primarily directed toward the awarding of associate, baccalaureate or graduate degrees, which agrees to the applicable administration and funding provisions of this Article.

(c) ~~Secretary. – The Secretary of Crime Control and Public Safety or his or her designee.~~

(d) State Educational Institutions. – Any of the constituent institutions of the University of North Carolina, or any community college operated under the provisions of Chapter 115D of the General Statutes of North Carolina.

(e) Repealed by Session Laws 2008-94, s. 2, effective July 1, 2008.

(f) Student Loan. – A loan or loans made to eligible students or parents of students to aid in attaining an education beyond the high school level.

### **"§ 116-209.53. Benefit.**

The benefit provided under this Article shall consist of a monetary educational assistance grant not to exceed the highest amount charged by a State educational institution per academic year or a lesser amount, as prescribed by the ~~Secretary, Authority,~~ to remain within the funds appropriated, to qualifying members of the North Carolina National Guard. Benefits provided under ~~G.S. 127A-195(g)~~ G.S. 116-209.55(g) shall be payable for a period of one year at a time, renewable at the option of the ~~Secretary, Authority.~~ All other benefits provided under this Article shall be payable for a period of one academic year at a time, renewable at the option of the ~~Secretary, Authority.~~

### **"§ 116-209.54. Eligibility.**

(a) Active members of the North Carolina National Guard who are enrolled or who shall enroll in any business or trade school, private educational institution, or State educational institution shall be eligible to apply for this tuition assistance benefit: Provided, that the applicant has a minimum obligation of two years remaining as a member of the National Guard from the end of the academic period for which tuition assistance is provided or that the

applicant commit himself or herself to extended membership for at least two additional years from the end of that academic period.

(b) This tuition assistance benefit shall be applicable to students in the following categories:

- (1) Students seeking to achieve completion of their secondary school education at a community college or technical institute.
- (2) Students seeking trade or vocational training or education.
- (3) Students seeking to achieve a two-year associate degree.
- (4) Students seeking to achieve a four-year baccalaureate degree.
- (5) Students seeking to achieve a graduate degree.

(c) The following persons shall be eligible to apply for disbursements to pay outstanding student loans pursuant to ~~G.S. 127A-195(g)~~: G.S. 116-209.55(g):

- (1) Persons described in subsections (a) and (b) of this section.
- (2) Active members of the North Carolina National Guard who were previously enrolled in any business or trade school, private educational institution, or State educational institution, but only if:
  - a. The applicant has a minimum obligation of two years remaining as a member of the National Guard from the time of the application; or
  - b. The applicant commits himself or herself to extended membership for at least two additional years from the time of the application."

**"§ 116-209.55. Administration and funding.**

(a) ~~The Secretary of Crime Control and Public Safety Authority~~ is charged with the administration of the tuition assistance program under this Article. ~~He may delegate administrative tasks to other persons within the Department of Crime Control and Public Safety as he deems best for the orderly administration of this program.~~

(b) ~~The Secretary Authority~~ shall determine the eligibility of applicants, select the benefit recipients, establish the effective date of the benefit, and may suspend or revoke the benefit if ~~he-the Authority~~ finds that the recipient does not maintain an adequate academic status, or if the recipient engages in riots, unlawful demonstrations, the seizure of educational buildings, or otherwise engages in disorderly conduct, breaches of the peace, or unlawful assemblies. ~~The Secretary Authority~~ shall maintain such records and shall promulgate such rules and regulations as ~~he-the Authority~~ deems necessary for the orderly administration of this program. ~~The Secretary Authority~~ may require of business or trade schools or State or private educational institutions such reports and other information as ~~he-the Authority~~ may need to carry out the provisions of this Article and ~~he-the Authority~~ shall disburse benefit payments for recipients upon certification of enrollment by the enrolling institutions.

(c) All tuition benefit disbursements shall be made to the business or trade school or State or private educational institution concerned, for credit to the tuition account of each recipient. Funds disbursed pursuant to subsection (g) of this section shall be made to the student loan creditor concerned to be applied against the outstanding student loans of each National Guard member beneficiary.

(d) The participation by any business or trade school or private educational institution in this program shall be subject to the applicable provisions of this Article and to examination by the State Auditor of the accounts of the benefit recipients attending or having attended such private schools or institutions. ~~The Secretary Authority~~ may defer making an award or may suspend an award in any business or trade school or private educational institution which does not comply with the provisions of this Article relating to said institutions. The manner of payment to any business or trade school or private educational institution shall be as prescribed by the ~~Secretary Authority~~.

(e) Irrespective of other provisions of this Article, the ~~Secretary Authority~~ may prescribe special procedures for adjusting the accounts of benefit recipients who, for reasons of illness, physical inability to attend classes or for other valid reason satisfactory to the ~~Secretary Authority~~, may withdraw from any business or trade school or State or private educational institution prior to the completion of the term, semester, quarter or other academic period being attended at the time of withdrawal.

(f) Any balance of the monetary educational assistance grant up to the maximum for the academic year remaining after tuition is paid pursuant to subsection (c) of this section may be disbursed to the recipient as reimbursement for required course books and materials. The



manner of obtaining the reimbursement payment for these required books and materials shall be as prescribed by the ~~Secretary-Authority~~.

(g) Any funds not needed to accomplish the other purposes of this Article may be used to help members of the North Carolina National Guard repay outstanding student loans in accordance with rules to be adopted by the ~~Secretary-Authority~~. These rules shall provide that the length of a member's deployment may be considered in determining whether or not, and in what amount, a member receives assistance pursuant to this subsection. There shall be no reimbursement under this subsection for payments already made on student loans, and funds shall not be provided under this subsection for the purpose of paying student loans obtained for courses from which the member withdrew or for which the member did not receive a passing grade. Payments for outstanding loans shall not exceed the maximum benefit available under ~~G.S. 127A-193~~. G.S. 116-209.53."

## **PART XVIII. DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION**

### **STATE FUNDS MAY BE USED AS FEDERAL MATCHING FUNDS**

**SECTION 18.1.** Funds appropriated in this act to the Department of Juvenile Justice and Delinquency Prevention for the 2010-2011 fiscal year may be used as matching funds for the Juvenile Accountability Incentive Block Grants. If North Carolina receives Juvenile Accountability Incentive Block Grants or a notice of funds to be awarded, the Office of State Budget and Management and the Governor's Crime Commission shall consult with the Department of Juvenile Justice and Delinquency Prevention regarding the criteria for awarding federal funds. The Office of State Budget and Management, the Governor's Crime Commission, and the Department of Juvenile Justice and Delinquency Prevention shall report to the Appropriations Committees of the Senate and House of Representatives and the Joint Legislative Commission on Governmental Operations prior to allocation of the federal funds. The report shall identify the amount of funds to be received for the 2010-2011 fiscal year and the allocation of funds by program and purpose.

### **REPEAL STAFFING CAP AT YOUTH DEVELOPMENT CENTERS**

**SECTION 18.2.** Section 18.4 of S.L. 2009-451 is repealed.

## **PART XIX. DEPARTMENT OF CORRECTION**

### **FEDERAL GRANT MATCHING FUNDS**

**SECTION 19.1.** Section 19.9 of S.L. 2009-451 reads as rewritten:

"**SECTION 19.9.** Notwithstanding the provisions of G.S. 143C-6-9, the Department of Correction may use up to the sum of one million two hundred thousand dollars (\$1,200,000) during the 2009-2010 fiscal year and up to the sum of one million two hundred thousand dollars (\$1,200,000) during the 2010-2011 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 House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds."

### **PLAN FOR A PILOT PROGRAM ON PROBATION SERVICES**

**SECTION 19.2.** The Department of Correction, Division of Community Corrections, shall develop a plan for implementing a pilot program on the privatization of probation services. The plan shall include a determination of what resources and policy changes are necessary to conduct a pilot program for fee-based supervision of low-risk or community-level offenders by private entities.

No pilot program shall be implemented without the prior approval of the General Assembly. The Division shall report its plan to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the Fiscal Research Division by March 1, 2011.

### **INCREASE FEES FOR PROBATION, PAROLE, AND POST-RELEASE SUPERVISION**

**SECTION 19.3.(a)** G.S. 15A-1343(c1) reads as rewritten:

"(c1) Supervision Fee. – Any person placed on supervised probation pursuant to subsection (a) of this section shall pay a supervision fee of ~~thirty dollars (\$30.00)~~ forty dollars (\$40.00) per month, unless exempted by the court. The court may exempt a person from paying the fee only for good cause and upon motion of the person placed on supervised probation. No person shall be required to pay more than one supervision fee per month. The court may require that the fee be paid in advance or in a lump sum or sums, and a probation officer may require payment by such methods if he is authorized by subsection (g) to determine the payment schedule. Supervision fees must be paid to the clerk of court for the county in which the judgment was entered or the deferred prosecution agreement was filed. Fees collected under this subsection shall be transmitted to the State for deposit into the State's General Fund."

**SECTION 19.3.(b)** G.S. 15A-1368.4(f) reads as rewritten:

"(f) Required Supervision Fee. – The Commission shall require as a condition of post-release supervision that the supervisee pay a supervision fee of ~~thirty dollars (\$30.00)~~ forty dollars (\$40.00) per month. The Commission may exempt a supervisee from this condition only if it finds that requiring payment of the fee is an undue economic burden. The fee shall be paid to the clerk of superior court of the county in which the supervisee was convicted. The clerk shall transmit any money collected pursuant to this subsection to the State to be deposited in the State's General Fund. In no event shall a supervisee be required to pay more than one supervision fee per month."

**SECTION 19.3.(c)** G.S. 15A-1374(c) reads as rewritten:

"(c) Supervision Fee. – The Commission must require as a condition of parole that the parolee pay a supervision fee of ~~thirty dollars (\$30.00)~~ forty dollars (\$40.00) per month. The Commission may exempt a parolee from this condition of parole only if it finds that requiring him to pay the fee will constitute an undue economic burden. The fee must be paid to the clerk of superior court of the county in which the parolee was convicted. The clerk must transmit any money collected pursuant to this subsection to the State to be deposited in the general fund of the State. In no event shall a person released on parole be required to pay more than one supervision fee per month."

**SECTION 19.3.(d)** This section becomes effective October 1, 2010, and applies to persons placed on supervised probation, parole, or post-release prior to that date and to all persons placed on supervised probation, parole, or post-release on or after that date.

**INCREASE FEE FOR COMMUNITY SERVICE PROGRAM**

**SECTION 19.4.(a)** G.S. 143B-262.4(b) reads as rewritten:

"(b) A fee of ~~two hundred twenty five dollars (\$225.00)~~ two hundred fifty dollars (\$250.00) shall be paid by all persons who participate in the program or receive services from the program staff. Only one fee may be assessed for each sentencing transaction, even if the person is assigned to the program on more than one occasion, or while on deferred prosecution, or while serving a sentence for the offense. A sentencing transaction shall include all offenses considered and adjudicated during the same term of court. Fees collected pursuant to this subsection shall be deposited in the General Fund. If the person is convicted in a court in this State, the fee shall be paid to the clerk of court in the county in which the person is convicted, regardless of whether the person is participating in the program as a condition of probation imposed by the court or pursuant to the exercise of authority delegated to the probation officer pursuant to G.S. 15A-1343.2(e) or (f). If the person is participating in the program as a result of a deferred prosecution or similar program, the fee shall be paid to the clerk of court in the county in which the agreement is filed. If the person is participating in the program as a condition of parole, the fee shall be paid to the clerk of the county in which the person is released on parole. Persons participating in the program for any other reason shall pay the fee to the clerk of court in the county in which the services are provided by the program staff. The fee shall be paid in full before the person may participate in the community service program, except that:

- (1) A person convicted in a court in this State may be given an extension of time or allowed to begin the community service before the person pays the fee by the court in which the person is convicted; or
- (2) A person performing community service pursuant to a deferred prosecution or similar agreement may be given an extension of time or allowed to begin

community service before the fee is paid by the official or agency representing the State in the agreement.

- (3) A person performing community service as a condition of parole may be given an extension of time to pay the fee by the Post-Release Supervision and Parole Commission. No person shall be required to pay the fee before beginning the community service unless the Commission orders the person to do so in writing.
- (4) A person performing community service as ordered by a probation officer pursuant to authority delegated by G.S. 15A-1343.2 may be given an extension of time to pay the fee by the probation officer exercising the delegated authority."

**SECTION 19.4.(b)** This section becomes effective October 1, 2010, and applies to fees assessed or collected on or after that date.

### **MISDEMEANOR RECLASSIFICATION REPORT**

**SECTION 19.5.** It is the intent of the General Assembly that there be only three misdemeanor punishment levels: Class A1, Class 1, and Class 2. The North Carolina Sentencing and Policy Advisory Commission, in consultation with the Conference of District Attorneys, the Office of Indigent Defense Services, and the School of Government, shall review all Class 3 misdemeanor offenses and provide recommendations to the 2011 General Assembly for reclassifying each Class 3 misdemeanor as either an infraction or a Class 2 misdemeanor. The Commission may, in its discretion, consider other misdemeanor offenses for reclassification as infractions.

### **INMATE MEDICAL COST CONTAINMENT**

**SECTION 19.6.(a)** The Department of Correction may reimburse those providers and facilities providing inmate medical services at a rate not to exceed seventy percent (70%) of the amount charged based on the usual and customary charges in effect for all other patients as of July 1, 2010. Usual and customary charges shall be established for each provider or facility based on the schedule of usual and customary charges used for all other patients furnished by that provider or facility providing inmate medical services in effect on July 1, 2010. Information furnished by providers and facilities regarding their usual and customary charges under this section is deemed as a matter of law to meet all the conditions of G.S. 132-1.2(1). The limitation on payment for inmate medical services under this subsection shall not apply to reimbursement rates the Department of Correction has otherwise contracted for under contracts in effect as of June 30, 2010.

This subsection applies to all medical and facility services provided outside the correctional facility, including hospitalizations, professional services, medical supplies, and other medications provided to any inmate confined in a correctional facility.

**SECTION 19.6.(b)** The Department of Correction shall make every effort to contain inmate medical costs by making use of its own hospital and health care facilities to provide health care services to inmates. To the extent that the Department of Correction must utilize other facilities and services to provide health care services to inmates, the Department shall make reasonable efforts to make use of hospitals or other providers with which it has a contract or, if none is reasonably available, hospitals with available capacity or other health care facilities in a region to accomplish that goal. The Department shall make reasonable efforts to equitably distribute inmates among all hospitals or other appropriate health care facilities.

With respect to any single hospital, the Department of Correction shall make best efforts to seek admission of the number of inmates representing no more than five percent (5%) of all inmates requiring hospitalization or hospital services on an annual basis, unless the failure to do so would jeopardize the health of an inmate or unless a higher level is agreed to by contract.

The Department shall also give preference to those hospitals or other health care facilities in the same county or an adjoining county to the correctional facility where an inmate requiring hospitalization is incarcerated.

**SECTION 19.6.(c)** The Department of Correction shall consult with the Division of Medical Assistance in the Department of Health and Human Services to develop protocols for prisoners who would be eligible for Medicaid if they were not incarcerated to access

Medicaid while in custody or under extended limits of confinement. The Department shall seek reimbursement from Medicaid for those health care costs incurred by the Department in those instances when an inmate's Medicaid eligibility has been temporarily reinstated due to a hospitalization. The Department of Correction shall also work with the Division of Medical Assistance to determine the feasibility of applying for a Medicaid waiver to cover the inmate population.

**SECTION 19.6.(d)** The Department of Correction, in consultation with the Office of State Budget and Management, shall study the impact on inmate medical costs resulting from the measures set forth in subsections (a), (b), and (c) of this section. The Department shall present its findings by March 1, 2011, to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee.

**SECTION 19.6.(e)** The Department of Correction shall make every effort to explore other cost containment methods not expressly outlined in this section. These methods may include the following:

- (1) Contracting with a private third party to manage and provide all inmate medical services;
- (2) Partnering with the federal government to allow for treatment of State inmates in federal correctional hospitals; and
- (3) Purchasing a fixed number of beds at a hospital.

**SECTION 19.6.(f)** The Department of Correction shall report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee no later than October 1, 2010, on:

- (1) The Department's progress with the RFP process initiated pursuant to Section 19.20(b) of S.L. 2009-451, as rewritten by Section 15A of S.L. 2009-575, to contract for claims processing, medical management services, and the development and management of a medical professional and facility provider network.
- (2) The anticipated effects on medical care provided to inmates as a result of the new hospital at Central Prison and the updated facilities at the North Carolina Correctional Institute for Women, as well as any other new medical services capacity within the Department. Specifically, the Department shall report on:
  - a. The types and volumes of services that the new and updated facilities will provide that previously would have been provided by community providers; and
  - b. The projected types and volumes of services that will still be referred to community providers.

The report shall also address changes in statewide inmate custody that are needed to maximize the utilization of the new facilities and the Department's ability to contract with community providers with the available capacity throughout the State.

**SECTION 19.6.(g)** The Department of Correction shall report to the Joint Legislative Commission on Governmental Operations no later than October 1, 2010, and quarterly thereafter on:

- (1) The volume of services provided by community medical providers that can be scheduled in advance and, of that volume, the percentage of those services that are provided by contracted providers; and
- (2) The volume of services provided by community medical providers that cannot be scheduled in advance and, of that volume, the percentage of those services that are provided by contracted providers.

**SECTION 19.6.(h)** Section 19.20(a) of S.L. 2009-451, as amended by Section 15A of S.L. 2009-575, is repealed.

## **COMMUNITY-BASED RESIDENTIAL REENTRY PROGRAM FOR INMATES – PILOT INITIATIVE**

**SECTION 19.7.** The Department of Correction may contract with a community-based residential facility that provides a range of offender services to pilot a two-year reentry program for selected inmates. The Department may use funds available to

support the pilot. The eligible inmates shall be assessed by the Department of Correction as low-risk and eligible for minimum custody security level. Selected inmates may be housed at a community-based residential facility with other populations such as those on community supervision and nonoffenders. The pilot will begin during the 2010-2011 fiscal year and end during the 2011-2012 fiscal year. The Department shall report on the outcome of the pilot to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee by February 1, 2012. The report shall include the number of inmates served, the number who successfully completed the program/program services, a cost comparison between placement in a community-based residential facility and incarceration in the State prison system, and may make recommendations regarding continuing placement of offenders in such facilities.

