

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009**

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**SENATE BILL 1344**

Short Title:   Governors Budget. (Public)

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Sponsors:    Senators Garrou, Albertson, Dannelly, and Swindell.

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Referred to:   Appropriations/Base Budget.

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May 24, 2010

A BILL TO BE ENTITLED  
AN ACT TO MAKE BASE BUDGET APPROPRIATIONS FOR CURRENT OPERATIONS  
OF STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES, AND FOR OTHER  
PURPOSES.

The General Assembly of North Carolina enacts:

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

**INTRODUCTION**

**SECTION 1.1.** The appropriations made in this act are for maximum amounts necessary to provide the services and accomplish the purposes described in the budget. Savings shall be effected where the total amounts appropriated are not required to perform these services and accomplish these purposes and, except as allowed by the State Budget Act, or this act, the savings shall revert to the appropriate fund at the end of each fiscal year.

**TITLE OF ACT**

**SECTION 1.2.** This act shall be known as "The Current Operations and Capital Improvements Appropriations Act of 2010."

**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.

<b>Current Operations – General Fund</b>	<b>2010-2011</b>
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**EDUCATION**

Community Colleges System Office	\$ 32,282,306
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Department of Public Instruction	(314,828,201)
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1	University of North Carolina – Board of Governors	
2	Appalachian State University	2,867,554
3	East Carolina University	
4	Academic Affairs	5,758,810
5	Health Affairs	0
6	Elizabeth City State University	732,222
7	Fayetteville State University	1,155,186
8	North Carolina Central University	1,254,688
9	North Carolina School of the Arts	219,749
10	North Carolina State University	
11	Academic Affairs	10,454,599
12	Agricultural Extension	0
13	Agricultural Research	0
14	University of North Carolina at Asheville	1,048,747
15	University of North Carolina at Chapel Hill	
16	Academic Affairs	6,842,536
17	Health Affairs	156,027
18	Area Health Education Centers	115,360
19	University of North Carolina at Charlotte	6,433,798
20	University of North Carolina at Greensboro	3,521,383
21	University of North Carolina at Pembroke	789,362
22	University of North Carolina at Wilmington	3,139,825
23	NCA&T	2,218,210
24	Western Carolina University	1,412,533
25	Winston-Salem State University	798,672
26	General Administration	(1,909,887)
27	University Institutional Programs	(36,298,756)
28	UNC Related Educational Programs	34,856,563
29	UNC Financial Aid for Private Colleges	(1,172,542)
30	North Carolina School of Science and Mathematics	0
31	UNC Hospitals at Chapel Hill	(1,716,463)
32	<b>Total University of North Carolina – Board of Governors</b>	<b>\$ 42,678,176</b>
33		
34	<b>HEALTH AND HUMAN SERVICES</b>	
35		
36	Department of Health and Human Services	
37	Division of Central Management and Support	\$ (4,291,405)
38	Division of Aging and Adult Services	1,000,000
39	Division of Services for the Blind and Deaf/Hard of Hearing	(614,064)
40	Division of Child Development	(17,009,838)
41	Office of Education Services	(1,287,310)
42	Division of Health Service Regulation	(2,478,879)
43	Division of Medical Assistance	(394,083,299)
44	Division of Mental Health, Developmental Disabilities,	
45	and Substance Abuse Services	33,072,692
46	NC Health Choice	8,467,643
47	Division of Public Health	6,777,031
48	Division of Social Services	(12,655,513)
49	Division of Vocational Rehabilitation	(3,316,000)
50	<b>Total Health and Human Services</b>	<b>\$ (386,418,942)</b>
51		

1	<b>NATURAL AND ECONOMIC RESOURCES</b>	
2		
3	Department of Agriculture and Consumer Services	\$ (4,239,178)
4		
5	Department of Commerce	
6	Commerce	22,557,213
7	Commerce State-Aid	5,200,000
8	NC Biotechnology Center	3,000,000
9	Rural Economic Development Center	5,000,000
10		
11	Department of Environment and Natural Resources	
12	Environment and Natural Resources	(116,212)
13	Clean Water Management Trust Fund	0
14		
15	Department of Labor	(1,219,388)
16		
17	<b>JUSTICE AND PUBLIC SAFETY</b>	
18		
19	Department of Correction	\$ (45,551,555)
20		
21	Department of Crime Control and Public Safety	(819,000)
22		
23	Judicial Department	(9,216,294)
24	Judicial Department – Indigent Defense	1,828,954
25		
26	Department of Justice	(2,802,152)
27		
28	Department of Juvenile Justice and Delinquency Prevention	(5,852,393)
29		
30	<b>GENERAL GOVERNMENT</b>	
31		
32	Department of Administration	\$ (1,712,290)
33		
34	Office of Administrative Hearings	(307,026)
35		
36	Department of State Auditor	(746,955)
37		
38	Office of State Controller	8,594,863
39		
40	Department of Cultural Resources	
41	Cultural Resources	(2,897,180)
42	Roanoke Island Commission	(139,344)
43		
44	State Board of Elections	294,735
45		
46	General Assembly	(2,731,696)
47		
48	Office of the Governor	
49	Office of the Governor	(303,400)
50	Office of State Budget and Management	407,584
51	OSBM – Reserve for Special Appropriations	750,000

1	Housing Finance Agency	0
2		
3	Department of Insurance	
4	Insurance	(1,796,372)
5	Insurance – Volunteer Safety Workers' Compensation	(400,000)
6		
7	Office of Lieutenant Governor	(63,800)
8		
9	Department of Revenue	3,521,022
10		
11	Department of Secretary of State	(537,958)
12		
13	Department of State Treasurer	
14	State Treasurer	(422,191)
15	State Treasurer – Retirement/Benefits	0
16		
17	<b>RESERVES, ADJUSTMENTS AND DEBT SERVICE</b>	
18	Contingency and Emergency Fund	\$ 0
19	Compensation Increase Reserve	61,136,150
20	"Back to Work" Incentive Fund	15,000,000
21	Convert Contractual Employees to Permanent	0
22	Pay Reduction Hold Harmless	62,500,000
23	Job Development Incentive Grants Reserve	(6,600,000)
24	Statewide Administrative Support Reduction	0
25	Motor Fleet Rate Adjustment	(2,200,000)
26	Health Plan Reserve	0
27	Retirement Rate Adjustment Reserve-COLA	20,000,000
28	Judicial Retirement	0
29	IT Initiative	0
30	Savings Reserve Direct Appropriations	101,524,821
31	<b>TOTAL CURRENT OPERATIONS – GENERAL FUND</b>	<b>\$ (410,319,016)</b>
32		
33	<b>GENERAL FUND AVAILABILITY STATEMENT</b>	
34	<b>SECTION 2.2.(a)</b> Section 2.2(a) of S.L. 2009-451 is repealed. The General Fund	
35	availability used in adjusting the 2010-2011 budget is shown below:	
36		
37		<b>FY 2010-2011</b>
38		
39	Unappropriated Balance from FY 2009-2010, S.L. 2009-451	\$ 83,171,017
40	Projected Reversions from FY 2009-2010	0
41	Projected Overcollections from FY 2009-2010	0
42	Less: Credit to Savings Reserve Account	0
43	Less: Credit to Repairs and Renovation Reserve Account	0
44	<b>Beginning Unreserved Fund Balance</b>	<b>\$ 83,171,017</b>
45		
46	<b>Revenues Based on Existing Tax Structure</b>	<b>\$ 18,199,339,654</b>
47		
48	<b>Nontax Revenues</b>	
49	Investment Income	\$ 57,500,000
50	Judicial Fees	239,100,000
51	Disproportionate Share	100,000,000

1	Insurance	67,000,000
2	Other Nontax Revenues	182,700,000
3	Highway Trust Fund Transfer	72,894,864
4	Highway Fund Transfer	17,504,498
5	<b>Subtotal Nontax Revenues</b>	<b>\$ 736,699,362</b>
6		
7	<b>Total General Fund Availability</b>	<b>\$19,752,139,885</b>
8		
9	<b>Adjustments to Availability: 2010 Session</b>	
10	Conform to Federal HIRE ACT	\$ 4,900,000
11	Continue to Phase Out of Highway Trust Fund Transfer	(22,000,000)
12	Tax Relief for Small Business Equipment Purchases	(2,800,000)
13	High Unemployment Hiring Incentive	0
14	Extend Qualified Business Venture Credit and Raise Cap	(8,000,000)
15	Extend Sunset for Small Business Health Benefits Credit	(5,000,000)
16	Small Business Start-Up Tax Relief (Founder's Credit)	0
17	Extend Refund for Motorsports Aviation	(100,000)
18	Transfer from Disproportionate Share Reserve	35,000,000
19	Public Safety Fees	14,445,560
20	Divert Scrap Tire Tax	1,514,642
21	Divert White Goods Management Tax	775,325
22	Divert a Portion of Wildlife Taxes	1,500,000
23	Department of Revenue Settlement Initiative	110,000,000
24	<b>Subtotal Adjustments to Availability: 2010 Session</b>	<b>\$ 130,235,527</b>
25		
26	<b>Revised General Fund Availability for 2010-2011 Fiscal Year</b>	<b>\$ 19,149,445,560</b>
27		
28	<b>Less: Total General Fund Appropriations for 2010-2011 Fiscal Year</b>	<b>\$ (19,149,445,560)</b>
29		
30	<b>Unappropriated Balance Remaining</b>	<b>\$ 0</b>
31		

32           **SECTION 2.2.(b)** Notwithstanding the provisions of G.S. 105-187.9(b)(1), the  
33 sum to be transferred under that subdivision for the 2010-2011 fiscal year is seventy-one  
34 million dollars (\$71,000,000).