#### **STUDY INMATE MEDICAL COSTS**

**SECTION 19.8.(a)** The Legislative Research Commission may study the issue of inmate medical costs and develop recommendations for effective means of containing those costs.

**SECTION 19.8.(b)** The Legislative Research Commission may make an interim report to the 2011 General Assembly and shall make its final report to the 2011 General Assembly, Regular Session 2012.

#### **CRIMINAL JUSTICE PARTNERSHIP PROGRAM GRANT REQUIREMENT**

**SECTION 19.9.** G.S. 143B-273.14 is amended by adding a new subsection to read:

"(a1) Funding provided under this Article for personnel for satellite substance abuse centers shall only be used for personnel who provide direct services to offenders."

#### **PROHIBIT CONTRACTING FOR MAINTENANCE OF PRISONS**

**SECTION 19.10.(a)** Notwithstanding any other provision of law, the Department of Correction shall not do either of the following on or after the effective date of this section:

- (1) Enter into any contract for maintenance services at prison facilities.
- (2) Expand any existing contract for maintenance services at prison facilities to additional prison facilities.

**SECTION 19.10.(b)** Subdivision (a)(1) of this section does not apply to the renewal of contracts existing at the time this section becomes effective.

### **PART XX. DEPARTMENT OF ADMINISTRATION**

#### **CURB EXCESS PRIVATE MOTOR VEHICLE EXPENSE REIMBURSEMENT**

**SECTION 20.2.** The Division of Motor Fleet Management of the Department of Administration shall work with State agencies to analyze the travel costs of employees receiving private automobile travel reimbursements associated with their job. The Division shall report by February 1, 2011, to the House Appropriations Subcommittee on General Government, the Senate Committee on Appropriations on General Government and Information Technology, and the Fiscal Research Division on the findings of the analysis of private automobile travel reimbursement.

### **PART XXI. OFFICE OF THE STATE AUDITOR**

#### **BATTLESHIP COMMISSION PAY FOR AUDIT**

**SECTION 21.1.** G.S. 143B-74.1 reads as rewritten:

**"§ 143B-74.1. U.S.S. North Carolina Battleship Commission – funds.**

The Commission shall establish and maintain a "Battleship Fund" composed of the moneys which may come into its hands from admission or inspection fees, gifts, donations, grants, or bequests, which funds will be used by the Commission to pay all costs of maintaining and operating the ship for the purposes herein set forth. The Commission shall maintain books of accounting records concerning revenue derived and all expenses incurred in maintaining and operating the ship as a public memorial. The operations of the Commission shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes. The Commission shall reimburse the State Auditor the cost of any audit. The

Commission shall establish a reserve fund in an amount to be determined by the Secretary of Cultural Resources to be maintained and used for contingencies and emergencies beyond those occurring in the course of routine maintenance and operation, and may authorize the deposit of this reserve fund in a depository to be selected by the Treasurer of North Carolina."

#### **STATE PORTS AUTHORITY PAY FOR AUDIT**

**SECTION 21.2.** G.S. 143B-464 reads as rewritten:

**"§ 143B-464. Audit.**

The operations of the State Ports Authority shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes. The State Ports Authority shall reimburse the State Auditor the cost of any audit."

#### **PART XXII. DEPARTMENT OF CULTURAL RESOURCES**

##### **MODIFY TERMS OF THE 2007-2008 GRANT-IN-AID FOR FREEDOM MONUMENT**

**SECTION 22.1.** Funds appropriated by the 2007 General Assembly as a grant-in-aid for North Carolina Freedom Monument Project, Inc., to fabricate and construct a monument that have not been used for this purpose may be used by North Carolina Freedom Monument Project, Inc., for planning and development of preconstruction stages of the monument.

#### **PART XXIII. HOUSING FINANCE AGENCY**

##### **ALLOW HOUSING FINANCE AGENCY TO CREATE A CORPORATION TO RECEIVE "HARDEST HIT HOUSING MARKETS" FUNDING**

**SECTION 23.1.(a)** G.S. 122A-5 reads as rewritten:

**"§ 122A-5. General powers.**

The Agency shall have all of the powers necessary or convenient to carry out ~~and effectuate~~ the ~~purposes and~~ provisions of this Chapter, including, but without limiting the generality of the foregoing, the power:

...

(28) To form corporations under either Chapter 55 or Chapter 55A of the General Statutes only for the purpose of receiving and administering funds from federal programs for which the Agency is not qualified to receive and administer the funds directly. A corporation formed by the Agency under this subdivision shall report to the Board of Directors of the Agency and to the Joint Legislative Commission on Governmental Operations upon request as provided by either the Agency or the Commission."

**SECTION 23.1.(b)** If the Housing Finance Agency has not formed a corporation under G.S. 122A-5(28), as enacted by this act, by March 1, 2011, then G.S. 122A-5(28) is repealed.

#### **PART XXIV. DEPARTMENT OF INSURANCE**

##### **DEPARTMENT OF INSURANCE HEALTH REFORM AUTHORITY AND POSITIONS**

**SECTION 24.2.(a)** G.S. 58-2-40 is amended by adding a new subdivision to read:

"(10) Administer and enforce the provisions of the federal Patient Protection and Affordable Care Act (Public Law 111-148) and the provisions of the Health Care and Education Reconciliation Act of 2010 (Public Law 111-152) to the extent that the provisions apply to persons subject to the Commissioner's jurisdiction and to the extent that the provisions are not under the exclusive jurisdiction of any federal agency."

**SECTION 24.2.(b)** The Department of Insurance (Department) shall apply for federal funds that are available through the Patient Protection and Affordable Insurance Care Act, Public Law 111-148, or the Health Care and Education Reconciliation Act of 2010, Public Law 111-152, to support the following 13 positions within the Department to implement this section:

- (1) Attorney III.

- (2) Health Actuary.
- (3) Examiner III.
- (4) Insurance Regulatory Analysts I, II (two positions), and III.
- (5) Office Assistant, and Program Assistant.
- (6) Insurance Investigator.
- (7) Insurance Complaint Analyst (two positions).
- (8) Complaint Analyst Supervisor.

The Department shall use its best efforts in seeking federal funding. By September 1, 2010, the Department shall report to the Joint Legislative Commission on Governmental Operations on the results of those efforts.

**SECTION 24.2.(c)** If the Department is unsuccessful in its efforts to obtain federal funding as provided in subsection (b) of this section, then, after prior consultation with the Joint Legislative Commission on Governmental Operations, the sum of one million one hundred fifty thousand six hundred ninety-three dollars (\$1,150,693) for the 2010-2011 fiscal year shall be allocated from the Office of State Budget and Management-Special Appropriations to the Department for implementation of this section during fiscal year 2010-2011. If the Department is successful in its efforts to obtain federal funding as provided in subsection (b) of this section, then those federal funds shall be used to implement this section and funds appropriated to the Office of State Budget and Management-Special Appropriations pursuant to this subsection shall revert.

**AUTHORIZE STATE HIGH RISK POOL TO ADMINISTER FEDERAL HIGH RISK POOL**

**SECTION 24.3.** G.S. 58-50-180(e) is amended by adding a new subdivision to read:

"(15) Enter into contracts with the United States Department of Health and Human Services as is necessary or proper to administer the federal high risk health insurance pool established by the United States Congress in Public Law 111-148, the Patient Protection and Affordable Care Act, as amended."

**PART XXVI. DEPARTMENT OF REVENUE**

**MODIFICATION OF METHOD BY WHICH LOCAL GOVERNMENTS REIMBURSE THE STATE FOR PROGRAMS THAT SUPPORT LOCAL GOVERNMENTS**

**SECTION 26.1.(a)** G.S. 105-501(b) reads as rewritten:

"(b) Deductions. – ~~In determining the net proceeds of the tax to be distributed, the Secretary must deduct from the collections to be allocated an amount equal to one-twelfth of the costs during the preceding fiscal year of:~~

- ~~(1) The Department of Revenue in performing the duties imposed by G.S. 105-275.2 and by Article 15 of this Chapter.~~
- ~~(1a) Seventy percent (70%) of the expenses of the Department of Revenue in performing the duties imposed by Article 2D of this Chapter.~~
- ~~(2) The Property Tax Commission.~~
- ~~(3) The School of Government at the University of North Carolina at Chapel Hill in operating a training program in property tax appraisal and assessment.~~
- ~~(4) The personnel and operations provided by the Department of State Treasurer for the Local Government Commission.~~

The costs incurred by the State to provide the functions listed in this subsection that support local governments are deductible from the collections to be allocated each month for distribution.

- (1) The Department's cost of the following for the preceding month must be deducted and credited to the Department:
  - a. Performing the duties imposed by Article 15 of this Chapter.
  - b. The Property Tax Commission.
- (2) One-twelfth of the costs of the following for the preceding fiscal year must be deducted and credited to the General Fund:

- a. The School of Government at the University of North Carolina at Chapel Hill in operating a training program in property tax appraisal and assessment.
- b. The personnel and operations provided by the Department of State Treasurer for the Local Government Commission.
- c. Seventy percent (70%) of the expenses of the Department of Revenue in performing the duties imposed by Article 2D of this Chapter."

**SECTION 26.1.(b)** For fiscal year 2010-2011, the amount deducted under G.S. 105-501 from the net proceeds of the one-half percent (1/2%) sales and use tax levied under Article 42 of Chapter 105 of the General Statutes is increased by an amount equal to the 2009-2010 costs of the Department of Revenue and the Property Tax Commission in performing the duties imposed on the Department and the Commission under Article 15 of Chapter 105 of the General Statutes. The deduction required under this subsection may be made on a quarterly or other periodic basis, as determined by the Secretary of Revenue. The amount deducted under this section must be credited to the General Fund.

**SECTION 26.1.(c)** This section becomes effective July 1, 2010.

## **PART XXVII. STATE BOARD OF ELECTIONS**

### **FUND ELECTION INSPECTORS FROM HAVA**

**SECTION 27.2.** Of federal funds received under the Help America Vote Act (HAVA) on account of Maintenance of Effort appropriations made by this act, the sum of one hundred sixty thousand dollars (\$160,000) shall be used in the 2010-2011 fiscal year to fund two Election Inspectors at the State Board of Elections, including salaries and benefits. These are time-limited positions not to exceed three years.

## **PART XXVII-A. OFFICE OF STATE BUDGET AND MANAGEMENT**

### **MILITARY MORALE AND WELFARE FUND**

**SECTION 27A.1.(a)** Of the funds appropriated to the Office of State Budget and Management, the sum of five hundred thousand dollars (\$500,000) for the 2010-2011 fiscal year shall be placed in a Reserve for the Military Morale, Recreation, and Welfare Fund.

**SECTION 27A.1.(b)** The Office of State Budget and Management shall distribute for the purposes described in this section the amount appropriated by subsection (a) of this section. That amount shall be distributed to each military installation on a per capita basis.

**SECTION 27A.1.(c)** Funds distributed to a military installation exchange under this section must be deposited in the Military Morale, Recreation, and Welfare Fund for that installation and used only for community services and other expenditures to improve quality of life programs for military members and their families in North Carolina.

**SECTION 27A.1.(d)** Beginning with the 2010-2011 fiscal year, each military installation shall report at least annually on the allocation and use of the funding to the Joint Legislative Commission on Governmental Operations.

### **FUNDS FOR NC SYMPHONY**

**SECTION 27A.2.(a)** Of the funds appropriated in this act to the Office of State Budget and Management-Special Appropriations, the sum of one million five hundred thousand dollars (\$1,500,000) in nonrecurring funds for the 2010-2011 fiscal year shall be allocated to the North Carolina Symphony in accordance with this section.

**SECTION 27A.2.(b)** It is the intent of the General Assembly that the NC Symphony achieve its goal of raising the sum of eight million dollars (\$8,000,000) in non-State funding to support the operations of the Symphony. To that end, upon demonstrating to the Office of State Budget and Management that the NC Symphony has reached fund-raising targets in the amounts set forth in this subsection, the NC Symphony shall receive allocations from the Office of State Budget and Management as follows:

- (1) Upon raising the initial sum of four million dollars (\$4,000,000) in non-State funding, the NC Symphony shall receive the sum of five hundred thousand dollars (\$500,000).



- (2) Upon raising an additional sum of two million dollars (\$2,000,000) in non-State funding for a total amount of six million dollars (\$6,000,000) in non-State funds, the NC Symphony shall receive the sum of five hundred thousand dollars (\$500,000).
- (3) Upon raising an additional sum of two million dollars (\$2,000,000) in non-State funding for a total sum of eight million dollars (\$8,000,000) in non-State funds, the NC Symphony shall receive the final sum of five hundred thousand dollars (\$500,000) for the 2010-2011 fiscal year.

**SECTION 27A.2.(c)** Funds allocated pursuant to this section are in addition to any other funds allocated to the NC Symphony in this act.

## **PART XXVII-B. OFFICE OF THE STATE CONTROLLER**

### **ADD OFFICE OF STATE PERSONNEL DIRECTOR TO BEACON PROJECT STEERING COMMITTEE**

**SECTION 27B.1.** Section 6.16(b) of S.L. 2008-107, as amended by S.L. 2008-118, reads as rewritten:

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

### **PAYMENT CARD REBATE PROGRAM**

**SECTION 27B.2.** The Office of State Controller shall establish a payment card rebate program by July 1, 2011. The Office of State Controller may use up to two hundred seventy thousand dollars (\$270,000) in receipts generated from the program to cover (i) the salaries and benefits of three receipt-supported positions and (ii) operating costs.

The Office of State Controller shall report quarterly to the Joint Legislative Commission on Governmental Operations on the implementation progress of the payment card rebate program. The first report under this section shall be due October 1, 2010.

## **PART XXVIII. DEPARTMENT OF TRANSPORTATION**

### **CASH FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND APPROPRIATIONS**

**SECTION 28.1.(a)** Section 25.1 of S.L. 2009-451 is repealed.

**SECTION 28.1.(b)** The General Assembly authorizes and certifies anticipated revenues of the Highway Fund as follows:

For Fiscal Year 2011-2012	\$ 1,793.1 million
For Fiscal Year 2012-2013	\$ 1,880.6 million
For Fiscal Year 2013-2014	\$ 1,920.5 million
For Fiscal Year 2014-2015	\$ 1,958.9 million

**SECTION 28.1.(c)** The General Assembly authorizes and certifies anticipated revenues of the Highway Trust Fund as follows:

For Fiscal Year 2011-2012	\$ 989.2 million
For Fiscal Year 2012-2013	\$ 1,046.4 million
For Fiscal Year 2013-2014	\$ 1,078.3 million
For Fiscal Year 2014-2015	\$ 1,120.4 million

### **DRIVER EDUCATION PROGRAM FUNDING STUDY**

**SECTION 28.2.** The Office of State Budget and Management (OSBM) shall review the funding and efficacy of the Driver Education Program to determine the most appropriate source of funds to support the program and outcomes of the funding on student driving. The study shall examine the existing distribution, redistribution, and reversion system used by the Department of Public Instruction to distribute funds to local school administrative units. As part of its review, OSBM shall collect data to compare the number of students served at year-end to the baseline per pupil allocation for which funds were awarded and make funding recommendations to determine if funds may be reverted in the future. The review shall

include recommendations for improving services, reducing costs and/or duplication, and alternative funding mechanisms including fees. OSBM shall also work with the Department of Public Instruction to establish performance measures for the program to be used to determine the program's effectiveness. OSBM shall make recommendations to the Governor and the General Assembly no later than November 1, 2010.

#### **GLOBAL TRANSPARK REPORT ON ANTICIPATED REPAYMENT SCHEDULE AND PROGRAM EVALUATION DIVISION REVIEW**

**SECTION 28.3.(a)** The Board of Directors of the Global TransPark Authority shall report on or before December 31, 2010, to the House Appropriations Subcommittee on Transportation and the Senate Committee on Appropriations on Department of Transportation on the Authority's strategic, business, and financial plans. The report shall include the Authority's proposed schedule to achieve financial self-sufficiency and proposed schedule to repay to the Escheat Fund the investment authorized under G.S. 147-69.2(b)(11) and any accumulated interest, both of which totaled thirty-seven million seven hundred ninety-eight thousand eight hundred ninety-eight dollars and fifty cents (\$37,798,898.50) as of March 31, 2010.

**SECTION 28.3.(b)** The Program Evaluation Division of the General Assembly shall conduct a comprehensive program and financial review of the North Carolina Global TransPark Authority. The program review shall examine the Authority's operations and evaluate the effectiveness of the Authority in meeting its mission and goals. The financial review shall study the cost-effectiveness of all State funds appropriated to the Authority to date, examine potential efficiency savings, study the long-term operating needs of the Authority, examine the Authority's current business practices, and make recommendations for it to become financially self-sustaining and to fully repay the Escheat Fund. The Division shall prepare a report of the findings and recommendations of the study and submit it to the Joint Legislative Program Evaluation Oversight Committee no later than March 1, 2011.

#### **ADJUST ROAD NAMING POLICY**

**SECTION 28.4.** The Department of Transportation shall remove the existing prohibition on naming State roads after specific military veterans and shall adopt a policy for naming highways after specific military veterans. This new policy shall be part of the Department of Transportation's existing system for naming State roads after people. The Department of Transportation shall report to the Joint Legislative Transportation Oversight Committee no later than December 1, 2011, on the new policy and the Department's implementation of the policy.

#### **ESTABLISH NC MOBILITY FUND**

**SECTION 28.7.(a)** Chapter 136 of the General Statutes is amended by adding a new Article to read:

"Article 14A.

"North Carolina Mobility Fund.

##### **"§ 136-187. Creation of the North Carolina Mobility Fund.**

(a) A special fund designated as the North Carolina Mobility Fund is hereby created. The Mobility Fund consists of revenue from appropriations or transfers by the General Assembly.

(b) The amounts deposited to the Mobility Fund shall be used as provided in this Article, notwithstanding any provision of Article 14 of this Chapter to the contrary. The provisions of G.S. 136-17.2A shall not apply to the application of the Mobility Fund.

##### **"§ 136-188. Use of North Carolina Mobility Fund.**

(a) The Department of Transportation shall use the Mobility Fund to fund transportation projects, selected by the Department, of statewide and regional significance that relieve congestion and enhance mobility across all modes of transportation. The Department of Transportation shall establish project selection criteria based on the provisions of this Article.