35           **SECTION 2.2.(c)** Pursuant to G.S. 105-187.9(b)(2), the sum to be transferred  
36 under that subdivision for the 2010-2011 fiscal year is one million eight hundred thousand  
37 dollars (\$1,800,000).

38           **SECTION 2.2.(d)** The appropriations made in this act to the Clean Water  
39 Management Trust Fund in the amount of fifty million dollars (\$50,000,000) for the 2010-2011  
40 fiscal year are made pursuant to G.S. 113A-253.1 and are not in addition to the statutory  
41 appropriation made in G.S. 113A-253.1.

42           **SECTION 2.2.(e)** The appropriations made in this act to the State Health Plan for  
43 the 2010-2011 fiscal year are made pursuant to S.L. 2009-16 and are not in addition to the  
44 appropriations made in that act.

45           **SECTION 2.2.(f)** Notwithstanding the provisions of G.S. 115C-546.1, the  
46 Secretary of Revenue shall transfer the funds specified in G.S. 115C-546.1(b) to the State  
47 Controller for deposit in Nontax Budget Code 19978 (Intrastate Transfers) during the  
48 2009-2011 fiscal biennium to offset continued operations of the State's public schools.

49           **SECTION 2.2.(g)** Notwithstanding G.S. 143C-9-3, of the funds credited to the  
50 Tobacco Trust, the sum of five million dollars (\$5,000,000) shall be transferred from the  
51 Department of Agriculture and Consumer Services, Budget Code 23703 (Tobacco Trust Fund),

1 to the State Controller to be deposited in Nontax Budget Code 19978 (Intrastate Transfers) to  
 2 support General Fund appropriations for the 2010-2011 fiscal year. These funds shall be  
 3 transferred on or after April 30, 2011.

4 **SECTION 2.2.(h)** Notwithstanding G.S. 143C-9-3, of the funds credited to the  
 5 Health Trust Account, the sum of five million dollars (\$5,000,000) that would otherwise be  
 6 deposited in the Fund Reserve shall be transferred from the Department of State Treasurer,  
 7 Budget Code 23460 (Health and Wellness Trust Fund), to the State Controller to be deposited  
 8 in Nontax Budget Code 19978 (Intrastate Transfers) to support General Fund appropriations for  
 9 the 2010-2011 fiscal year. These funds shall be transferred on or after April 30, 2011.

10 **SECTION 2.2.(i)** Notwithstanding G.S. 143C-4-2, the State Controller shall not  
 11 transfer any funds from the unreserved fund balance to the Savings Reserve Account on June  
 12 30, 2010. This subsection becomes effective June 30, 2010.

13 **SECTION 2.2.(j)** Notwithstanding the provisions of G.S. 143C-4-3, the State  
 14 Controller shall not transfer any funds from the unreserved fund balance to the Repairs and  
 15 Renovations Reserve Account on June 30, 2010. This subsection becomes effective June 30,  
 16 2010.

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

21 Notwithstanding the provisions of G.S. 105-187.24, effective for taxes levied during  
 22 the 2010-2011 fiscal year, the Secretary of Revenue shall credit to the General Fund the net tax  
 23 proceeds that G.S. 105-187.24 directs the Secretary to credit to the White Goods Management  
 24 Account.

25 Notwithstanding the provisions of G.S. 105-164.44B, effective for taxes levied  
 26 during the 2010-2011 fiscal year, the Secretary of Revenue shall credit to the General Fund one  
 27 million five hundred thousand dollars (\$1,500,000) of the net tax proceeds that  
 28 G.S. 105-164.44B directs the Secretary to transfer to the Wildlife Resources Fund.

29  
 30 **PART III. CURRENT OPERATIONS/HIGHWAY FUND**

31  
 32 **CURRENT OPERATIONS/HIGHWAY FUND**

33 **SECTION 3.1.** Revised appropriations from the Highway Fund of the State for the  
 34 maintenance and operation of the Department of Transportation, and for other purposes as  
 35 enumerated, are made for the fiscal year ending June 30, 2011, according to the following  
 36 schedule:

<b>Current Operations – Highway Fund</b>	<b>2010-2011 Adjustments</b>
38 DOT – General Administration	\$ 1,544,289
39     Highway Division Administration	
40     State Match for Federal Aid-Planning and Research	
41	
42 Construction Program:	
43     State Secondary System	3,840,718
44     Division Small Urban Construction	
45     Discretionary Funds	
46     Spot Safety Improvements	
47     Access and Public Services Roads	
48 <b>Total Construction Program</b>	<b>\$ 3,840,718</b>
49	
50	
51	