(b) The initial project funded from the Mobility Fund shall be the widening and improvement of Interstate 85 north of the Yadkin River Bridge.

##### **"§ 136-189. Reports by Department of Transportation.**

The Department of Transportation shall develop, and update annually, a report containing a completion schedule for all projects to be funded from the Mobility Fund, including the

selection criteria and reasoning used for each project. The annual update shall indicate the projects, or portions thereof, that were completed during the preceding fiscal year, any changes in the original completion schedules, and the reasons for the changes. The report shall also include the Department's anticipated schedule for future projects. The Department shall submit the report and the annual updates to the Joint Legislative Transportation Oversight Committee."

**SECTION 28.7.(b)** The Department of Transportation shall develop selection criteria under G.S. 136-188, as enacted by this act, and shall report to the Joint Legislative Transportation Oversight Committee on its development of the selection criteria. A preliminary report on the selection criteria for projects is due to the Joint Legislative Transportation Oversight Committee by October 1, 2010. A final report is due to the Joint Legislative Transportation Oversight Committee by December 15, 2010. When developing the project criteria and selection process, the Department shall give preferential consideration to projects qualified to receive State grants from the Congestion Relief and Intermodal Transportation 21st Century Fund under Article 19 of Chapter 136 of the General Statutes. When developing the project criteria and selection process, the Department shall involve the public and other stakeholders, including, but not limited to, the North Carolina Association of Municipal Planning Organizations, the North Carolina Association of Rural Planning Organizations, the North Carolina League of Municipalities, the North Carolina Association of County Commissioners, the North Carolina Metropolitan Mayors Coalition, and the North Carolina Council of Regional Governments.

**SECTION 28.7.(c)** G.S. 136-176(b2), as amended by Subsection 25.5.(f) of S.L. 2008-107, reads as rewritten:

"(b2) There is annually appropriated to the North Carolina Turnpike Authority from the Highway Trust Fund the sum of ~~ninety-nine million dollars (\$99,000,000)~~ eighty-four million dollars (\$84,000,000). Of the amount allocated by this subsection, twenty-five million dollars (\$25,000,000) shall be used to pay debt service or related financing costs and expenses on revenue bonds or notes issued for the construction of the Triangle Expressway, twenty-four million dollars (\$24,000,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the Monroe Connector/Bypass, fifteen million dollars (\$15,000,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the Mid-Currituck Bridge, and ~~thirty-five million dollars (\$35,000,000)~~ twenty million dollars (\$20,000,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the Garden Parkway. The amounts appropriated to the Authority pursuant to this subsection shall be used by the Authority to pay debt service or related financing costs and expenses on revenue bonds or notes issued by the Authority to finance the costs of one or more Turnpike Projects, to refund such bonds or notes, or to fund debt service reserves, operating reserves, and similar reserves in connection therewith. The appropriations established by this subsection constitute an agreement by the State to pay the funds appropriated hereby to the Authority within the meaning of G.S. 159-81(4). Notwithstanding the foregoing, it is the intention of the General Assembly that the enactment of this provision and the issuance of bonds or notes by the Authority in reliance thereon shall not in any manner constitute a pledge of the faith and credit and taxing power of the State, and nothing contained herein shall prohibit the General Assembly from amending the appropriations made in this subsection at any time to decrease or eliminate the amount annually appropriated to the Authority. Funds transferred from the Highway Trust Fund to the Authority pursuant to this subsection are not subject to the equity formula in G.S. 136-17.2A."

**SECTION 28.7.(d)** Any funds appropriated to the North Carolina Turnpike Authority in fiscal year 2009-2010 under G.S. 136-176(b2) to cover debt service or related financing costs for the Monroe Connector/Bypass project and that remain unencumbered at the end of fiscal year 2009-2010 are hereby transferred to the North Carolina Mobility Fund, as enacted by this act, to be used for Phase II of the Yadkin River Bridge project, which is the widening and improvement of Interstate 85 north of the Yadkin River Bridge. Additionally, there is transferred from the Highway Trust Fund to the Mobility Fund the sum of fifteen million dollars (\$15,000,000) for fiscal year 2010-2011 to be used for Phase II of the Yadkin River Bridge project.

**SECTION 28.7.(e)** The Joint Legislative Transportation Oversight Committee shall study the debt affordability for State transportation funding. The study shall include a comparison of State transportation debt practices to those of other states with strong credit

ratings and shall make recommendations on the appropriate use of debt for strategic transportation projects. The Committee shall contract with the Kenan-Flagler Business School at the University of North Carolina at Chapel Hill for the completion of the study. The committee shall report the results of the study to the 2011 General Assembly.

**SECTION 28.7.(f)** G.S. 105-187.9 reads as rewritten:

**"§ 105-187.9. Disposition of tax proceeds.**

...  
(b) ~~Transfer.~~ General Fund Transfer. – In each fiscal year, the State Treasurer shall transfer the amounts provided below from the taxes deposited in the Trust Fund to the General Fund. The transfer of funds authorized by this section may be made by transferring one-fourth of the amount at the end of each quarter in the fiscal year or by transferring the full amount annually on July 1 of each fiscal year, subject to the availability of revenue.

(1) The sum of ~~seventy-one million dollars (\$71,000,000).~~ forty million dollars (\$40,000,000).

...  
(c) Mobility Fund Transfer. – In each fiscal year, the State Treasurer shall transfer thirty-one million dollars (\$31,000,000) from the taxes deposited in the Trust Fund to the Mobility Fund. The transfer of funds authorized by this section may be made by transferring one-fourth of the amount at the end of each quarter in the fiscal year or by transferring the full amount annually on July 1 of each fiscal year, subject to the availability of revenue."

**SECTION 28.7.(g)** G.S. 136-176(b2), as amended by subsection (c) of this section, reads as rewritten:

"(b2) There is annually appropriated to the North Carolina Turnpike Authority from the Highway Trust Fund the sum of ~~eighty-four million dollars (\$84,000,000).~~ ninety-nine million dollars (\$99,000,000). Of the amount allocated by this subsection, twenty-five million dollars (\$25,000,000) shall be used to pay debt service or related financing costs and expenses on revenue bonds or notes issued for the construction of the Triangle Expressway, twenty-four million dollars (\$24,000,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the Monroe Connector/Bypass, fifteen million dollars (\$15,000,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the Mid-Currituck Bridge, and ~~twenty million dollars (\$20,000,000)~~ thirty-five million dollars (\$35,000,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the Garden Parkway. The amounts appropriated to the Authority pursuant to this subsection shall be used by the Authority to pay debt service or related financing costs and expenses on revenue bonds or notes issued by the Authority to finance the costs of one or more Turnpike Projects, to refund such bonds or notes, or to fund debt service reserves, operating reserves, and similar reserves in connection therewith. The appropriations established by this subsection constitute an agreement by the State to pay the funds appropriated hereby to the Authority within the meaning of G.S. 159-81(4). Notwithstanding the foregoing, it is the intention of the General Assembly that the enactment of this provision and the issuance of bonds or notes by the Authority in reliance thereon shall not in any manner constitute a pledge of the faith and credit and taxing power of the State, and nothing contained herein shall prohibit the General Assembly from amending the appropriations made in this subsection at any time to decrease or eliminate the amount annually appropriated to the Authority. Funds transferred from the Highway Trust Fund to the Authority pursuant to this subsection are not subject to the equity formula in G.S. 136-17.2A."

**SECTION 28.7.(h)** G.S. 105-187.9, as amended by subsection (f) of this section, reads as rewritten:

**"§ 105-187.9. Disposition of tax proceeds.**

...  
(b) General Fund Transfer. – In each fiscal year, the State Treasurer shall transfer the amounts provided below from the taxes deposited in the Trust Fund to the General Fund. The transfer of funds authorized by this section may be made by transferring one-fourth of the amount at the end of each quarter in the fiscal year or by transferring the full amount annually on July 1 of each fiscal year, subject to the availability of revenue.

(1) The sum of ~~forty million dollars (\$40,000,000).~~ twenty-six million dollars (\$26,000,000).

...

(c) Mobility Fund Transfer. – In each fiscal year, the State Treasurer shall transfer ~~thirty-one million dollars (\$31,000,000)~~ forty-five million dollars (\$45,000,000) from the taxes deposited in the Trust Fund to the Mobility Fund. The transfer of funds authorized by this section may be made by transferring one-fourth of the amount at the end of each quarter in the fiscal year or by transferring the full amount annually on July 1 of each fiscal year, subject to the availability of revenue."

**SECTION 28.7.(i)** G.S. 105-187.9(b) is repealed.

**SECTION 28.7.(j)** G.S. 105-187.9(c), as amended by subsection (h) of this section, reads as rewritten:

"(c) Mobility Fund Transfer. – In each fiscal year, the State Treasurer shall transfer ~~forty-five million dollars (\$45,000,000)~~ fifty-eight million dollars (\$58,000,000) from the taxes deposited in the Trust Fund to the Mobility Fund. The transfer of funds authorized by this section may be made by transferring one-fourth of the amount at the end of each quarter in the fiscal year or by transferring the full amount annually on July 1 of each fiscal year, subject to the availability of revenue."

**SECTION 28.7.(k)** G.S. 136-176(b2), as amended by subsection (g) of this section, reads as rewritten:

"(b2) There is annually appropriated to the North Carolina Turnpike Authority from the Highway Trust Fund the sum of ~~ninety-nine million dollars (\$99,000,000)~~ one hundred twelve million dollars (\$112,000,000). Of the amount allocated by this subsection, twenty-five million dollars (\$25,000,000) shall be used to pay debt service or related financing costs and expenses on revenue bonds or notes issued for the construction of the Triangle Expressway, twenty-four million dollars (\$24,000,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the Monroe Connector/Bypass, ~~fifteen million dollars (\$15,000,000)~~ twenty-eight million dollars (\$28,000,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the Mid-Currituck Bridge, and thirty five million dollars (\$35,000,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the Garden Parkway. The amounts appropriated to the Authority pursuant to this subsection shall be used by the Authority to pay debt service or related financing costs and expenses on revenue bonds or notes issued by the Authority to finance the costs of one or more Turnpike Projects, to refund such bonds or notes, or to fund debt service reserves, operating reserves, and similar reserves in connection therewith. The appropriations established by this subsection constitute an agreement by the State to pay the funds appropriated hereby to the Authority within the meaning of G.S. 159-81(4). Notwithstanding the foregoing, it is the intention of the General Assembly that the enactment of this provision and the issuance of bonds or notes by the Authority in reliance thereon shall not in any manner constitute a pledge of the faith and credit and taxing power of the State, and nothing contained herein shall prohibit the General Assembly from amending the appropriations made in this subsection at any time to decrease or eliminate the amount annually appropriated to the Authority. Funds transferred from the Highway Trust Fund to the Authority pursuant to this subsection are not subject to the equity formula in G.S. 136-17.2A."

**SECTION 28.7.(l)** Subsections (f) and (g) of this section become effective July 1, 2011. Subsection (h) of this section becomes effective July 1, 2012. Subsections (i), (j), and (k) of this section become effective July 1, 2013. The remainder of this section becomes effective July 1, 2010.

## **EXEMPT YADKIN RIVER BRIDGE PHASE I "GARVEE" BONDS FROM EQUITY FORMULA**

**SECTION 28.8.** G.S. 136-17.2A(i) reads as rewritten:

"(i) All funds used in repayment of "GARVEE" bonds issued pursuant to ~~G.S. 136-18(12b)~~ G.S. 136-18(12b), except for funds used in repayment of "GARVEE" bonds related to Phase I of the Yadkin River Bridge project, shall be subject to the provisions of this section."

## **SEMIANNUAL PERSONNEL REPORT**

**SECTION 28.9.** Article 1 of Chapter 136 of the General Statutes is amended by adding a new section to read:

**§ 136-12.2. Semiannual report on Department personnel positions.**

The Department of Transportation shall report twice annually to the General Assembly on personnel positions within the Department. On May 1 of each year, the Department shall report to the House Appropriations Subcommittee on Transportation and the Senate Committee on Appropriations on Department of Transportation. On November 1 of each year, the Department shall report to the Joint Legislative Transportation Oversight Committee. The report shall detail the Department's vacancies by funding source. The report shall be tied to the Department's work plan. Vacant no-cost positions expected to be filled in the six-month period between reports shall be referenced back to the work plan. The report shall identify positions with cost savings, report on the anticipated need to fill positions, and justify extended vacancies. The first report under this section is due on November 1, 2010."

## **EXEMPT APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM FUNDS FROM EQUITY FORMULA**

**SECTION 28.10.** G.S. 136-17.2A(a) reads as rewritten:

"(a) Funds expended for the Intrastate System projects listed in G.S. 136-179 and both State and federal-aid funds expended under the Transportation Improvement Program, other than federal congestion mitigation and air quality improvement program funds appropriated to the State by the United States pursuant to 23 U.S.C. § 104(b)(2) and 23 U.S.C. § 149, funds expended on an urban loop project listed in ~~G.S. 136-180~~ G.S. 136-180, funds from the federal government for the Appalachian Development Highway System, and funds received through competitive awards or discretionary grants through federal appropriations either for local governments, transportation authorities, transit authorities, or the Department, shall be distributed throughout the State in accordance with this section.

- (1) Distribution Region A consists of the following counties: Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Johnston, Martin, Nash, Northampton, Pasquotank, Perquimans, Tyrrell, Washington, Wayne, and Wilson.
- (2) Distribution Region B consists of the following counties: Beaufort, Brunswick, Carteret, Craven, Duplin, Greene, Jones, Lenoir, New Hanover, Onslow, Pamlico, Pender, Pitt, and Sampson.
- (3) Distribution Region C consists of the following counties: Bladen, Columbus, Cumberland, Durham, Franklin, Granville, Harnett, Person, Robeson, Vance, Wake, and Warren.
- (4) Distribution Region D consists of the following counties: Alamance, Caswell, Davidson, Davie, Forsyth, Guilford, Orange, Rockingham, Rowan, and Stokes.
- (5) Distribution Region E consists of the following counties: Anson, Cabarrus, Chatham, Hoke, Lee, Mecklenburg, Montgomery, Moore, Randolph, Richmond, Scotland, Stanly, and Union.
- (6) Distribution Region F consists of the following counties: Alexander, Alleghany, Ashe, Avery, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Surry, Watauga, Wilkes, and Yadkin.
- (7) Distribution Region G consists of the following counties: Buncombe, Burke, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Rutherford, Swain, Transylvania, and Yancey."

## **VISITOR CENTER FUNDS**

**SECTION 28.11.** G.S. 20-79.7(c)(2) reads as rewritten:

"(c) Use of Funds in Special Registration Plate Account. –

- ...
- (2) From the funds remaining in the Special Registration Plate Account after the deductions in accordance with subdivision (1) of this subsection, there is annually appropriated from the Special Registration Plate Account the sum of ~~one million dollars (\$1,000,000)~~ one million two hundred thousand dollars (\$1,200,000) to provide operating assistance for the Visitor Centers:
    - a. on U.S. Highway 17 in Camden County, (\$100,000);
    - b. on U.S. Highway 17 in Brunswick County, (\$100,000);
    - c. on U.S. Highway 441 in Macon County, (\$100,000);
    - d. in the Town of Boone, Watauga County, (\$100,000);

- e. on U.S. Highway 29 in Caswell County, (\$100,000);
- f. on U.S. Highway 70 in Carteret County, (\$100,000);
- g. on U.S. Highway 64 in Tyrrell County, (\$100,000);
- h. at the intersection of U.S. Highway 701 and N.C. 904 in Columbus County, (\$100,000);
- i. on U.S. Highway 221 in McDowell County, (\$100,000); ~~and~~
- j. on Staton Road in Transylvania County, ~~(\$100,000)~~. (\$100,000);
- k. in the Town of Fair Bluff, Columbus County, near the intersection of U.S. Highway 76 and N.C. 904, (\$100,000); and
- l. on U.S. Highway 421 in Wilkes County, (\$100,000)."

## **PART XXIX. SALARIES AND BENEFITS**

### **FURLOUGHS AUTHORIZED/PUBLIC SCHOOLS**

**SECTION 29.1.(a)** The General Assembly finds that:

- (1) North Carolina's citizens and businesses are suffering from the effects of a significant State financial crisis.
- (2) The financial crisis has resulted in large reductions in revenues projected to be available to fund the State's budget for the 2010-2011 fiscal year.
- (3) Each local school administrative unit is required to reduce its budget and should attempt to protect employees when possible.
- (4) The implementation of furloughs may be necessary to balance local school administrative unit budgets for the 2010-2011 fiscal year.

**SECTION 29.1.(b)** In accordance with Section 7.13 of this act, local boards of education may implement furloughs of State-funded public school employees to offset the LEA funding flexibility adjustment.

**SECTION 29.1.(c)** The following definitions apply in this section:

- (1) Furlough. – A temporary period of leave from employment without pay that (i) is ordered by a local board of education and (ii) is not in connection with a demotion or other disciplinary action.
- (2) Public school employee. – Any person employed by a local school administrative unit. The term includes public officers.

**SECTION 29.1.(d)** The provisions of Section 26.14E(b) and (c) of S.L. 2009-451 apply to public school employees furloughed pursuant to the section.

**SECTION 29.1.(e)** Local school administrative units shall cooperate with the Department of Public Instruction in the implementation of a furlough, if required.

**SECTION 29.1.(f)** As soon as practicable, and no more than 30 calendar days from the effective date of this section, the State Board of Education shall adopt rules for the implementation of this section in accordance with G.S. 150B-21.1A, except that notwithstanding G.S. 150B-21.1A(d), those emergency rules may remain in effect until the expiration of this section. These rules shall be applied by local boards of education in designating the times public school employees may be subject to furlough. These rules shall provide, at a minimum, that:

- (1) Employees who work only on instructional days shall not be subject to furlough.
- (2) Employees who earn an annual salary of thirty-two thousand dollars (\$32,000) or less shall not be subject to furlough.
- (3) A furlough for other employees shall be for the same number of days for all such employees and shall be for a maximum of two days.
- (4) No teacher shall be subject to a furlough on an instructional day or a protected work day.
- (5) A local board of education shall have a public hearing and shall disclose the local school administrative unit's finances before the local board implements a furlough.
- (6) The local school administrative unit shall cut all bonus pay before it imposes a furlough.
- (7) A local school administrative unit may spread the salary or wage reduction for furloughed employees over the contract period in order to lessen the impact on the employees.

- (8) All savings realized as a result of a furlough shall be used to offset the LEA funding flexibility adjustment.
- (9) A county in which a local school administrative unit implements a furlough pursuant to this section shall not supplant existing local current expense funds for schools.
- (10) Each local board of education shall report to the State Board of Education on the details of any furlough implemented by the local school administrative unit and certify that the furlough complied with the provisions of this section and the rules adopted by the State Board.

**SECTION 29.1.(g)** The provisions of Section 26.14E(e) of S.L. 2009-451 apply to furloughs under this section.

**SECTION 29.1.(h)** A furlough as implemented by this section does not constitute a demotion pursuant to Part 3 of Article 22 of Chapter 115C of the General Statutes or under any other personnel law or policy.

**SECTION 29.1.(i)** Notwithstanding G.S. 115C-273, 115C-285(b), 115C-302.1(h), and 115C-316(b), or any other provision of law, public school employees who are not paid out of State funds shall receive the same reduction in pay applicable to State-paid employees in the event a furlough is enacted by a local school administrative unit.

**SECTION 29.1.(j)** This section is effective when it becomes law and expires June 30, 2011.

### TEACHER SALARY SCHEDULES

**SECTION 29.2.(a)** The following monthly salary schedules shall apply for the 2010-2011 fiscal year to certified personnel of the public schools who are classified as teachers. The schedules contain 34 steps, with each step corresponding to one year of teaching experience. Public school employees paid according to this salary schedule and receiving NBPTS certification or obtaining a master's degree shall not be prohibited from receiving the appropriate increase in salary. Provided, however, teachers employed during the 2009-2010 school year who did not work the required number of months to acquire an additional year of experience shall not receive a decrease in salary as otherwise would be required by the salary schedule below.

#### 2010-2011 Monthly Salary Schedule

Years of Experience	"A" Teachers	NBPTS Certification
0	\$3,043	N/A
1	\$3,043	N/A
2	\$3,043	N/A
3	\$3,085	\$3,455
4	\$3,129	\$3,504
5	\$3,264	\$3,656
6	\$3,404	\$3,812
7	\$3,538	\$3,963
8	\$3,667	\$4,107
9	\$3,771	\$4,224
10	\$3,819	\$4,277
11	\$3,868	\$4,332
12	\$3,918	\$4,388
13	\$3,967	\$4,443
14	\$4,018	\$4,500
15	\$4,069	\$4,557
16	\$4,122	\$4,617
17	\$4,176	\$4,677
18	\$4,231	\$4,739
19	\$4,286	\$4,800
20	\$4,345	\$4,866
21	\$4,403	\$4,931
22	\$4,461	\$4,996
23	\$4,523	\$5,066



24	\$4,584	\$5,134
25	\$4,650	\$5,208
26	\$4,714	\$5,280
27	\$4,779	\$5,352
28	\$4,845	\$5,426
29	\$4,913	\$5,503
30	\$4,984	\$5,582
31	\$5,055	\$5,662
32	\$5,153	\$5,771
33+	\$5,255	\$5,886

2010-2011 Monthly Salary Schedule

Years of Experience	"M" Teachers	NBPTS Certification
0	\$3,347	N/A
1	\$3,347	N/A
2	\$3,347	N/A
3	\$3,394	\$3,801
4	\$3,442	\$3,855
5	\$3,590	\$4,021
6	\$3,744	\$4,193
7	\$3,892	\$4,359
8	\$4,034	\$4,518
9	\$4,148	\$4,646
10	\$4,201	\$4,705
11	\$4,255	\$4,766
12	\$4,310	\$4,827
13	\$4,364	\$4,888
14	\$4,420	\$4,950
15	\$4,476	\$5,013
16	\$4,534	\$5,078
17	\$4,594	\$5,145
18	\$4,654	\$5,212
19	\$4,715	\$5,281
20	\$4,780	\$5,354
21	\$4,843	\$5,424
22	\$4,907	\$5,496
23	\$4,975	\$5,572
24	\$5,042	\$5,647
25	\$5,115	\$5,729
26	\$5,185	\$5,807
27	\$5,257	\$5,888
28	\$5,330	\$5,970
29	\$5,404	\$6,052
30	\$5,482	\$6,140
31	\$5,561	\$6,228
32	\$5,668	\$6,348
33+	\$5,781	\$6,475

**SECTION 29.2.(b)** 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 29.2.(c)** Certified public schoolteachers 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 schoolteachers 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 29.2.(d)** 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 29.2.(e)** Speech pathologists who are certified as speech pathologists at the master's degree level and audiologists who are certified as audiologists at the master's 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 29.2.(f)** Certified school nurses who are employed in the public schools as nurses shall be paid on the "M" salary schedule.

**SECTION 29.2.(g)** As used in this section, the term "teacher" shall also include instructional support personnel.

### SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE

**SECTION 29.3.(a)** The following base salary schedule for school-based administrators shall apply only to principals and assistant principals. This base salary schedule shall apply for the 2010-2011 fiscal year, commencing July 1, 2010. Provided, however, school-based administrators (i) employed during the 2009-2010 school year who did not work the required number of months to acquire an additional year of experience and (ii) employed during the 2010-2011 school year in the same classification shall not receive a decrease in salary as otherwise would be required by the salary schedule below.

Years of Exp	Classification				
	Assistant Principal	Prin I (0-10)	Prin II (11-21)	Prin III (22-32)	Prin IV (33-43)
0-6	\$3,781	-	-	-	-
7	\$3,931	-	-	-	-
8	\$4,074	-	-	-	-
9	\$4,189	-	-	-	-
10	\$4,243	\$4,243	-	-	-
11	\$4,298	\$4,298	-	-	-
12	\$4,353	\$4,353	\$4,408	-	-
13	\$4,408	\$4,408	\$4,464	-	-
14	\$4,464	\$4,464	\$4,521	\$4,579	-
15	\$4,521	\$4,521	\$4,579	\$4,640	\$4,701
16	\$4,579	\$4,579	\$4,640	\$4,701	\$4,762
17	\$4,640	\$4,640	\$4,701	\$4,762	\$4,828
18	\$4,701	\$4,701	\$4,762	\$4,828	\$4,891
19	\$4,762	\$4,762	\$4,828	\$4,891	\$4,956
20	\$4,828	\$4,828	\$4,891	\$4,956	\$5,025

21	\$4,891	\$4,891	\$4,956	\$5,025	\$5,092
22	\$4,956	\$4,956	\$5,025	\$5,092	\$5,166
23	\$5,025	\$5,025	\$5,092	\$5,166	\$5,237
24	\$5,092	\$5,092	\$5,166	\$5,237	\$5,310
25	\$5,166	\$5,166	\$5,237	\$5,310	\$5,383
26	\$5,237	\$5,237	\$5,310	\$5,383	\$5,458
27	\$5,310	\$5,310	\$5,383	\$5,458	\$5,537
28	\$5,383	\$5,383	\$5,458	\$5,537	\$5,617
29	\$5,458	\$5,458	\$5,537	\$5,617	\$5,725
30	\$5,537	\$5,537	\$5,617	\$5,725	\$5,839
31	\$5,617	\$5,617	\$5,725	\$5,839	\$5,956
32	\$5,725	\$5,725	\$5,839	\$5,956	\$6,075
33	\$5,839	\$5,839	\$5,956	\$6,075	\$6,197
34	-	\$5,956	\$6,075	\$6,197	\$6,321
35	-	-	\$6,197	\$6,321	\$6,447
36	-	-	\$6,321	\$6,447	\$6,576
37	-	-	-	\$6,576	\$6,708
38	-	-	-	\$6,708	\$6,842
39	-	-	-	-	\$6,979

**2010-2011 Principal and Assistant Principal Salary Schedules  
Classification**

Years of Exp	Prin V (44-54)	Prin VI (55-65)	Prin VII (66-100)	Prin VIII (101+)
0-16	\$4,828	-	-	-
17	\$4,891	-	-	-
18	\$4,956	\$5,025	-	-
19	\$5,025	\$5,092	\$5,237	-
20	\$5,092	\$5,166	\$5,310	\$5,383
21	\$5,166	\$5,237	\$5,383	\$5,458
22	\$5,237	\$5,310	\$5,458	\$5,537
23	\$5,310	\$5,383	\$5,537	\$5,617
24	\$5,383	\$5,458	\$5,617	\$5,725
25	\$5,458	\$5,537	\$5,725	\$5,839
26	\$5,537	\$5,617	\$5,839	\$5,956
27	\$5,617	\$5,725	\$5,956	\$6,075
28	\$5,725	\$5,839	\$6,075	\$6,197
29	\$5,839	\$5,956	\$6,197	\$6,321
30	\$5,956	\$6,075	\$6,321	\$6,447
31	\$6,075	\$6,197	\$6,447	\$6,576
32	\$6,197	\$6,321	\$6,576	\$6,708
33	\$6,321	\$6,447	\$6,708	\$6,842
34	\$6,447	\$6,576	\$6,842	\$6,979
35	\$6,576	\$6,708	\$6,979	\$7,119
36	\$6,708	\$6,842	\$7,119	\$7,261
37	\$6,842	\$6,979	\$7,261	\$7,406
38	\$6,979	\$7,119	\$7,406	\$7,554
39	\$7,119	\$7,261	\$7,554	\$7,705
40	\$7,261	\$7,406	\$7,705	\$7,859
41	-	\$7,554	\$7,859	\$8,016
42	-	\$7,705	\$8,016	\$8,176
43	-	-	\$8,176	\$8,340

**SECTION 29.3.(b)** 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 29.3.(c)** 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. Provided, however, a principal who acquires an additional step for the 2009-2010 or 2010-2011 fiscal years shall not receive a corresponding increase in salary during the 2009-2011 fiscal biennium. 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.

**SECTION 29.3.(d)** Principals and assistant principals with certification based on academic preparation at the six-year degree level shall be paid a salary supplement of one hundred twenty-six dollars (\$126.00) per month and at the doctoral degree level shall be paid a salary supplement of two hundred fifty-three dollars (\$253.00) per month.

**SECTION 29.3.(e)** Longevity pay for principals and assistant principals shall be as provided for State employees under the State Personnel Act.

**SECTION 29.3.(f)** If a principal is reassigned to a higher job classification because the principal is transferred to a school within a local school administrative unit with a larger number of State-allotted teachers, the principal shall be placed on the salary schedule as if the principal had served the principal's entire career as a principal at the higher job classification.

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

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

**SECTION 29.3.(g)** Participants in an approved full-time master's in school administration program shall receive up to a 10-month stipend at the beginning salary of an assistant principal during the internship period of the master's program. For the 2006-2007 fiscal year and subsequent fiscal years, the stipend shall not exceed the difference between the beginning salary of an assistant principal plus the cost of tuition, fees, and books and any fellowship funds received by the intern as a full-time student, including awards of the Principal Fellows Program. The Principal Fellows Program or the school of education where the intern participates in a full-time master's in school administration program shall supply the Department of Public Instruction with certification of eligible full-time interns.

**SECTION 29.3.(h)** During the 2010-2011 fiscal year, the placement on the salary schedule of an administrator with a one-year provisional assistant principal's certificate shall be at the entry-level salary for an assistant principal or the appropriate step on the teacher salary schedule, whichever is higher.

## FURLOUGHS AUTHORIZED/UNC

**SECTION 29.4.(a) Findings.** – The General Assembly finds that:

- (1) North Carolina's citizens and businesses are suffering from the effects of a significant State financial crisis.
- (2) The financial crisis has resulted in large reductions in revenues projected to be available to fund the State's budget for the 2010-2011 fiscal year.
- (3) The University of North Carolina and its constituent institutions are required to reduce their budgets and should attempt to protect university employees when possible.
- (4) The implementation of furloughs may be necessary to balance The University of North Carolina's and its constituent institutions' budgets for the 2010-2011 fiscal year.

**SECTION 29.4.(b)** The President of The University of North Carolina may implement furloughs of university employees or delegate furlough authority to a chancellor of a constituent institution to offset the UNC Management Flexibility Reduction.

**SECTION 29.4.(c) Definitions.** – The following definitions apply in this section:

- (1) Furlough. – A temporary period of leave from employment without pay that (i) is ordered by the President of The University of North Carolina or a chancellor when delegated and (ii) is not in connection with a demotion or other disciplinary action.
- (2) University employee. – Any permanent full-time, permanent part-time, or time-limited employee of The University of North Carolina, including employees exempt from the State Personnel Act under G.S. 126-5(c), 126-5(c1), 126-5(c7), and 126-5(c8). The term includes public officers.

**SECTION 29.4.(d) Compensation and Benefits.** – The provisions of Section 26.14E(b) and (c) of S.L. 2009-451 apply to university employees furloughed pursuant to the section.

**SECTION 29.4.(e) Cooperation with The University of North Carolina – General Administration.** – Constituent institutions shall cooperate with UNC General Administration in the implementation of furloughs, if required.

**SECTION 29.4.(f)** As soon as practicable, and no more than 30 calendar days from the effective date of this section, the Board of Governors of The University of North Carolina shall adopt policies for the implementation of this section to remain in effect until the expiration of this section. These policies shall be applied by the President and the constituent institutions in implementing a furlough of university employees. These policies shall provide, at a minimum, that:

- (1) The President may establish a salary threshold below which university employees shall not be subject to furlough. In no event may any full-time university employee, prorated for any part-time employee, earning an annual salary of thirty-two thousand dollars (\$32,000) or less be subject to furlough.
- (2) The scheduling of any furlough period shall be at the discretion of the President or the chancellor of the constituent institution when delegated.
- (3) Paid leave shall not be used to offset all or any portion of a furlough.
- (4) If a holiday falls during the mandatory furlough period, the university employee must be paid for the holiday.
- (5) All savings realized as a result of a furlough shall be used to offset the Management Flexibility Reduction for The University of North Carolina.

**SECTION 29.4.(g) Reporting Requirements.** – The provisions of Section 26.14E(e) of S.L. 2009-451 apply to furloughs under this section.

**SECTION 29.4.(h)** Upon delegation of furlough authority to a chancellor, the constituent institution shall develop a furlough plan to be approved by the President consistent with the policies adopted by the UNC Board of Governors. Access to approved furlough plans shall be provided to all affected employees.

**SECTION 29.4.(i) Effective Date.** – This section is effective when it becomes law and expires June 30, 2011.

**MONITOR COMPLIANCE WITH FREEZE ON MOST SALARY INCREASES**

**SECTION 29.5.(a)** The Office of State Budget and Management and the Office of State Personnel shall monitor jointly the compliance of the following units of government with the provisions of Section 26.1A of S.L. 2009-451, and beginning September 1, 2010, shall

submit quarterly reports of their monitoring activities to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Fiscal Research Division: (i) State agencies, departments, and institutions, including authorities, boards, and commissions; (ii) the judicial branch; and (iii) The University of North Carolina and its constituent institutions.

The quarterly reports required by this section shall include the following information:

- (1) For agencies reporting through the BEACON HR/Payroll system, (i) a breakdown by action type (including promotion, reallocation, career progression, salary adjustment, and any similar actions increasing employee pay) of the number and annual amount of those increases and (ii) a breakdown by action reason (including in-range higher level, acting pay, trainee adjustment, and other similar action reasons) of the number and annual amount of those action types coded as salary adjustment.
- (2) For The University of North Carolina and its constituent institutions, a breakdown of the number and annual amount of those increases categorized by the university as promotions, changes in job duties or responsibilities, Distinguished Professorships, retention pay, career progression, and any similar actions increasing employee pay.
- (3) A summary of actions taken by the Office of State Budget and Management and the Office of State Personnel with respect to unauthorized salary increases.

**SECTION 29.5.(b)** Beginning September 1, 2010, and quarterly thereafter, the Legislative Services Officer shall report to the President Pro Tempore of the Senate and the Speaker of the House of Representatives on compliance with Section 26.1A of S.L. 2009-451.

**AUTHORIZE SUPPLEMENTATION BY LOCAL GOVERNMENTS OF THE SALARIES OF NONELECTED JUDICIAL DEPARTMENT OFFICERS AND EMPLOYEES IN ORDER TO ATTRACT AND RETAIN THE BEST QUALIFIED OFFICERS AND EMPLOYEES FOR THE JUDICIAL BRANCH OF GOVERNMENT.**

**SECTION 29.7.(a)** The prefatory language of G.S. 7A-300(a) reads as rewritten:

"(a) The operating expenses of the Judicial Department shall be paid from State funds, out of appropriations for this purpose made by the General Assembly, or from funds provided by local governments pursuant to ~~G.S. 153A-212.1 and G.S. 160A-289.1.~~ G.S. 7A-300.1, 153A-212.1, or 160A-289.1. The Administrative Office of the Courts shall prepare budget estimates to cover these expenses, including therein the following items and such other items as are deemed necessary for the proper functioning of the Judicial Department:

...."

**SECTION 29.7.(b)** Article 27 of Chapter 7A of the General Statutes is amended by adding a new section to read:

**"§ 7A-300.1. Local supplementation of salaries for certain officers and employees.**

(a) In order to attract and retain the best qualified officers and employees for positions in the Judicial Branch of government, the Administrative Office of the Courts may contract with the governing body of a city or county for the provision of local funds to supplement the salaries of Judicial Department employees, other than elected officials and magistrates, who serve the superior court district, district court district, or prosecutorial district containing that unit of local government. Any employee who receives salary supplementation under this section shall be notified before receiving it that the supplementation is subject to the availability of local funds, may be discontinued at any time, and is not "compensation" for purposes of the Teachers' and State Employees' Retirement System or the Consolidated Judicial Retirement System.

(b) This section applies only to (i) cities with a population of 300,000 or more according to the most recent estimate of the Office of State Budget and Management and (ii) counties with a population of 300,000 or over according to the most recent estimate of the Office of State Budget and Management."