1	Maintenance Program	
2	Primary System	
3	Secondary System	
4	System Preservation	
5	Contract Resurfacing	
6	General Maintenance Reserve	\$ (3,698,277)
7	<b>Total Maintenance Program</b>	<b>\$ (3,698,277)</b>
8		
9	Ferry Operations	\$ 4,805,311
10	State Aid to Municipalities	(785,319)
11	State Aid to Railroads	6,325,000
12	State Aid for Public Transportation	
13	Airports	
14	OSHA	
15	Governor's Highway Safety Program	
16	Division of Motor Vehicles	544,623
17		
18	<b>Total Department of Transportation</b>	<b>\$ 12,576,345</b>
19		
20	Appropriations to Other State Agencies:	
21	Agriculture	
22	Revenue	
23	State Treasurer	
24	Office of State Controller-BEST Shared Services	
25	Public Instruction – Civil Penalties	
26	Public Instruction – Driver Education	\$ 32,021,964
27	CCPS – Highway Patrol	4,700,000
28	DENR – LUST Trust Fund	(40,000)
29	DHHS – Chemical Test	
30	<b>Total – Other State Agencies</b>	<b>\$ 36,681,964</b>
31		
32	Reserves and Transfers:	
33	Minority Contractor Development	
34	State Fire Protection Grant	
35	Stormwater Discharge Permit	
36	Reserve for Visitor's Centers	
37	Global TransPark	
38	Reserve for Health Insurance Adjustment	
39	Employer's Contribution to Retirement	\$ 930,050
40	Reserve for State Employees Payback	2,701,641
41	<b>Total Reserves and Transfers</b>	<b>\$ 3,631,691</b>
42		
43	<b>Total Highway Fund Appropriation</b>	<b>\$ 52,890,000</b>
44		

#### HIGHWAY FUND AVAILABILITY STATEMENT

SECTION 3.2. The Highway Fund availability used in developing modifications to the 2010-2011 Highway Fund budget contained in this act is shown below:

#### Highway Fund Availability Statement

**2010-2011  
Recommended**

1	Beginning Credit Balance	-
2	Estimated Revenue	\$ 1,792,540,000
3	Estimated Reversions	-
4		
5	<b>Total Highway Fund Availability</b>	<b>\$ 1,792,540,000</b>

6  
7 **PART IV. HIGHWAY TRUST FUND APPROPRIATIONS**

8  
9 **HIGHWAY TRUST FUND APPROPRIATIONS**

10 **SECTION 4.1.** Revised appropriations from the Highway Trust Fund are made for  
11 the fiscal year ending June 30, 2011, according to the following schedule:

12		
13	<b>Highway Trust Fund</b>	<b>2010-2011</b>
14		<b>Adjustments</b>
15		
16	Department of Transportation:	
17	Maximum Allowance for Administration	\$ 371,520
18		
19	Construction Allocation:	
20	Intrastate System	4,995,162
21	Urban Loop System	2,019,836
22	Secondary Roads	(170,627)
23	NC Mobility Fund	94,583,983
24		
25	State Aid to Municipalities	524,109
26		
27	Bonds:	
28	Bond Redemption	
29	Bond Interest	
30		
31	NC Turnpike Authority	
32		
33	Transfer to the General Fund	(22,000,000)
34		
35	<b>Total Highway Trust Fund Appropriations</b>	<b>\$ 80,323,983</b>

36  
37 **HIGHWAY TRUST FUND AVAILABILITY STATEMENT**

38 **SECTION 4.2.** The Highway Trust Fund availability used in developing  
39 modifications to the 2010-2011 Highway Trust Fund budget contained in this act is shown  
40 below:

41		
42	<b>Highway Trust Fund Availability Statement</b>	<b>2010-2011</b>
43		<b>Recommended</b>
44		
45	Beginning Credit Balance	-
46	Estimated Revenue	\$ 1,001,313,983
47	Estimated Reversions	-
48		
49	<b>Total Highway Trust Fund Availability</b>	<b>\$ 1,001,313,983</b>

50  
51 **PART V. OTHER AVAILABILITY AND 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.(b)** 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	\$ 136,038,041
(2)	Prekindergarten Program	84,635,709
(3)	Public School Building Capital Fund	176,539,000
(4)	Scholarships for Needy Students	44,134,750
	Total	\$ 441,347,500

**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 transferred to the Education Lottery Reserve Fund as established in G.S. 18C-164(b).