**SECTION 29.7.(c)** Section 26.1A(a) of S.L. 2009-451 as amended by S.L. 2009-575, s.21, reads as rewritten:

**"SECTION 26.1A.(a)** The salaries of those officers and employees, whose salaries for the 2008-2009 fiscal year were set or increased in Sections 26.1, 26.2, 26.3, 26.4, 26.5, 26.6, 26.7,

26.8, 26.9, 26.10, 26.11, 26.11A, 26.12, 26.12D, 26.13, 26.14, 26.18, and 26.19 of Session Law 2008-107, and in effect on June 30, 2009, or the last date in pay status during the 2008-2009 fiscal year if earlier, shall remain in effect and shall not increase for the 2009-2010 and 2010-2011 fiscal years, except:

- (1) As provided for by Section 29.20A of S.L. 2005-276.
- (2) For Community College faculty as otherwise provided in Section 8.1 of this act.
- (3) For University of North Carolina faculty as otherwise provided by the Faculty Recruiting and Retention Fund, the Distinguished Professors Endowment Fund, or retention adjustments funded from non-state funding sources.
- (3a) For Judicial Department employees for local supplementation as authorized under G.S. 7A-300.1.
- (4) Salaries may be increased for reallocations or promotions, in-range adjustments for job change, career progression adjustments for demonstrated competencies, or any other adjustment related to an increase in job duties or responsibilities, none of which are subject to the salary freeze otherwise provided by this subsection. All other salary increases are prohibited."

**SECTION 29.7.(d)** G.S. 135-1(7a)b. reads as rewritten:

- "b. "Compensation" shall not include any payment, as determined by the Board of Trustees, for the reimbursement of expenses or payments for housing or any other allowances whether or not classified as salary and wages. "Compensation" includes all special pay contribution of annual leave made to a 401(a) Special Pay Plan for the benefit of an employee. Notwithstanding any other provision of this Chapter, "compensation" shall not include:
1. Supplement/allowance provided to employee to purchase additional benefits such as health, life, or disability plans;
  2. Travel supplement/allowance (nonaccountable allowance plans);
  3. Employer contributions to eligible deferred compensation plans;
  4. Employer-provided fringe benefits (additional benefits such as health, life, or disability plans);
  5. Reimbursement of uninsured medical expenses;
  6. Reimbursement of business expenses;
  7. Reimbursement of moving expenses;
  8. Reimbursement/payment of personal expenses;
  9. Incentive payments for early retirement;
  10. Bonuses paid incident to retirement;
  - 10a. Local supplementation as authorized under G.S. 7A-300.1 for Judicial Department employees;
  11. Contract buyout/severance payments; and
  12. Payouts for unused sick leave."

**SECTION 29.7.(e)** G.S. 135-53(5) reads as rewritten:

- "(5) "Compensation" shall mean all salaries and wages derived from public funds which are earned by a member of the Retirement System for his service as a justice or judge, or district attorney, or clerk of superior court, or public defender, or the Director of Indigent Defense Services. Effective July 1, 2009, "compensation" also means payment of military differential wages. "Compensation" shall not include local supplementation as authorized under G.S. 7A-300.1 for Judicial Department employees."

## **PART XXX. CAPITAL APPROPRIATIONS**

### **CAPITAL APPROPRIATIONS/GENERAL FUND**

**SECTION 30.1.** There is appropriated from the General Fund for the 2010-2011 fiscal year the following amounts for capital improvements:

<b>Capital Improvements – General Fund</b>	<b>2010-2011</b>
Department of Crime Control and Public Safety Highway Patrol Training Facility – Phase One Planning	\$2,043,440
Department of Environment and Natural Resources Water Resources Development Projects	9,130,000
<b>TOTAL CAPITAL IMPROVEMENTS – GENERAL FUND</b>	<b>\$11,173,440</b>

**WATER RESOURCES DEVELOPMENT PROJECT FUNDS**

**SECTION 30.2.(a)** The Department of Environment and Natural Resources shall allocate the funds appropriated in this act for water resources development projects in accordance with the schedule that follows. These funds will provide a State match for an estimated twenty-seven million three hundred thousand dollars (\$27,300,000) in federal funds.

<b>Name of Project</b>	<b>2010-2011</b>
(1) Wilmington Harbor Deepening	\$900,000
(2) Wilmington Harbor Maintenance	2,000,000
(3) Morehead City Harbor Maintenance	100,000
(4) B. Everett Jordan Lake Water Supply Storage	200,000
(5) Dredging Contingency Fund	1,250,000
(6) AIWW Dredging	1,000,000
(7) Bogue Banks Shore Protection Study	5,000
(8) John H. Kerr Dam and Reservoir Sec. 216	50,000
(9) Neuse River Basin PED	–
(10) Princeville Flood Damage Reduction	200,000
(11) Currituck Sound Environmental Restoration Study	50,000
(12) Belhaven Harbor – Cap – Sec. 1135	350,000
(13) Surf City/North Topsail Beach Protection Study PED	–
(14) West Onslow Beach (Topsail Beach) PED	50,000
(15) Silver Lake Harbor Disposal Area Maintenance	800,000
(16) Manteo Old House Channel – CAP – Sec. 204	25,000
(17) Concord Streams Restoration – CAP – Sec. 206	–
(18) Planning Assistance to Communities	–
(19) State-Local Projects	1,650,000
(20) Aquatic Plant Control, Statewide and Lake Gaston	350,000
(21) Cape Fear River Basin Model Update	150,000
<b>TOTALS</b>	<b>\$9,130,000</b>

**SECTION 30.2.(b)** Where the actual costs are different from the estimated costs under subsection (a) of this section, the Department may adjust the allocations among projects as needed. If any projects funded under subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 2010-2011 fiscal year, or if the projects funded under subsection (a) of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund any of the following:

- (1) U.S. Army Corps of Engineers project feasibility studies.
- (2) U.S. Army Corps of Engineers projects whose schedules have advanced and require State-matching funds in fiscal year 2010-2011.
- (3) State-local water resources development projects.

However, fund availability shall not be used to fund the North Carolina International Terminal. Funds not expended or encumbered for these purposes shall revert to the General Fund at the end of the 2011-2012 fiscal year.

**SECTION 30.2.(c)** The Department shall make semiannual reports on the use of these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Office of State Budget and Management. Each report shall include all of the following:



- (1) All projects listed in this section.
- (2) The estimated cost of each project.
- (3) The date that work on each project began or is expected to begin.
- (4) The date that work on each project was completed or is expected to be completed.
- (5) The actual cost of each project.

The semiannual reports shall also show those projects advanced in schedule, those projects delayed in schedule, and an estimate of the amount of funds expected to revert to the General Fund.

**NON-GENERAL FUND CAPITAL IMPROVEMENT AUTHORIZATIONS**

**SECTION 30.3.(a)** The General Assembly authorizes the following capital projects to be funded with receipts or from other non-General Fund sources available to the appropriate department:

<b>Name of Project</b>	<b>Amount of Non-General Fund Funding Authorized for FY 2010-2011</b>
<b>Department of Agriculture and Consumer Services</b>	
Food and Drug – Upgrade Steam Generation	\$18,000
Markets/Southeast NC Ag Center – Multipurpose Pavilion	\$1,290,000
Markets/Southeast NC Ag Center – Associated Development Around Multipurpose Pavilion	\$1,500,000
Markets/State Farmers Market – Electrical Improvements	\$200,000
Markets/State Farmers Market – Restroom Improvements	\$600,000
Markets/WNC Ag Center – Livestock Sales Area HVAC	\$500,000
Markets/WNC Ag Center – Code, Facility and Site Improvements	\$300,000
Plant Industry – Support Facility Renovations and Repairs	\$50,000
Research Stations – Irrigation	\$200,000
Research Stations – Grain Storage	\$400,000
State Fair – Site Development	\$500,000
State Fair – Hunt Horse Complex Improvements	\$250,000
Veterinary/Food and Drug – Standby Generators	\$700,000
<b>Department of Correction</b>	
Southern Medium Programs Building	\$600,000
Caledonia Programs Building	\$600,000
Caswell Programs Building	\$600,000
Southern Minimum Programs Building	\$600,000
Randolph Programs Building	\$600,000
<b>Department of Cultural Resources</b>	
USS NC Battleship Repairs, Dredging, Construction Commission Battleship Fund	\$1,700,000
<b>Department of Environment and Natural Resources</b>	
Forest Resources – Bladen Lakes Ranger Residence	\$399,000
<b>Department of Justice</b>	
NC Justice Academy Live Fire Shoot House	\$282,000
<b>Wildlife Resources Commission</b>	
Pisgah Education Center Repairs & Renovation	\$60,000
Outer Banks Education Center Repairs and Renovation	\$26,000
Mt. Holly Depot Acquisition	\$150,000
Statewide Boating Access Areas (BAA) Renovations	\$3,610,000
Table Rock Hatchery Residence Renovation	\$150,000
McKinney Lake Equipment Shed	\$70,000
Fishing Access Areas Construction	\$180,000

**TOTAL AMOUNT OF NON-GENERAL FUND CAPITAL  
PROJECTS AUTHORIZED**

**\$16,135,000**

**SECTION 30.3.(b)** From funds deposited with the State Treasurer in a capital improvement account to the credit of the Department of Agriculture and Consumer Services, pursuant to G.S. 146-30, the sum of thirty thousand dollars (\$30,000) for the 2010-2011 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 the plant conservation program preserves owned by the Department.

**REPAIRS AND RENOVATIONS RESERVE ALLOCATION**

**SECTION 30.4.(a)** Of the funds in the Reserve for Repairs and Renovations for the 2010-2011 fiscal year, fifty percent (50%) shall be allocated to the Board of Governors of The University of North Carolina for repairs and renovations pursuant to G.S. 143C-4-3, in accordance with guidelines developed in The University of North Carolina Funding Allocation Model for Reserve for Repairs and Renovations, as approved by the Board of Governors of The University of North Carolina, and fifty percent (50%) shall be allocated to the Office of State Budget and Management for repairs and renovations pursuant to G.S. 143C-4-3.

Notwithstanding G.S. 143C-4-3, the Board of Governors may allocate funds for the repair and renovation of facilities not supported from the General Fund if the Board determines that sufficient funds are not available from other sources and that conditions warrant General Fund assistance. Any such finding shall be included in the Board's submission to the Joint Legislative Commission on Governmental Operations on the proposed allocation of funds.

The Board of Governors and the Office of State Budget and Management shall consult with the Joint Legislative Commission on Governmental Operations prior to the allocation or reallocation of these funds.

**SECTION 30.4.(b)** In addition to any other funds in the Reserve for Repairs and Renovations for the 2010-2011 fiscal year, the proceeds of any bonds and notes issued pursuant to subdivision 30.7(a)(1) are transferred to that reserve.

**SECTION 30.4.(c)** Of the funds allocated to the Board of Governors of The University of North Carolina in subsection (a) of this section, a portion shall be used by the Board of Governors for the installation of fire sprinklers in university residence halls. This portion shall be in addition to funds otherwise appropriated in this act for the same purpose. Such funds shall be allocated among the university's constituent institutions by the President of The University of North Carolina, who shall consider the following factors when allocating those funds:

- (1) The safety and well-being of the residents of campus housing programs.
- (2) The current level of housing rents charged to students and how that compares to an institution's public peers and other UNC institutions.
- (3) The level of previous authorizations to constituent institutions for the construction or renovation of residence halls funded from the General Fund, or from bonds or certificates of participation supported by the General Fund, since 1996.
- (4) The financial status of each constituent institution's housing system, including debt capacity, debt coverage ratios, credit rankings, required reserves, the planned use of cash balances for other housing system improvements, and the constituent institution's ability to pay for the installation of fire sprinklers in all residence halls.
- (5) The total cost of each proposed project, including the cost of installing fire sprinklers and the cost of other construction, such as asbestos removal and additional water supply needs.

The Board of Governors shall submit progress reports to the Joint Legislative Commission on Governmental Operations. Reports shall include the status of completed, current, and planned projects. Reports also shall include information on the financial status of each constituent institution's housing system, the constituent institution's ability to pay for fire

protection in residence halls, and the timing of installation of fire sprinklers. Reports shall be submitted on January 1 and July 1 until all residence halls have fire sprinklers.

**SECTION 30.4.(d)** Of the funds allocated to the Board of Governors of The University of North Carolina in subsection (a) of this section, a portion shall be used by the Board of Governors for campus public safety improvements allowable under G.S. 143C-4-3(b).

**SECTION 30.4.(e)** Of the funds allocated to the Office of State Budget and Management in subsection (a) of this section, five hundred thousand dollars (\$500,000) shall be transferred to the Department of Crime Control and Public Safety to be used for Armory Repair and Renovation.

**AMEND 2009 WILDLIFE RESOURCES COMMISSION NON-GENERAL FUND CAPITAL IMPROVEMENT AUTHORIZATIONS**

**SECTION 30.5.(a)** Subsection 27.4(a) of S.L. 2009-451 reads as rewritten:

**"SECTION 27.4.(a)** The General Assembly authorizes the following capital projects to be funded with receipts or from other non-General Fund sources available to the appropriate department:

<b>Name of Project</b>	<b>Amount of Non-General Fund Funding Authorized for FY 2009-2010</b>
<b>Department of Crime Control and Public Safety</b>	
Additions and Renovations to Armories	\$ 9,303,442
Camp Butner Cantonment – Phase 1 Design	1,367,000
Family Assistance Centers	2,000,000
Gastonia Armory Renovation and Expansion	1,100,000
Tactical Unmanned Aerial Systems Facility	6,746,000
<b>Department of Cultural Resources</b>	
Aycock Birthplace Picnic Shelter	86,100
Maritime Museum – Floating Dock	130,000
Museum of History Chronology Exhibit – Phase 2B (1900-1960)	1,200,000
<b>Department of Environment and Natural Resources</b>	
Zoo – Elephant Exhibit New Restrooms	300,000
<b>Wildlife Resources Commission</b>	
Armstrong Hatchery Lower Raceway Replacement	1,725,000
Centennial Campus Education Center Exhibit Completion	180,000
Chinquapin Equipment Storage Pole Shed	60,000
Chowan Bridge Fishing Pier and Edenton Boating Access	450,000
Emerald Isle New Boating Access Area	600,000
Falls Lake Office Building	550,000
Hampstead Land Acquisition	10,000,000
Land Acquisitions – State Gamelands	<del>59,135,000</del> 20,000,000
Lewelyn Branch New Boating Access Area	150,000
Manns Harbor Bridge Marina Acquisition	5,750,000
Marion Depot Drainage Repairs	200,000
<u>Marion Hatchery and Depot Renovation</u>	<u>4,000,000</u>
McKinney Lake Hatchery Kettles Replacement	1,700,000
Minor Boating Access Area Renovations – Various Locations	150,000
<del>New Coldwater Fish Hatchery Construction</del>	<del>7,900,000</del>
Ocean Isle Boating Access Area Renovations	150,000
Outer Banks Education Center Teaching Facility Repairs	245,000
Pechmann Fishing Education Center Pond Restoration	160,000
Pechmann Fishing Education Center Storage Building	220,000
Pisgah Education Center Gift Shop Renovation and Expansion	200,000
Pisgah Education Center Outdoor Exhibit Renovation	450,000
Pisgah Education Center Repairs	155,000
Pisgah Hatchery Water System Renovation	100,000

Rhodes Pond Dam Repairs	500,000
Sneads Ferry Land Acquisition	6,500,000
<u>Statewide Emergency Repair &amp; Renovation</u>	<u>3,500,000</u>
Sunset Harbor Land Acquisition	925,000
Swan Quarter Land Acquisition	1,700,000
Sykes Depot Pond, Office, Storage Construction	350,000
Table Rock Hatchery Office and Workshop Replacement	345,000

**TOTAL AMOUNT OF NON-GENERAL FUND CAPITAL**

**PROJECTS AUTHORIZED** **\$122,782,54283,247,542"**

**SECTION 30.5.(b)** Section 27.4 of S.L. 2009-451 is amended by adding a new subsection to read:

**"SECTION 27.4.(a1)** The Wildlife Resources Commission shall not expend any of the funds authorized to be spent on Statewide Emergency Repair & Renovation by subsection (a) of this section without first obtaining approval from the Office of State Budget and Management."

**AMEND COPS AUTHORIZATION LANGUAGE/UNCG**

**SECTION 30.6.** Subdivision (13) of Section 27.8.(a) of S.L. 2008-107 reads as rewritten:

"(13) In the maximum aggregate principal amount of forty-two million six hundred seventy thousand dollars (\$42,670,000) to finance the capital facility costs of completing an academic classroom and office building at the University of North Carolina at Greensboro. These proceeds may also be used to acquire real property for the development and construction of a new railroad underpass to connect the current central campus to West Lee Street. No more than a maximum aggregate amount of twenty-one million dollars (\$21,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009."

**SPECIAL INDEBTEDNESS PROJECTS**

**SECTION 30.7.(a)** The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the capital facility costs of the projects described in this subsection. In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness:

- (1) In the maximum aggregate principal amount of one hundred twenty million dollars (\$120,000,000) to finance the capital facility costs of repairing and renovating State facilities and related infrastructure, to be allocated in accordance with Section 30.4 of this act.
- (2) In the maximum aggregate principal amount of fifty-five million dollars (\$55,000,000) to finance the capital facility costs of acquiring equipment and completing related capital improvements for use by The University of North Carolina System and the North Carolina Community College System, to be allocated in accordance with Section 30.11 of this act.

**SECTION 30.7.(b)** This section is effective when it becomes law.

**STATUTORILY DEFINE "SCOPE"**

**SECTION 30.8.** G.S. 143C-1-1(d) is amended by adding a new subdivision to read:

**"§ 143C-1-1. Purpose and definitions.**

(d) Definitions. – The following definitions apply in this Chapter:

...  
**(16a)** Increase the scope. – With respect to a capital improvement project, either increasing the square footage of a capital improvement project by more than ten percent (10%) of the amount authorized or programming new functions into the project."

## AMEND DEBT SERVICE FOR GREEN SQUARE COMPLEX PARKING CONSTRUCTION

**SECTION 30.9.** Section 27.8 of S.L. 2009-451 reads as rewritten:

"**SECTION 27.8.** Notwithstanding Item 61, Page M-11, of the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets for S.L. 2008-107, the General Fund shall service the debt for the Green Square Complex parking ~~deck during the 2009-2011 fiscal biennium deck.~~"

## PROHIBIT GENERAL FUND EXPENDITURES FOR THE NORTH CAROLINA INTERNATIONAL TERMINAL

**SECTION 30.10.** Notwithstanding G.S. 136-253 and any other provision of law, funds from the General Fund shall not be used to fund the North Carolina International Terminal of the North Carolina State Ports Authority. This section does not apply to the use of agency receipts.