**SECTION 5.1.(d)** This section is effective June 30, 2010.

**INFORMATION TECHNOLOGY FUND APPROPRIATION**

**SECTION 5.3.** Section 5.3(b) of S.L. 2009-451 is repealed. Appropriations are made from the Information Technology Fund for the 2010-2011 fiscal year as follows:

<b>Office of Information Technology Services</b>	<b>FY 2010-2011</b>
<b>Information Technology Operations</b>	
Center for Geographic Information and Analysis	\$740,000
Enterprise Security Remediation Management Office	\$1,101,296
Enterprise Project Management Office	\$1,795,000
Architecture and Engineering	\$648,000
<b>Total Information Technology Operations</b>	<b>\$4,284,296</b>
<b>Information Technology Projects</b>	
Enterprise Licensing	\$300,000
State Portal	\$500,000
Enterprise Identity Management	\$1,250,000
IT Consolidation	\$2,733,171
<b>Total Information Technology Projects</b>	<b>\$4,783,171</b>
<b>TOTAL</b>	<b>\$9,067,467</b>

**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,~~ Budget, spend funds received from grants awarded subsequent to

1 the enactment of this act. The Office of State Budget and Management shall work with the  
2 recipient State agencies to budget grant awards according to the annual program needs and  
3 within the parameters of the respective granting entities. Depending on the nature of the award,  
4 additional State personnel may be employed on either a time-limited or permanent basis. The  
5 Office of State Budget and Management shall ~~consult with the Joint Legislative Commission~~  
6 ~~on Governmental Operations prior to expending~~ report to the Fiscal Research Division within  
7 30 days on any funds received from grant awards, grants awarded subsequent to the enactment  
8 of this act. Funds received from such grants are hereby appropriated and shall be incorporated  
9 into the certified budget of the recipient State agency."

## 10 11 **PART VI. GENERAL PROVISIONS**

### 12 13 **REPEAL REQUIREMENT FOR MAILING LIST CERTIFICATIONS**

14 **SECTION 6.1.** G.S. 143-169.1 is repealed.

### 15 16 **GOVERNMENT REORGANIZATION**

17 **SECTION 6.2.(a)** At the direction of the Governor, the Governor's Budget Reform  
18 and Accountability Commission (BRAC), with assistance from the Office of State Budget and  
19 Management, is currently developing a proposed government reorganization that would  
20 reconfigure or eliminate selected State agencies to achieve greater efficiency and improve  
21 accountability. The Governor shall review the proposed plan and make recommendations in the  
22 form of executive orders to the General Assembly for consideration at the 2011 legislative  
23 session as provided by Article III, Sec. 5(10) of the Constitution.

24 **SECTION 6.2.(b)** Where appropriate, the study of the proposed reorganization  
25 may be conducted in consultation with other regulatory or oversight agencies, such as the  
26 Office of State Personnel, the Fiscal Research Division, or the Program Evaluation Division.

27 **SECTION 6.2.(c)** The Office of State Budget and Management shall use any  
28 available funds to contract with outside resources where necessary and appropriate to assist in  
29 developing the BRAC's proposals for reorganization.

### 30 31 **NETWORK SECURITY ASSESSMENTS**

32 **SECTION 6.3.(a)** G.S. 147-33.111 is amended by adding a new subsection to read:

33 "(b1) The State Chief Information Officer shall conduct assessments of network  
34 vulnerability, including network penetration or any similar procedure. The State Chief  
35 Information Officer may contract with another party or parties to perform the assessments.  
36 Detailed reports of the security issues identified shall be kept confidential as provided in  
37 G.S. 132-6.1(c)."

38 **SECTION 6.3.(b)** G.S. 147-33.111(c) reads as rewritten:

39 "(c) Before a State agency may enter into any contract with another party for an  
40 assessment of network vulnerability, ~~including network penetration or any similar procedure,~~  
41 the State agency shall notify the State Chief Information Officer and obtain approval of the  
42 request. ~~The State Chief Information Officer shall refer the request to the State Auditor for a~~  
43 ~~determination of whether the Auditor's office can perform the assessment and testing. If the~~  
44 ~~State Auditor determines that the Auditor's office can perform the assessment and testing, then~~  
45 ~~the State Chief Information Officer shall authorize the assessment and testing by the Auditor. If~~  
46 ~~the State Auditor determines that the Auditor's office cannot perform the assessment and~~  
47 ~~testing, then with the approval of the State Chief Information Officer and State Auditor, the~~  
48 ~~State agency may enter into a contract with another party for the assessment and testing. If the~~  
49 ~~State agency enters into a contract with another party for assessment and testing, after approval~~  
50 by the State Chief Information Officer, the State agency shall issue public reports on the  
51 general results of the reviews. The contractor shall provide the State agency with detailed

1 reports of the security issues identified that shall not be disclosed as provided in  
2 G.S. 132-6.1(c). The State agency shall provide the State Chief Information Officer ~~and the~~  
3 ~~State Auditor~~ with copies of the detailed reports that shall not be disclosed as provided in  
4 G.S. 132-6.1(c). Nothing in this subsection shall preclude the Office of State Auditor from  
5 assessing the security practices of information technology systems as a part of its duties and  
6 responsibilities."

7 **SECTION 6.3.(b)** G.S. 147-64.6(c)(18) is repealed.