## ALLOCATION AND USE OF PROCEEDS OF SPECIAL INDEBTEDNESS ISSUED FOR EQUIPMENT

**SECTION 30.11.(a)** Of the proceeds of special indebtedness issued or incurred pursuant to subdivision (a)(2) of Section 30.7, forty percent (40%) shall be allocated to the Board of Governors of The University of North Carolina and sixty percent (60%) shall be allocated to the State Board of Community Colleges. These funds shall be used by those institutions to purchase equipment for constituent institutions of The University of North Carolina and individual community colleges to be used for teaching and research in the fields of health, science, engineering, and technical education.

**SECTION 30.11.(b)** Funds allocated to the State Board of Community Colleges pursuant to subsection (a) of this section may also be used to make capital improvements to existing facilities that are necessary in order to use the equipment purchased pursuant to that subsection. Notwithstanding any other provision of law, community colleges are not required to match allocations made pursuant to this section. For purposes of this subsection, it is not sufficient that a capital improvement would facilitate the use of purchased equipment. The only capital improvements authorized by this subsection are those without which purchased equipment could not be effectively utilized.

**SECTION 30.11.(c)** The Board of Governors and the State Board of Community Colleges shall report to the Joint Legislative Commission on Governmental Operations on the allocation or reallocation of funds expended pursuant to this section.

## PART XXXI. TAX CHANGES

### IRC UPDATE

**SECTION 31.1.(a)** G.S. 105-228.90(b)(1b) reads as rewritten:

"§ 105-228.90. **Scope and definitions.**

...  
(b) Definitions. – The following definitions apply in this Article:

...  
(1b) Code. – The Internal Revenue Code as enacted as of ~~May 1, 2009,~~ May 1, 2010, including any provisions enacted as of that date ~~which~~ that become effective either before or after that date."

**SECTION 31.1.(b)** G.S. 105-134.6(d) reads as rewritten:

"§ 105-134.6. **Adjustments to taxable income.**

...  
(d) Other Adjustments. – The following adjustments to taxable income shall be made in calculating North Carolina taxable income:

...  
(7) The taxpayer shall add to taxable income the amounts listed in this subdivision. An addition is not required under this subdivision for a net operating loss deduction of an eligible small business as defined under section 172(b)(1)(H) of the Code. The amounts are:

- a. For taxable years 2003, 2004, and 2005, the amount of any 2008 net operating loss deduction claimed on a federal return under section 172(b)(1)(H) or section 810(b)(4) of the Code.
  - b. For taxable years 2004, 2005, and 2006, the amount of any 2009 net operating loss deduction claimed on a federal return under section 172(b)(1)(H) or section 810(b)(4) of the Code.
- (8) For taxable years 2011 through 2013, a taxpayer who made an addition under subdivision (7) of this subsection may deduct one-third of the taxpayer's net operating loss absorbed on the taxpayer's 2003, 2004, 2005, and 2006 federal returns under section 172(b)(1)(H) or section 810(b)(4) of the Code."

**SECTION 31.1.(c)** This section is effective when it becomes law. Notwithstanding subsection (a) of this section, any amendments to the Internal Revenue Code enacted after May 1, 2009, that increase North Carolina taxable income for the 2009 taxable year become effective for taxable years beginning on or after January 1, 2010.

### **SMALL BUSINESS TAX RELIEF**

**SECTION 31.1A.(a)** Article 3B of Chapter 105 of the General Statutes is amended by adding a new section to read:

**"§ 105-129.16J. Temporary unemployment insurance refundable tax credit.**

(a) Credit. – A small business that makes contributions during the taxable year to the State Unemployment Insurance Fund with respect to wages paid for employment in this State is allowed a credit equal to twenty-five percent (25%) of the contributions. A small business is a business whose cumulative gross receipts from business activity for the taxable year do not exceed one million dollars (\$1,000,000).

(b) Refundable. – Notwithstanding G.S. 105-129.17, the credit allowed by this section is subject to the following:

- (1) The credit may only be claimed against the income taxes imposed by Article 4 of this Chapter.
- (2) If the credit exceeds the amount of tax imposed by Article 4 of this Chapter for the taxable year reduced by the sum of all credits allowable, the excess is refundable. The refundable excess is governed by the provisions governing a refund of an overpayment by the taxpayer of the tax imposed in that Article. In computing the amount of tax against which multiple credits are allowed, nonrefundable credits are subtracted before refundable credits.

(c) Applicability. – This section applies only to taxable years 2010 and 2011."

**SECTION 31.1A.(b)** This act is effective for taxes imposed for taxable years beginning on or after January 1, 2010.

### **LOWER SALES TAX COMPLIANCE BURDEN ON SMALL RETAILERS**

**SECTION 31.3.(a)** G.S. 105-164.16(b1) reads as rewritten:

"(b1) Monthly. – A taxpayer who is consistently liable for at least one hundred dollars (\$100.00) but less than ~~ten thousand dollars (\$10,000)~~ fifteen thousand dollars (\$15,000) a month in State and local sales and use taxes must file a return and pay the taxes due on a monthly basis. A monthly return is due by the 20th day of the month following the calendar month covered by the return."

**SECTION 31.3.(b)** G.S. 105-164.16(b2) reads as rewritten:

"(b2) Prepayment. – A taxpayer who is consistently liable for at least ~~ten thousand dollars (\$10,000)~~ fifteen thousand dollars (\$15,000) a month in State and local sales and use taxes must make a monthly prepayment of the next month's tax liability. The prepayment is due on the date a monthly return is due. The prepayment must equal at least sixty-five percent (65%) of any of the following:

- (1) The amount of tax due for the current month.
- (2) The amount of tax due for the same month in the preceding year.
- (3) The average monthly amount of tax due in the preceding calendar year."

**SECTION 31.3.(c)** G.S. 105-164.16(b1), as amended by subsection (a) of this section, reads as rewritten:

"(b1) Monthly. – A taxpayer who is consistently liable for at least one hundred dollars (\$100.00) but less than ~~fifteen thousand dollars (\$15,000)~~ twenty thousand dollars (\$20,000) a

month in State and local sales and use taxes must file a return and pay the taxes due on a monthly basis. A monthly return is due by the 20th day of the month following the calendar month covered by the return."

**SECTION 31.3.(d)** G.S. 105-164.16(b2), as amended by subsection (b) of this section, reads as rewritten:

"(b2) Prepayment. – A taxpayer who is consistently liable for at least ~~fifteen thousand dollars (\$15,000)~~ twenty thousand dollars (\$20,000) a month in State and local sales and use taxes must make a monthly prepayment of the next month's tax liability. The prepayment is due on the date a monthly return is due. The prepayment must equal at least sixty-five percent (65%) of any of the following:

- (1) The amount of tax due for the current month.
- (2) The amount of tax due for the same month in the preceding year.
- (3) The average monthly amount of tax due in the preceding calendar year."

**SECTION 31.3.(e)** When the Secretary of Revenue conducts a review of a taxpayer's sales and use tax payment schedule requirements under G.S. 105-164.16(b3), the Secretary must identify the taxpayers who are no longer required to make a monthly prepayment of the next month's sales and use tax liability because of the reduction of the sales tax payment threshold under this section and must notify those taxpayers of the change in the taxpayer's payment requirement.

**SECTION 31.3.(f)** Subsections (a) and (b) of this section become effective October 1, 2010. Subsections (c) and (d) of this section become effective October 1, 2011. The remainder of this section is effective when it becomes law.

## **RELIEVE ANNUAL REPORT COMPLIANCE BURDEN ON SMALL BUSINESS**

**SECTION 31.4.(a)** G.S. 55-16-22(c) reads as rewritten:

"(c) Due Date. – An annual report eligible to be delivered to the Secretary of Revenue is due by the due date for filing the corporation's income and franchise tax returns. An extension of time to file a return is an extension of time to file an annual report. At the option of the filer, an annual report may be filed directly with the Secretary of State in electronic form. An annual report required to be delivered to the Secretary of State is due by the fifteenth day of the ~~third~~ fourth month following the close of the corporation's fiscal year."

**SECTION 31.4.(b)** G.S. 57C-2-23 reads as rewritten:

"§ 57C-2-23. **Annual report for Secretary of State.**

(a) Requirement and Content. – Each domestic limited liability company other than a professional limited liability company governed by G.S. 57C-2-01(c) and each foreign limited liability company authorized to transact business in this State, ~~shall deliver to the Secretary of State for filing an annual report, in State must file an annual report with the Secretary of State on a form prescribed by the Secretary of State, that sets forth all of the following; and in the manner required by the Secretary. The annual report must specify the year to which the report applies and must set out the information listed in this subsection. The information must be current as of the date the company completes the report. If the information in the company's most recent annual report has not changed, the company may certify on its annual report that the information has not changed in lieu of restating the information.~~

The following information must be included on an annual report of a limited liability company:

- (1) The name of the limited liability or foreign limited liability company and the state or country under whose law it is formed.
- (2) The street address, and the mailing address if different from the street address, of the registered office, the county in which the registered office is located, and the name of its registered agent at that office in this State, and a statement of any change of the registered office or registered agent, or both.
- (3) The address and telephone number of its principal office.
- (4) The names and business addresses of its managers or, if the limited liability company has never had members, its organizers.
- (5) A brief description of the nature of its business.

~~If the information contained in the most recently filed annual report has not changed, a certification to that effect may be made instead of setting forth the information required by subdivisions (2) through (5) of this subsection. The Secretary of State shall make available the form required to file an annual report.~~

(b) ~~Information in the annual report must be current as of the date the annual report is executed on behalf of the limited liability company or the foreign limited liability company.~~

(c) Notice and Due Date. – The Secretary of State must notify limited liability companies of the annual report filing requirement. The first annual report shall be delivered to the Secretary of State of a limited liability company is due by April 15th of each year the year following the calendar year in which the company files its articles of organization with the Secretary of State. Each subsequent annual report is due by April 15.

(d) Incomplete Report. – If an annual report does not contain the information required by this section, the Secretary of State shall promptly notify the reporting domestic or foreign limited liability company in writing and return the report to it for correction. If the report is corrected to contain the information required by this section and delivered to the Secretary of State within 30 days after the effective date of notice, it is deemed to be timely filed.

(e) Amendments. – Amendments to any previously filed annual report may be filed with the Secretary of State at any time for the purpose of correcting, updating, or augmenting the information contained in the annual report."

**SECTION 31.4.(c)** A limited liability company that was formed on or after September 1, 2001, but before January 1, 2010, and has filed an annual report for each calendar year after the calendar year in which it was formed is not required to file any additional annual reports for those years. A limited liability company that was formed on or after January 1, 2010, but before April 15, 2010, is not required to file an annual report until April 15, 2011. A limited liability company that has filed more annual reports than is required under this section is not allowed a refund of the annual report filing fee paid for filing the unnecessary report but is not required to pay the annual report filing fee when filing the annual report due April 15, 2011. The Secretary of State must provide a place on the annual report form for calendar year 2011 for a limited liability company to designate that it is not subject to the 2011 annual report filing fee in accordance with this section. The Secretary must also provide instructions that explain why some limited liability companies are subject to the 2011 annual report filing fee and some are not.

**SECTION 31.4.(d)** This section is effective when it becomes law.

## **EXTEND SUNSET ON EXPIRING TAX INCENTIVE INCOME TAX CREDITS AND SALES TAX REFUNDS**

**SECTION 31.5.(a)** G.S. 105-129.75 reads as rewritten:

"§ 105-129.75. **Sunset.**

This Article expires ~~January 1, 2011, January 1, 2014,~~ for rehabilitation projects for which an application for an eligibility certification is submitted on or after that date."

**SECTION 31.5.(b)** G.S. 105-163.015 reads as rewritten:

"§ 105-163.015. **Sunset.**

This Part is repealed effective for investments made on or after ~~January 1, 2011, January 1, 2013.~~"

**SECTION 31.5.(c)** G.S. 105-164.14(a1) reads as rewritten:

"(a1) **Passenger Plane Maximum.** – An interstate passenger air carrier is allowed a refund of the net amount of sales and use tax paid by it in this State on fuel during a calendar year in excess of two million five hundred thousand dollars (\$2,500,000). The "net amount of sales and use tax paid" is the amount paid less the refund allowed under subsection (a) of this section. A request for a refund must be in writing and must include any information and documentation the Secretary requires. A request for a refund is due within six months after the end of the calendar year for which the refund is claimed. The refund allowed by this subsection is in addition to the refund allowed in subsection (a) of this section. This subsection is repealed for purchases made on or after ~~January 1, 2011, January 1, 2013.~~"

**SECTION 31.5.(d)** G.S. 105-164.14(l) reads as rewritten:

"(l) **Aviation Fuel for Motorsports Events.** – A professional motorsports racing team or a motorsports sanctioning body is allowed a refund of the sales and use tax paid by it in this State on aviation fuel that is used to travel to or from a motorsports event in this State, to travel to a motorsports event in another state from a location in this State, or to travel to this State from a motorsports event in another state. For the purposes of this subsection, a "motorsports event" includes a motorsports race, a motorsports sponsor event, and motor sports testing. A request for a refund must be in writing and must include any information and documentation the Secretary requires. A request for a refund is due within six months after the end of the



State's fiscal year. Refunds applied for after the due date are barred. This subsection is repealed for purchases made on or after ~~January 1, 2011~~ January 1, 2013."

**SECTION 31.5.(e)** This section is effective when it becomes law.

## **MODERNIZE SALES TAX ON ACCOMMODATIONS**

**SECTION 31.6.(a)** G.S. 105-164.4(a)(3) reads as rewritten:

### **"§ 105-164.4. Tax imposed on retailers.**

(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is five and three-quarters percent (5.75%).

...  
(3) ~~Operators of hotels, motels, tourist homes, tourist camps, and similar type businesses and persons who rent private residences and cottages to transients are considered retailers under this Article. A tax at the general rate of tax is levied on the gross receipts derived by these retailers from the rental of any rooms, lodgings, or accommodations furnished to transients for a consideration. This tax does not apply to any private residence or cottage that is rented for less than 15 days in a calendar year or to any room, lodging, or accommodation supplied to the same person for a period of 90 or more continuous days.~~

~~As used in this subdivision, the term "persons who rent to transients" means (i) owners of private residences and cottages who rent to transients and (ii) rental agents, including "real estate brokers" as defined in G.S. 93A-2, who rent private residences and cottages to transients on behalf of the owners. If a rental agent is liable for the tax imposed by this subdivision, the owner is not liable. A tax at the general rate applies to the gross receipts derived from the rental of an accommodation. The tax does not apply to a private residence or cottage that is rented for fewer than 15 days in a calendar year or to an accommodation rented to the same person for a period of 90 or more continuous days.~~

~~Gross receipts derived from the rental of an accommodation include the sales price of the rental of the accommodation. The sales price of the rental of an accommodation is determined as if the rental were a rental of tangible personal property. The sales price of the rental of an accommodation marketed by a facilitator includes charges designated as facilitation fees and any other charges necessary to complete the rental.~~

~~A person who provides an accommodation that is offered for rent is considered a retailer under this Article. A facilitator must report to the retailer with whom it has a contract the sales price a consumer pays to the facilitator for an accommodation rental marketed by the facilitator. A retailer must notify a facilitator when an accommodation rental marketed by the facilitator is completed and, within three business days of receiving the notice, the facilitator must send the retailer the portion of the sales price the facilitator owes the retailer and the tax due on the sales price. A facilitator that does not send the retailer the tax due on the sales price is liable for the amount of tax the facilitator fails to send. A facilitator is not liable for tax sent to a retailer but not remitted by the retailer to the Secretary. Tax payments received by a retailer from a facilitator are held in trust by the retailer for remittance to the Secretary. A retailer that receives a tax payment from a facilitator must remit the amount received to the Secretary. A retailer is not liable for tax due but not received from a facilitator. The requirements imposed by this subdivision on a retailer and a facilitator are considered terms of the contract between the retailer and the facilitator.~~

~~A person who, by written contract, agrees to be the rental agent for the provider of an accommodation is considered a retailer under this Article and is liable for the tax imposed by this subdivision. The liability of a rental agent for the tax imposed by this subdivision relieves the provider of the accommodation from liability. A rental agent includes a real estate broker, as defined in G.S. 93A-2.~~

The following definitions apply in this subdivision:

- a. Accommodation. – A hotel room, a motel room, a residence, a cottage, or a similar lodging facility for occupancy by an individual.
- b. Facilitator. – A person who is not a rental agent and who contracts with a provider of an accommodation to market the accommodation and to accept payment from the consumer for the accommodation."

**SECTION 31.6.(b)** G.S. 105-164.4B is amended by adding a new subsection to read:

"(e) Accommodations. – The rental of an accommodation, as defined in G.S. 105-164.4(a)(3), is sourced to the location of the accommodation."

**SECTION 31.6.(c)** G.S. 153A-155(c) reads as rewritten:

"(c) Collection. – ~~Every operator of a business subject to a room occupancy tax shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall be collected as part of the charge for furnishing a taxable accommodation. A retailer who is required to remit to the Department of Revenue the State sales tax imposed by G.S. 105-164.4(a)(3) on accommodations is required to remit a room occupancy tax to the taxing county on and after the effective date of the levy of the room occupancy tax. The room occupancy tax applies to the same gross receipts as the State sales tax on accommodations and is calculated in the same manner as that tax. A rental agent or a facilitator, as defined in G.S. 105-164.4(a)(3), has the same responsibility and liability under the room occupancy tax as the rental agent or facilitator has under the State sales tax on accommodations.~~

If a taxable accommodation is furnished as part of a package, the bundled transaction provisions in G.S. 105-164.4D apply in determining the sales price of the taxable accommodation. If those provisions do not address the type of package offered, the ~~operator~~ person offering the package may determine an allocated price for each item in the package based on a reasonable allocation of revenue that is supported by the ~~operator's~~ person's business records kept in the ordinary course of business and ~~collect~~ calculate tax on the allocated price of the taxable accommodation.

~~The tax shall be stated and charged separately from the sales records and shall be paid by the purchaser to the operator of the business. A retailer must separately state the room occupancy tax. Room occupancy taxes paid to a retailer are held in trust as trustee for and on account of the taxing county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business.~~

The taxing county shall ~~design, print, design~~ and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax. ~~An operator of a business. A retailer who collects a room occupancy tax may deduct from the amount remitted to the taxing county a discount equal to the discount the State allows the operator-retailer for State sales and use tax."~~

**SECTION 31.6.(d)** G.S. 153A-155(g) reads as rewritten:

"(g) Applicability. – Subsection (c) of this section applies to all counties and county districts that levy an occupancy tax. To the extent subsection (c) conflicts with any provision of a local act, subsection (c) supersedes that provision. The remainder of this ~~This~~ section applies only to Alleghany, Anson, Brunswick, Buncombe, Burke, Cabarrus, Camden, Carteret, Caswell, Chatham, Cherokee, Chowan, Clay, Craven, Cumberland, Currituck, Dare, Davie, Duplin, Durham, Forsyth, Franklin, Granville, Halifax, Haywood, Madison, Martin, McDowell, Montgomery, Nash, New Hanover, New Hanover County District U, Northampton, Pasquotank, Pender, Perquimans, Person, Randolph, Richmond, Rockingham, Rowan, Sampson, Scotland, Stanly, Swain, Transylvania, Tyrrell, Vance, Washington, and Wilson Counties, to Surry County District S, to Watauga County District U, to Yadkin County District Y, and to the Township of Averasboro in Harnett County and the Ocracoke Township Taxing District."

**SECTION 31.6.(e)** G.S. 160A-215(c) reads as rewritten:

"(c) Collection. – ~~Every operator of a business subject to a room occupancy tax shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall be collected as part of the charge for furnishing a taxable accommodation. A retailer who is required to remit to the Department of Revenue the State sales tax imposed by G.S. 105-164.4(a)(3) on accommodations is required to remit a room occupancy tax to the taxing city on and after the~~

effective date of the levy of the room occupancy tax. The room occupancy tax applies to the same gross receipts as the State sales tax on accommodations and is calculated in the same manner as that tax. A rental agent or a facilitator, as defined in G.S. 105-164.4(a)(3), has the same responsibility and liability under the room occupancy tax as the rental agent or facilitator has under the State sales tax on accommodations.

If a taxable accommodation is furnished as part of a package, the bundled transaction provisions in G.S. 105-164.4D apply in determining the sales price of the taxable accommodation. If those provisions do not address the type of package offered, the ~~operator~~ person offering the package may determine an allocated price for each item in the package based on a reasonable allocation of revenue that is supported by the operator's person's business records kept in the ordinary course of business and ~~collect~~ calculate tax on the allocated price of the taxable accommodation.

~~The tax shall be stated and charged separately from the sales records and shall be paid by the purchaser to the operator of the business. A retailer must separately state the room occupancy tax. Room occupancy taxes paid to a retailer are held in trust as trustee for and on account of the taxing city. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business.~~

The taxing city shall ~~design, print, design~~ and furnish to all appropriate businesses and persons in the city the necessary forms for filing returns and instructions to ensure the full collection of the tax. An operator of a business who collects a room occupancy tax may deduct from the amount remitted to the taxing city a discount equal to the discount the State allows the ~~operator-retailer~~ for State sales and use tax."

**SECTION 31.6.(f)** G.S. 160A-215(g) reads as rewritten:

"(g) Applicability. – Subsection (c) of this section applies to all cities that levy an occupancy tax. To the extent subsection (c) conflicts with any provision of a local act, subsection (c) supersedes that provision. The remainder of this This section applies only to Beech Mountain District W, to the Cities of Belmont, Conover, Eden, Elizabeth City, Gastonia, Goldsboro, Greensboro, Hickory, High Point, Jacksonville, Kings Mountain, Lenoir, Lexington, Lincolnton, Lowell, Lumberton, Monroe, Mount Airy, Mount Holly, Reidsville, Roanoke Rapids, Salisbury, Shelby, Statesville, Washington, and Wilmington, to the Towns of Ahoskie, Beech Mountain, Benson, Blowing Rock, Boiling Springs, Boone, Burgaw, Carolina Beach, Carrboro, Cramerton, Dallas, Dobson, Elkin, Franklin, Jonesville, Kenly, Kure Beach, Leland, McAdenville, Mooresville, Murfreesboro, North Topsail Beach, Pilot Mountain, Ranlo, Selma, Smithfield, St. Pauls, Troutman, Tryon, West Jefferson, Wilkesboro, Wrightsville Beach, Yadkinville, and Yanceyville, and to the municipalities in Avery and Brunswick Counties."

**SECTION 31.6.(g)** This act becomes effective January 1, 2011, and applies to gross receipts derived from the rental of an accommodation that a consumer occupies or has the right to occupy on or after that date.

## **MODERNIZE ADMISSIONS TAX AND RESTORE AMENITIES EXCLUSION**

**SECTION 31.7.(a)** G.S. 105-37.1 reads as rewritten:

"§ ~~105-37.1. Dances, athletic events, shows, exhibitions, and other entertainments.~~ Live entertainment and ticket resales.

(a) Scope. – A privilege tax is imposed on the ~~gross receipts of a person who is engaged in any of the following:~~

(1) ~~Giving, offering, or managing a dance or an athletic contest for which an admission fee in excess of fifty cents (50¢) is charged.~~ The gross admissions receipts of a person who is engaged in providing admission to live entertainment of any kind. Gross admissions receipts under this subdivision do not include charges for amenities. If charges for amenities are not separately stated on the face of an admission ticket, then the charge for admission is considered to be equal to the admission charge for a ticket to the same event that does not include amenities and is for a seat located directly in front of or closest to a seat that includes amenities.

(2) ~~Giving, offering, or managing a form of amusement or entertainment that is not taxed by another provision of this Article and for which an admission fee is charged.~~ The gross admissions receipts of a person who is engaged in the business of reselling on the Internet under G.S. 14-344.1 an admission ticket

that is taxable under subdivision (1) of this subsection. If the price of an admission ticket is printed on the face of the ticket, gross receipts under this subdivision exclude the face price. If the price of an admission ticket is not printed on the face of the ticket, the tax under this subdivision applies to the difference between the amount the reseller paid for the ticket and the amount the reseller charges for the ticket.

~~(3) Exhibiting a performance, show, or exhibition, such as a circus or dog show, that is not taxed by another provision of this Article.~~

(b) Rate and Payment. – The rate of the privilege tax imposed by this section is three percent ~~(3%) of the gross receipts from the activities described in subsection (a) of this section.~~(3%). The tax is due when a return is due. A return is due by the 10th day after the end of each month and covers the gross receipts received during the previous month.

~~(c) Advance Report. – A person who owns or controls a performance, show, or exhibition~~ live entertainment performance subject to the tax imposed by this section and who plans to bring the performance to this State from outside the State must file a statement with the Secretary that lists the dates, times, and places of the ~~performance, show, or exhibition.~~ performance. The statement must be filed no less than five days before the first ~~performance, show, or exhibition~~ performance in this State.

(d) Local Taxes. – Cities may levy a license tax on a person taxed under subdivision (a)(1) ~~or (a)(2)~~ of this section; however, the tax may not exceed twenty-five dollars (\$25.00). ~~Cities may levy a license tax on a person taxed under subdivision (a)(3) of this section; however, the tax may not exceed twenty-five dollars (\$25.00) for each day or part of a day the performance, show, or exhibition is given at each location. Cities may not levy a license tax on a person taxed under subdivision (a)(2) of this section. Counties~~ Counties may not levy a license tax on a person taxed under subdivision (a)(1) or (a)(2) of this section. Counties may levy a license tax on a person taxed under subdivision (a)(3) to the same extent as a city."

**SECTION 31.7.(b)** G.S. 14-344.1(a) reads as rewritten:

"(a) Internet Resale. – A person may resell an admission ticket under this section on the Internet at a price greater than the price on the face of the ticket only if all of the following conditions are met:

~~(1) unless the~~ The venue where the event will occur ~~prohibits~~ has not prohibited the Internet ticket resale as provided under subsection (b) of this section.

~~(2) To resell an admission ticket under this section, the~~ The person reselling the ticket ~~must offer~~ offers the ticket for resale on a Web site with a ticket guarantee that meets the requirements of subsection (c) of this section. A prospective purchaser must be directed to the guarantee before completion of the resale transaction. ~~A person who resells an admission ticket under this section acknowledges liability for the informational report required under subsection (e) of this section.~~

~~(3) The person reselling the ticket collects and remits to the State the privilege tax in accordance with G.S. 105-37.1."~~

**SECTION 31.7.(c)** G.S. 14-344.1(e) is repealed.

**SECTION 31.7.(d)** If any provision of this section is declared by a court to violate the Internet Tax Freedom Act, Pub. L. 105-277, §§ 1100-1104, as amended, or is otherwise found to be invalid, then G.S. 14-344.1 is repealed.

**SECTION 31.7.(e)** G.S. 105-37.1(a)(1), as amended by subsection (a) of this section, becomes effective August 1, 2010, and applies to charges for admission received on or after that date. G.S. 105-37.1(a)(2), as amended by subsection (a) of this section, becomes effective January 1, 2011, and applies to admission tickets sold on or after that date. The remainder of this section is effective when it becomes law.

## **GIVE TAXPAYERS NOTICE OF REVISED TAX INTERPRETATIONS**

**SECTION 31.7A.(a)** G.S. 105-264(c) reads as rewritten:

"(c) Revised Interpretations. – This section does not prevent the Secretary from changing an ~~interpretation~~ interpretation, and it does not prevent a change in an interpretation from applying on and after the effective date of the change. An interpretation that revises a prior interpretation by expanding the scope of a tax or otherwise increasing the amount of tax due may not become effective sooner than the following:

- (1) For a tax that is payable on a monthly or quarterly basis, the first day of a month that is at least 90 days after the date the revised interpretation is issued.
- (2) For a tax that is payable on an annual basis, the first day of a tax year that begins after the date the revised interpretation is issued."

**SECTION 31.7A.(b)** This section is effective when it becomes law.

## **IMPROVE TAX AND DEBT COLLECTION PROCESS**

**SECTION 31.8.(a)** G.S. 147-86.20(1) reads as rewritten:

### **"§ 147-86.20. Definitions.**

The following definitions apply in this Article:

- (1) ~~Account Receivable-receivable.~~ – An asset of the State reflecting a debt that is owed to the State and has not been received by the State agency servicing the debt. The term includes claims, damages, fees, fines, forfeitures, loans, overpayments, taxes, and tuition as well as penalties, interest, and other costs authorized by law. The term does not include court costs or fees assessed in actions before the General Court of Justice or counsel fees and other expenses of representing indigents under Article 36 of Chapter 7A of the General Statutes.

...."

**SECTION 31.8.(b)** G.S. 147-86.22 reads as rewritten:

### **"§ 147-86.22. Statewide accounts receivable program.**

(a) Program. – The State Controller shall implement a statewide accounts receivable program. As part of this program, the State Controller shall do all of the following:

- (1) Monitor the State's accounts receivable collection efforts.
- (2) Coordinate information, systems, and procedures between State agencies to maximize the collection of past-due accounts receivable.
- (3) Adopt policies and procedures for the management and collection of accounts receivable by State agencies.
- (4) Establish procedures for writing off accounts ~~receivable and for determining when to end efforts to collect accounts receivable after they have been written off-receivable.~~

(b) Electronic Payment. – Notwithstanding the provisions of G.S. 147-86.20 and G.S. 147-86.21, this subsection applies to debts owed a community college, a local school administrative unit, an area mental health, developmental disabilities, and substance abuse authority, and the Administrative Office of the Courts, and to debts payable to or through the office of a clerk of superior court or a magistrate, as well as to debts owed to other State agencies as defined in G.S. 147-86.20.

The State Controller shall establish policies that allow accounts receivable to be payable under certain conditions by electronic payment. These policies shall be established with the concurrence of the State Treasurer. In addition, any policies that apply to debts payable to or through the office of a clerk of superior court or a magistrate shall be established with the concurrence of the Administrative Officer of the Courts. The Administrative Officer of the Courts may also establish policies otherwise authorized by law that apply to these debts as long as those policies are not inconsistent with the Controller's policies.

A condition of payment by electronic payment is receipt by the appropriate State agency of the full amount of the account receivable owed to the State agency. A debtor who pays by electronic payment may be required to pay any fee or charge associated with the use of electronic payment. Fees associated with processing electronic payments may be paid out of the General Fund and Highway Fund if the payment of the fee by the State is economically beneficial to the State and the payment of the fee by the State has been approved by the State Controller and State Treasurer.

The State Controller and State Treasurer shall consult with the Joint Legislative Commission on Governmental Operations before establishing policies that allow accounts receivable to be payable by electronic payment and before authorizing fees associated with electronic payment to be paid out of the General Fund and Highway Fund. A State agency must also consult with the Joint Legislative Commission on Governmental Operations before implementing any program to accept payment under the policies established pursuant to this subsection.

A payment of an account receivable that is made by electronic payment and is not honored by the issuer of the card or the financial institution offering electronic funds transfer does not relieve the debtor of the obligation to pay the account receivable.

(c) Collection Techniques. – The State Controller, in conjunction with the Office of the Attorney General, shall establish policies and procedures to govern techniques for collection of accounts receivable. These techniques may include use of credit reporting bureaus, judicial remedies authorized by law, and administrative setoff by a reduction of ~~an individual's~~ a tax refund pursuant to the Setoff Debt Collection Act, Chapter 105A of the General Statutes, or a reduction of another payment, other than payroll, due from the State to a person to reduce or eliminate an account receivable that the person owes the State.

~~No later than January 1, 1999, the~~ The State Controller shall negotiate a contract with a third party to perform an audit and collection process of inadvertent overpayments by State agencies to vendors as a result of pricing errors, neglected rebates and discounts, miscalculated freight charges, unclaimed refunds, erroneously paid excise taxes, and related errors. The third party shall be compensated only from funds recovered as a result of the audit. Savings realized in excess of costs shall be transferred from the agency to the Office of State Budget and Management and placed in a special reserve account for future direction by the General Assembly. Any disputed savings shall be settled by the State Controller. This paragraph does not apply to the purchase of medical services by State agencies or payments used to reimburse or otherwise pay for health care services."

**SECTION 31.8.(c)** G.S. 147-86.25 reads as rewritten:

**"§ 147-86.25. Setoff debt collection.**

The State Controller shall implement a statewide setoff debt collection program to provide for collection of ~~accounts receivable that have been written off. The statewide program shall supplement the Setoff Debt Collection Act, Chapter 105A of the General Statutes, and shall provide for written off~~ the following accounts receivable to be set off by setoff against payments the State owes to debtors, other than payments of ~~individual income tax refunds and payroll payroll~~:

(1) Accounts receivable submitted to the Department of Revenue by a claimant agency under the Setoff Debt Collection Act, Chapter 105A of the General Statutes.

(2) An overdue tax debt, as defined in G.S. 105-243.1.

~~A program shall provide that, before final setoff can occur, the State agency servicing the debt must notify the debtor of the proposed setoff and of the debtor's right to contest the setoff through an administrative hearing and judicial review. A proposed setoff by a State agency that is a "claimant agency" under Chapter 105A of the General Statutes shall be conducted in accordance with the procedures the State agency must follow under that Chapter. A proposed setoff by a State agency that is not a "claimant agency" under Chapter 105A of the General Statutes shall be conducted under Articles 3 and 4 of Chapter 150B of the General Statutes."~~

**SECTION 31.8.(d)** G.S. 105A-2 reads as rewritten:

**"§ 105A-2. Definitions.**

The following definitions apply in this Chapter:

...  
(3) Debtor. – ~~An individual~~ A person who owes a debt.

...  
(8) Refund. – ~~An individual's North Carolina income~~ A debtor's North Carolina tax refund.

(9) State agency. – Any of the following:

a. A unit of the executive, legislative, or judicial branch of State government.

b. A local agency, to the extent it administers a program supervised by the Department of Health and Human Services or it operates a Child Support Enforcement Program, enabled by Chapter 110, Article 9, and Title IV, Part D of the Social Security Act.

c. A community college."

**SECTION 31.8.(e)** G.S. 105A-3(c) reads as rewritten:

"(c) Identifying Information. – All claimant agencies shall whenever possible obtain the full name, social security ~~number, number or federal identification number~~, address, and any other identifying information required by the Department from any person for whom the

agencies provide any service or transact any business and who the claimant agencies can foresee may become a debtor under this Chapter."

**SECTION 31.8.(f)** G.S. 105A-14(a) reads as rewritten:

"(a) Simultaneously with the transmittal of the net proceeds collected to a claimant agency, the Department must provide the agency with an accounting of the setoffs for which payment is being made. The accounting must whenever ~~possible,~~possible include the full names of the debtors, the debtors' social security ~~numbers,~~numbers or federal identification numbers, the gross proceeds collected per setoff, the net proceeds collected per setoff, and the collection assistance fee added to the debt and collected per setoff."

**SECTION 31.8.(g)** G.S. 105-259(b)(18) reads as rewritten:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person except as provided in this subsection. Standards used or to be used for the selection of returns for examination and data used or to be used for determining the standards may not be disclosed for any purpose. All other tax information may be disclosed only if the disclosure is made for one of the following purposes:

...  
(18) To furnish to the Office of the State Controller ~~the name, address, and account and identification numbers of a taxpayer upon request to~~enable information needed by the State Controller to implement the setoff debt collection program established under G.S. 147-86.25, verify statewide vendor files,~~files,~~ or track debtors of the State.

....

**SECTION 31.8.(h)** G.S. 105-242(b) reads as rewritten:

"(b) ~~Garnishment and Attachment.~~Attachment and Garnishment. – Intangible property that belongs to a taxpayer, is owed to a taxpayer, or has been transferred by a taxpayer under circumstances that would permit it to be levied upon if it were tangible property is subject to attachment and garnishment in payment of a tax that is due from the taxpayer and is collectible under G.S. 105-241.22. Intangible personal property includes bank deposits, rent, salaries, wages, property held in the Escheat Fund, and any other property incapable of manual levy or delivery. ~~AG.S. 105-242.1 sets out the procedure for attachment and garnishment of intangible property.~~

A person who is in possession of intangible property that is subject to attachment and garnishment is the garnishee and is liable for the amount the taxpayer owes. The liability applies only to the amount of the taxpayer's property in the garnishee's possession, reduced by any amount the taxpayer owes the garnishee. ~~G.S. 105-242.1 sets out the procedure for attachment and garnishment of intangible property.~~

The Secretary may submit to a financial institution, as defined in G.S. 53B-2, information that identifies a taxpayer who owes a tax debt that is collectible under G.S. 105-241.22 and the amount of the debt. The Secretary may submit the information on a quarterly basis or, with the agreement of the financial institution, on a more frequent basis. A financial institution that receives the information must determine the amount, if any, of intangible property it holds that belongs to the taxpayer and must inform the Secretary of its determination. The Secretary must reimburse a financial institution for its costs in providing the information, not to exceed the amount payable to the financial institution under G.S. 110-139 for providing information for use in locating a noncustodial parent.