## 9 **MANAGEMENT FLEXIBILITY REDUCTIONS**

10 **SECTION 6.4.** Except as otherwise specified in Parts VII, VIII, and IX in this act,  
11 the management flexibility reductions included in this act for all State agencies shall not be  
12 allocated using an across-the-board method but in a manner that recognizes the importance of  
13 the core mission of each agency. Before taking reductions in operational budgets, each agency  
14 shall consider reducing budgets for senior and middle management personnel, vacant positions,  
15 and program efficiencies. Items identified for reduction shall be presented to the Office of State  
16 Budget and Management within 30 days of when this act becomes law. All reduction options  
17 shall be reviewed and approved by the Office of State Budget and Management within 30 days  
18 of an agency's submission.

## 20 **CARRYFORWARD SEVERANCE EXPENDITURE RESERVE**

21 **SECTION 6.5.(a)** Funds appropriated for the statewide severance expenditure  
22 reserve in FY 2009-2010 that remain unspent and unencumbered shall remain available for the  
23 2010-2011 fiscal year for severance salary continuation payments and noncontributory  
24 hospital/medical coverage under the State Health Plan for employees reduced-in-force pursuant  
25 to this act.

26 **SECTION 6.5.(b)** This section becomes effective June 30, 2010.

## 28 **AMEND STATE BUDGET ACT**

29 **SECTION 6.6.(a)** G.S. 143C-1-1(d) is amended by adding a new subdivision to  
30 read:

31 "(31) Authorized budget. – The certified budget as defined in G.S. 143C-1-1.(d)  
32 added to allowable budget adjustments authorized by the State Budget Act  
33 and the Director of the Budget."

34 **SECTION 6.6.(b)** G.S. 143C-3-5.(d) reads as rewritten:

35 "(d) Funds Included in Budget. – Consistent with requirements of the North Carolina  
36 Constitution, Article 5, Section 7(a), the Governor's Recommended State Budget, together with  
37 the Budget Support Document, shall include recommended expenditures of State funds from all  
38 Governmental and Proprietary Funds, as those funds are described in G.S. 143C-1-3, and all  
39 funds established for The University of North Carolina and its constituent institutions that are  
40 subject to Chapter 143C. Except where provided otherwise by federal law, funds received from  
41 the federal government become State funds when deposited in the State treasury and shall be  
42 classified and accounted for in the Governor's budget recommendations no differently than  
43 funds from other sources."

44 **SECTION 6.6.(c)** G.S. 143C-6-1(c) reads as rewritten:

45 "(c) Certification of the Budget. – The Director of the Budget shall certify to each State  
46 agency the amount appropriated to it for each program and each object from all ~~governmental~~  
47 ~~and proprietary funds.~~ funds included in the budget as defined in G.S. 143C-3-5.(d). The  
48 certified budget for each State agency shall reflect the total of all appropriations enacted for  
49 each State agency by the General Assembly in the Current Operations Appropriations Act, the  
50 Capital Improvements Appropriations Act, and any other act affecting the State budget. The

1 certified budget for each State agency shall follow the format of the Budget Support Document  
2 as modified to reflect changes enacted by the General Assembly."

3 **SECTION 6.6.(d)** G.S. 143C-6-4 reads as rewritten:

4 "(a) Findings. – The General Assembly recognizes that even the most thorough budget  
5 deliberations may be affected by unforeseeable events. Under limited circumstances set forth in  
6 this section, the Director may adjust the enacted budget by making transfers among lines of  
7 expenditure, purposes, or programs or by increasing expenditures funded by departmental  
8 receipts. Under no circumstances, however, shall total General Fund expenditures for a State  
9 department exceed the amount appropriated to that department from the General Fund for the  
10 fiscal year.

11 (b) Adjustments to the Certified Budget. – Notwithstanding the provisions of  
12 G.S. 143C-6-1, a State agency may, with approval of the Director of the Budget, spend more  
13 than was authorized in the certified budget for all of the following:

14 (1) An object or line item within a purpose or program so long as the total  
15 amount expended for the purpose or program is no more than was authorized  
16 in the certified budget for the purpose or program.

17 (2) A purpose or program if the overexpenditure of the purpose or program is:

18 a. Required by a court or Industrial Commission order;

19 b. Authorized under G.S. 166A-5(1)a.9. of the Emergency Management  
20 Act; or

21 c. Required to call out the National Guard.

22 (3) A purpose or program not subject to the provisions of subdivision (b)(2) of  
23 this subsection, but only in accord with the following restrictions: (i) the  
24 overexpenditure is required to continue the purpose or programs due to  
25 complications or changes in circumstances that could not have been foreseen  
26 when the budget for the fiscal period was enacted, (ii) the scope of the  
27 purpose or program is not increased, and (iii) the overexpenditure is  
28 authorized on a nonrecurring basis, ~~and (iv) under no circumstances shall~~ If  
29 the total requirements for a State department exceed the department's  
30 certified budget for the fiscal year by more than three percent (3%) the  
31 Director shall report the reasons for the deviation to the Joint Legislative  
32 Commission on Governmental Operations within 30 days of the increase in  
33 budget. without prior consultation with the Joint Legislative Commission on  
34 Governmental Operations.