No more than ten percent (10%) of a taxpayer's wages or salary is subject to attachment and garnishment. The wages or salary of an employee of the United States, the State, or a political subdivision of the State are subject to attachment and garnishment."

**SECTION 31.8.(i)** G.S. 105-242.1 reads as rewritten:

"§ 105-242.1. **Procedure for attachment and garnishment.**

(a) Notice. – G.S. 105-242 specifies when intangible property is subject to attachment and garnishment. Before the Department attaches and garnishes intangible property in payment of a tax, the Department must send the garnishee a notice of garnishment. The notice must be sent in accordance with the methods authorized in G.S. 105-241.20 ~~or by registered or certified mail or, with the agreement of the garnishee, by electronic means.~~ The notice must contain all of the following information: information, unless the notice is an electronic notice subject to subsection (a1) of this section:

- (1) ~~The taxpayer's name, address, and social security number or federal identification number.~~
- (2) ~~The type of tax the taxpayer owes and the tax periods for which the tax is owed.~~ taxpayer's social security number or federal identification number.
- (3) The amount of tax, interest, and penalties the taxpayer owes.
- (4) An explanation of the liability of a garnishee for tax owed by a taxpayer.
- (5) An explanation of the garnishee's responsibility concerning the notice.

(a1) Electronic Notice. – Before the Department sends an electronic notice of garnishment to a garnishee, the Department and the garnishee must have an agreement that establishes the protocol for transmitting the notice and provides the information required under subdivisions (4) and (5) of subsection (a) of this section. An electronic notice must contain the information required under subdivisions (1), (2), and (3) of subsection (a) of this section.

(b) Action. – ~~Within 30 days after receiving a notice of garnishment, a~~ A garnishee must comply with ~~the~~ a notice of garnishment or file a written response to the ~~notice.~~ notice within the time set in this subsection. A garnishee that is a financial institution must comply or file a response within 20 days after receiving a notice of garnishment. All other garnishees must comply or file a response within 30 days after receiving a notice of garnishment. A written response must explain why the garnishee is not subject to garnishment and attachment. Upon

Upon receipt of ~~the~~ a written response, the Department must contact the garnishee and schedule a conference to discuss the response or inform the garnishee of the Department's position concerning the response. If the Department does not agree with the garnishee on the garnishee's liability, the Department may proceed to enforce the garnishee's liability for the tax by sending the garnishee a notice of proposed assessment in accordance with G.S. 105-241.9.

(c) Release. – ~~When the Department releases a garnishee from liability, the Department must send the garnishee a letter of release. The letter must identify the taxpayer to whom the release applies and contain the identifying information about the taxpayer that is required under subsection (a) on a notice of garnishment.~~ A notice of garnishment sent to a financial institution is released when the financial institution complies with the notice. A notice of garnishment sent to all other garnishees is released when the Department sends the garnishee a notice of release. A notice of release must state the name and social security number or federal identification number of the taxpayer to whom the release applies.

(d) Financial Institution. – As used in this section, the term 'financial institution' has the same meaning as in G.S. 53B-2."

**SECTION 31.8.(j)** G.S. 53B-4(2) reads as rewritten:

**"§ 53B-4. Access to financial records.**

Notwithstanding any other provision of law, no government authority may have access to a customer's financial record held by a financial institution unless the financial record is described with reasonable specificity and access is sought pursuant to any of the following:

- ...
- (2) Authorization under ~~G.S. 105-251~~ G.S. 105-242 or G.S. 105-258."

**SECTION 31.8.(k)** Subsection (h) of this section becomes effective January 1, 2011. The remainder of this section is effective when it becomes law.

**REDUCE FRANCHISE TAX BURDEN ON CONSTRUCTION COMPANIES**

**SECTION 31.9.(a)** Section 2 of S.L. 2009-422 reads as rewritten:

**"SECTION 2.** This act is effective retroactively for taxable years beginning on or after ~~January 1, 2010.~~ January 1, 2007."

**SECTION 31.9.(b)** A taxpayer that paid franchise tax in taxable years 2007, 2008, or 2009 and that included billings in excess of costs in its capital base may apply to the Department of Revenue for a refund of any excess tax paid to the extent the refund is the result of the change in the law enacted by this section. A request for a refund must be made on or before January 1, 2011. A request for refund received after that date is barred.

**SECTION 31.9.(c)** This section is effective when it becomes law.

**FAIR TAX PENALTIES**

**SECTION 31.10.(a)** G.S. 105-236(a)(4) reads as rewritten:

- "(4) Failure to Pay Tax When Due. – In the case of failure to pay any tax when due, without intent to evade the tax, the Secretary shall assess a penalty



equal to ten percent (10%) of the tax, subject to a minimum of five dollars (\$5.00). This penalty does not apply in any of the following circumstances:

- a. When the amount of tax shown as due on an amended return is paid when the return is filed.
- b. When the Secretary proposes an assessment for tax due but not shown on a return and the tax due is paid within 45 days after the later of the following:
  1. The date of the notice of proposed assessment of the ~~tax-tax~~, if the taxpayer does not file a timely request for a Departmental review of the proposed assessment.
  2. The date the proposed assessment becomes collectible under one of the circumstances listed in G.S. 105-241.22(3) through (6), if the taxpayer files a timely request for a Departmental review of the proposed assessment.
- c. When a taxpayer timely files a consolidated or combined return at the request of the Secretary under Part 1 of Article 4 of this Chapter and the tax due is paid within 45 days after the latest of the following:
  1. The date the return is filed.
  2. The date of a notice of proposed assessment based on the return, if the taxpayer does not file a timely request for a Departmental review of the proposed assessment.
  3. The date the Departmental review of the proposed assessment ends as a result of the occurrence of one of the actions listed in G.S. 105-241.22(3) through (6), if the taxpayer files a timely request for a Departmental review."

**SECTION 31.10.(b)** G.S. 105-236(a)(5) is amended by adding a new sub-subdivision to read:

"(5) Negligence. –

- ...
- f. Consolidated or combined return. – The amount of tax shown as due on a consolidated or combined return filed at the request of the Secretary under Part 1 of Article 4 of this Chapter is not considered a deficiency and is not subject to this subdivision unless one or more of the following applies:
    1. The return is an amended consolidated or combined return that includes the same corporations as the initial consolidated or combined return filed at the request of the Secretary. In this case the deficiency is the extent to which the amount shown as due on the amended return exceeds the amount shown as due on the initial return.
    2. The Secretary has adopted permanent rules in accordance with G.S. 105-262 that describe the facts and circumstances under which the Secretary will require a consolidated or combined return under G.S. 105-130.6, and the Secretary requires the taxpayer to file a consolidated or combined return under that statute because the taxpayer's facts and circumstances meet those described in the rules.
    3. Pursuant to a written request from a taxpayer, the Secretary has provided written advice to that taxpayer stating that the Secretary will require a consolidated or combined return under the facts and circumstances set out in the request, and the Secretary requires a taxpayer to file a consolidated or combined return under G.S. 105-130.6 because the taxpayer's facts and circumstances meet those described in the written advice."

**SECTION 31.10.(c)** G.S. 105-241.22 reads as rewritten:

"§ 105-241.22. **Collection of tax.**

The Department may collect a tax in the following circumstances:

- (1) When a taxpayer files a return showing an amount due with the return and does not pay the amount shown due. This subdivision does not apply to a consolidated or combined return filed at the request of the Secretary under Part 1 of Article 4 of this Chapter.
- (2) When the Department sends a notice of collection after a taxpayer does not file a timely request for a Departmental review of a proposed assessment of tax.
- (3) When a taxpayer and the Department agree on a settlement concerning the amount of tax due.
- (4) When the Department sends a notice of final determination concerning an assessment of tax and the taxpayer does not file a timely petition for a contested case hearing on the assessment.
- (5) When a final decision is issued on a proposed assessment of tax after a contested case hearing.
- (6) When the Office of Administrative Hearings dismisses a petition for a contested case for lack of jurisdiction because the sole issue is the constitutionality of a statute and not the application of a statute."

**SECTION 31.10.(d)** G.S. 105-130.6 reads as rewritten:

**"§ 105-130.6. Subsidiary and affiliated corporations.**

The net income of a corporation doing business in this State that is a parent, subsidiary, or affiliate of another corporation shall be determined by eliminating all payments to or charges by the parent, subsidiary, or affiliated corporation in excess of fair compensation in all intercompany transactions of any kind whatsoever. If the Secretary finds as a fact that a report by a corporation does not disclose the true earnings of the corporation on its business carried on in this State, the Secretary may require the corporation to file a consolidated return of the entire operations of the parent corporation and of its subsidiaries and affiliates, including its own operations and income. The Secretary shall determine the true amount of net income earned by such corporation in this State. The combined net income of the corporation and of its parent, subsidiaries, and affiliates shall be apportioned to this State by use of the applicable apportionment formula required to be used by the corporation under G.S. 105-130.4. The return shall include in the apportionment formula the property, payrolls, and sales of all corporations for which the return is made. For the purposes of this section, a corporation is considered a subsidiary of another corporation when, directly or indirectly, it is subject to control by the other corporation by stock ownership, interlocking directors, or by any other means whatsoever exercised by the same or associated financial interests, whether the control is direct or through one or more subsidiary, affiliated, or controlled corporations. A corporation is considered an affiliate of another corporation when both are directly or indirectly controlled by the same parent corporation or by the same or associated financial interests by stock ownership, interlocking directors, or by any other means whatsoever, whether the control is direct or through one or more subsidiary, affiliated, or controlled corporations. The secretary may require a consolidated return under this section regardless of whether the parent or controlling corporation or interests or its subsidiaries or affiliates, other than the taxpayer, are or are not doing business in this State.

If a consolidated return required by this section is not filed within 60 days after it is demanded, then the corporation is subject to the penalties provided in G.S. 105-230 and G.S. 105-236.

The parent, subsidiary, or affiliated corporation must incorporate in its return required under this section information needed to determine the net income taxable under this Part, and must furnish any additional information the Secretary requires. If the return does not contain the information required or the additional information requested is not furnished within 30 days after it is demanded, the corporation is subject to the penalties provided in G.S. 105-230 and G.S. 105-236.

If the Secretary finds that the determination of the income of a parent, subsidiary, or affiliated corporation under a consolidated return will produce a greater or lesser figure than the amount of income earned in this State, the Secretary may readjust the determination by reasonable methods of computation to make it conform to the amount of income earned in this State. If the corporation contends the figure produced is greater than the earnings in this State, it must file with the Secretary within 30 days after notice of the determination a statement of its objections and of an alternative method of determination. The Secretary must consider the

statement in determining the income earned in this State. The findings and conclusions of the Secretary shall be presumed to be correct and shall not be set aside unless shown to be plainly wrong.

In order to provide clarity for taxpayers, the Secretary may adopt rules in accordance with G.S. 105-262 that describe facts and circumstances under which the Secretary will require a corporation to file a consolidated or combined return. The adoption of these rules does not limit the Secretary's authority to require a consolidated or combined return under sets of facts and circumstances not described in the rules when the Secretary finds as a fact that a report by a corporation does not disclose the true earnings of the corporation on its business carried on in this State."

**SECTION 31.10.(e)** G.S. 105-130.14 reads as rewritten:

**"§ 105-130.14. Corporations filing consolidated returns for federal income tax purposes.**

Any corporation electing or required to file a consolidated income tax return with the Internal Revenue Service must determine its State net income as if the corporation had filed a separate federal return and shall not file a consolidated or combined return with the Secretary of Revenue, unless one of the following applies:

- (1) The corporation is specifically directed to do so in writing by the Secretary, and shall determine its State net income as if a separate return had been filed for federal purposes. Secretary under G.S. 105-130.6 to file a consolidated or combined return.
- (2) The corporation's facts and circumstances meet the facts and circumstances described in a permanent rule adopted under G.S. 105-130.6 and the corporation files a consolidated or combined return in accordance with that rule.
- (3) Pursuant to a written request from the corporation, the Secretary has provided written advice to the corporation stating that the Secretary will require a consolidated or combined return under the facts and circumstances set out in the request and the corporation files a consolidated or combined return in accordance with that written advice."

**SECTION 31.10.(f)** G.S. 105-262 reads as rewritten:

**"§ 105-262. Rules.**

(a) Authority. – The Secretary of Revenue may adopt rules needed to administer a tax collected by the Secretary or to fulfill another duty delegated to the Secretary. G.S. 150B-1 and Article 2A of Chapter 150B of the General Statutes set out the procedure for the adoption of rules by the Secretary.

(b) Notice and Hearing Exceptions. – At least 30 business days prior to proposing a rule under G.S. 105-130.6, the Secretary must comply with the following notice and hearing requirements:

- (1) Publish the proposed rule in the North Carolina Register.
- (2) Submit the rule and a notice of public hearing to the Codifier of Rules, who must post the proposed rule and the notice of public hearing on the Internet within five business days.
- (3) Notify those on the Department's mailing list maintained in accordance with G.S. 150B-21.2(d) and any other interested parties of its intent to adopt a rule and of the public hearing.
- (4) Accept written comments on the proposed rule for at least 15 business days prior to adoption of the rule.
- (5) Hold at least one public hearing on the proposed rule no less than five days after the rule and notice have been published.

(c) Fiscal Note. – The Secretary must ask the Office of State Budget and Management to prepare a fiscal note for a proposed new rule or a proposed change to a rule that has a substantial economic impact, as defined in G.S. 150B-21.4(b1). The Secretary shall not take final action on a proposed rule change that has a substantial economic impact until at least 60 days after the fiscal note has been prepared."

**SECTION 31.10.(g)** This section is effective when it becomes law. This section shall not be construed to affect the interpretation of any statute that is the subject of litigation pending as of the effective date of this act in the General Court of Justice or to affect any other aspect of such pending litigation. Subsections (a) and (b) of this section apply to penalties and taxes that are assessed but unpaid as of the effective date, except penalties and taxes that are the

subject of pending litigation in a General Court of Justice as of the effective date, and to penalties and taxes assessed on or after the effective date.

## **PART XXXII. MISCELLANEOUS PROVISIONS**

### **STATE BUDGET ACT APPLIES**

**SECTION 32.1.** The provisions of the State Budget Act, Chapter 143C of the General Statutes, are reenacted and shall remain in full force and effect and are incorporated in this act by reference.

### **COMMITTEE REPORT**

**SECTION 32.2.(a)** The Joint Conference Committee Report on the Continuation, Expansion, and Capital Budgets dated June 28, 2010, which was distributed in the Senate and the House of Representatives and used to explain this act, shall indicate action by the General Assembly on this act and shall therefore be used to construe this act, as provided in the State Budget Act, Chapter 143C of the General Statutes, as appropriate, and for these purposes shall be considered a part of this act and as such shall be printed as a part of the Session Laws.

**SECTION 32.2.(b)** The budget enacted by the General Assembly is for the maintenance of the various departments, institutions, and other spending agencies of the State for the 2010-2011 budget as provided in G.S. 143C-3-5. This budget includes the appropriations of State funds as defined in G.S. 143C-1-1(d)(25).

The Director of the Budget submitted recommended adjustments to the budget to the General Assembly in April 2010 in the documents "The North Carolina State Budget, Recommended Operating Budget with Performance Management Information 2010-2011" for the 2010-2011 fiscal year for the various departments, institutions, and other spending agencies of the State. The adjustments to these documents made by the General Assembly are set out in the Committee Report.

**SECTION 32.2.(c)** The budget enacted by the General Assembly shall also be interpreted in accordance with G.S. 143C-5-5, the special provisions in this act, and other appropriate legislation.

In the event that there is a conflict between the line-item budget certified by the Director of the Budget and the budget enacted by the General Assembly, the budget enacted by the General Assembly shall prevail.

### **REPORT OF THE FISCAL RESEARCH DIVISION ON CHANGES TO THE 2010-2011 BUDGET**

**SECTION 32.2A.** The Fiscal Research Division of the Legislative Services Commission may issue a report on budget actions taken by the 2010 Regular Session of the 2009 General Assembly. If a report is issued, it shall be in the form of a revision of the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets for Senate Bill 897, dated June 28, 2010, and shall include all modifications made to the 2010-2011 budget prior to sine die adjournment of the 2009 Regular Session. The Director of the Fiscal Research Division of the Legislative Services Commission shall send a copy of any such report it issues to the Director of the Budget, and the report shall be published on the General Assembly Web site for public review.

### **MOST TEXT APPLIES ONLY TO THE 2010-2011 FISCAL YEAR**

**SECTION 32.3.** Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2010-2011 fiscal year, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2010-2011 fiscal year.

### **EFFECT OF HEADINGS**

**SECTION 32.4.** The headings to the parts and sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act, except for effective dates referring to a part.

### **APPROPRIATIONS LIMITATIONS AND DIRECTIONS APPLY**

**SECTION 32.5.(a)** Except where expressly repealed or amended by this act, the provisions of S.L. 2009-451 and S.L. 2009-575 remain in effect.

**SECTION 32.5.(b)** Notwithstanding any modifications by this act in the amounts appropriated, except where expressly repealed or amended, the limitations and directions for the 2010-2011 fiscal year in S.L. 2009-451 and S.L. 2009-575 that applied to appropriations to particular agencies or for particular purposes apply to the newly enacted appropriations and budget reductions of this act for those same particular purposes.

**SEVERABILITY CLAUSE**

**SECTION 32.6.** If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

**EFFECTIVE DATE**

**SECTION 32.7.** Except as otherwise provided, this act becomes effective July 1, 2010.

In the General Assembly read three times and ratified this the 30<sup>th</sup> day of June, 2010.

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Walter H. Dalton  
President of the Senate

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Joe Hackney  
Speaker of the House of Representatives

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Beverly E. Perdue  
Governor

Approved \_\_\_\_\_m. this \_\_\_\_\_ day of \_\_\_\_\_, 2010