35 (4) Notwithstanding subdivision (3) of this subsection, a State agency may  
36 redistribute salary reserve on a permanent basis to create new positions or  
37 provide salary increases or use departmental receipts that are recurring in  
38 nature to hire permanent receipt-supported positions.

39 (c) Overexpenditures Reported. – The Director shall report quarterly, beginning  
40 October 31, to the Joint Legislative Commission on Governmental Operations on  
41 overexpenditures approved by the Director under subdivisions ~~(2) and (3)~~ (2), (3), and (4) of  
42 subsection (b) of this section.

43 (d) Overexpenditures in Senate Budget. – The President Pro Tempore of the Senate  
44 may approve expenditures for more than was authorized in the enacted budget for objects or  
45 line items in the budget of the Senate.

46 (e) Overexpenditures in House of Representatives Budget. – The Speaker of the House  
47 of Representatives may approve expenditures for more than was authorized in the enacted  
48 budget objects or line items in the budget of the House of Representatives.

49 (f) Transfers Between Line Items or Programs in General Assembly Budget Other  
50 Than Senate and House of Representatives. – Expenditures exceeding amounts authorized for  
51 programs, objects, or line items in the budget of the General Assembly other than those of the

1 Senate and House of Representatives shall be approved jointly by the President Pro Tempore of  
2 the Senate and the Speaker of the House of Representatives.

3 (g) Transfers in The University of North Carolina Budget. – Transfers or changes  
4 within the budget of The University of North Carolina may be made as provided in Article 1 of  
5 Chapter 116 of the General Statutes.

6 (h) Transfers Within the Office of the Governor. – Transfers or changes as between  
7 objects or line items in the budget of the Office of the Governor may be made by the  
8 Governor."

9 **SECTION 6.6.(e)** G.S. 143C-6-21 reads as rewritten:

10 **"§ 143C-6-21. Payments to nonprofits.**

11 Except as otherwise provided by law, an annual appropriation of one hundred thousand  
12 dollars (\$100,000) or less to or for the use of a nonprofit corporation ~~shall~~may be made in a  
13 single annual payment, in the discretion of the Director of the Budget. An annual appropriation  
14 of more than one hundred thousand dollars (\$100,000) to or for the use of a nonprofit  
15 corporation shall be made in quarterly or monthly payments, in the discretion of the Director of  
16 the Budget."

17 **SECTION 6.6.(f)** G.S. 143C-8-7 reads as rewritten:

18 **"§ 143C-8-7. When a State agency may begin a capital improvement project.**

19 (a) No State agency may expend funds for the construction or renovation of any capital  
20 improvement project except as needed to comply with this Article or otherwise authorized by  
21 the General Assembly. Funds that become available by gifts, excess patient receipts above  
22 those budgeted at the University of North Carolina Hospitals at Chapel Hill, federal or private  
23 grants, receipts becoming a part of special funds by act of the General Assembly, or any other  
24 funds available to a State agency or institution may be utilized for advanced planning through  
25 the working drawing phase of capital improvement projects, upon approval of the Director of  
26 the Budget.

27 (b) The Director of the Budget may authorize the construction of a capital improvement  
28 project not specifically authorized by the General Assembly if such project is to be funded by  
29 gifts, federal or private grants, special fund receipts, excess patient receipts above those  
30 budgeted at the University of North Carolina Hospitals at Chapel Hill, or any other  
31 non-General Fund money available to the State agency or institution. Prior to authorizing the  
32 construction of a capital improvement project pursuant to this subsection, the Director shall  
33 consult with the Joint Legislative Commission on Governmental Operations."

34 **SECTION 6.6.(g)** G.S. 143C-8-12 reads as rewritten:

35 **"§ 143C-8-12. University system capital improvement projects from sources that are not**  
36 **General Fund sources: ~~approval of new project or~~ that involve a change in**  
37 **scope of existing project.**

38 Notwithstanding any other provision of this Chapter, the Director of the Budget may, upon  
39 request of the Board of Governors of The University of North Carolina and after consultation  
40 with the Joint Legislative Commission on Governmental Operations, approve: ~~(i) expenditures~~  
41 ~~to plan a capital improvement project of The University of North Carolina the planning for~~  
42 ~~which is to be funded entirely with non-General Fund money, (ii) expenditures for a capital~~  
43 ~~improvement project of The University of North Carolina that is to be funded entirely with~~  
44 ~~non-General Fund money, or (iii) a change in the scope of any previously approved capital~~  
45 ~~improvement project of The University of North Carolina provided that both the project and~~  
46 ~~change in scope are funded entirely with non-General Fund money."~~

47  
48 **AMEND PRIOR CONSULTATION STATUTE**

49 **SECTION 6.8.** G.S. 120-76.1(b) reads as rewritten:

50 "(b) Any agency, board, commission, or other entity required under G.S. 120-76(8) or  
51 any other provision of law to consult with the Commission prior to taking an action shall

1 submit a detailed report of the action under consideration to the Chairs of the Commission, the  
2 Commission Assistant, and the Fiscal Research Division of the General Assembly. If the  
3 Commission does not hold a meeting to hear the consultation within ~~90~~ 30 days of receiving the  
4 submission of the detailed report, the consultation requirement is satisfied. ~~With regard to~~  
5 ~~capital improvement projects of The University of North Carolina, if the Commission does not~~  
6 ~~hold a meeting to hear the consultation within 30 days of receiving the submission of the~~  
7 ~~detailed report, the consultation requirement of G.S. 120-76(8)e. is satisfied."~~

## 8 9 **REPEAL SPECIAL FUNDS CONSULTATION**

10 **SECTION 6.9.** Section 6.6.B of Session Law 2009-451 is repealed.

## 11 12 **AMEND ARRA FUNDS**

13 **SECTION 6.9A.** Section 6.6C.(b) of Session Law 2009-451 reads as rewritten:

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

## 21 22 **DRIVER EDUCATION**

23 **SECTION 6.10.(a)** The Highway Safety Research Center Institute of the  
24 University of North Carolina at Chapel Hill shall work in collaboration with the Department of  
25 Public Instruction and the Governor's Highway Safety Commission to create a standard  
26 curriculum to be used for the Driver Education Program in the Department of Public  
27 Instruction. The curriculum shall be ready for use in the school year beginning in the fall of  
28 2011 and shall be used for all driver education programs funded with State funds.

29 **SECTION 6.10.(b)** The Office of State Budget and Management (OSBM) shall  
30 review the funding and efficacy of the Driver Education Program to determine the most  
31 appropriate source of funds to support the program and outcomes of the funding on student  
32 driving. The review shall include recommendations for improving services, reducing costs  
33 and/or duplication, and alternative funding mechanisms including fees. OSBM will also work  
34 with the Department of Public Instruction to establish performance measures for the program to  
35 be used to determine the program's effectiveness. OSBM shall make recommendations to the  
36 Governor and the General Assembly no later than November 1, 2010.

## 37 38 **DEPARTMENT OF ADMINISTRATION TO IMPLEMENT PURCHASING** 39 **STANDARDS FOR IMPROVING ENERGY EFFICIENCY**

40 **SECTION 6.11.** G.S. 143-64.12(b) reads as rewritten:

41 "(b) The Department of Administration shall develop and implement policies,  
42 procedures, and standards to ensure that State purchasing practices improve efficiency  
43 regarding energy, water, and other utility use and take the cost of the product over the  
44 economic life of the product into consideration. The Department of Administration shall adopt  
45 and implement Building Energy Design Guidelines. These guidelines shall include energy-use  
46 goals and standards, economic assumptions for life-cycle cost analysis, and other criteria on  
47 building systems and technologies. The Department of Administration shall modify the design  
48 criteria for construction and renovation of facilities of State buildings and State institutions of  
49 higher learning buildings to require that a life-cycle cost analysis be conducted pursuant to  
50 G.S. 143-64.15. For new or emerging energy-use reducing technologies, where uncertainties  
51 about service life, costs, and/or potential cost savings may introduce uncertainty about the

1 accuracy of life cycle cost analysis, the Department of Administration may require additional  
2 deterministic computations to aid in the evaluation life cycle cost analysis results."  
3

## 4 **PART VII. PUBLIC SCHOOLS**

### 5 **CHILDREN WITH DISABILITIES**

6 **SECTION 7.1.** The State Board of Education shall allocate funds for children with  
7 disabilities on the basis of three thousand five hundred ninety-eight dollars and fifty-five cents  
8 (\$3,598.55) per child. Each local school administrative unit shall receive funds for the lesser of  
9 (i) all children who are identified as children with disabilities or (ii) twelve and five-tenths  
10 percent (12.5%) of the 2010-2011 allocated average daily membership in the local school  
11 administrative unit. The dollar amounts allocated under this section for children with  
12 disabilities shall also adjust in accordance with legislative salary increments, retirement rate  
13 adjustments, and health benefit adjustments for personnel who serve children with disabilities.  
14

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

16 **SECTION 7.2.** The State Board of Education shall allocate funds for academically  
17 or intellectually gifted children on the basis of one thousand one hundred ninety-two dollars  
18 and ninety cents (\$1,192.90) per child. A local school administrative unit shall receive funds  
19 for a maximum of four percent (4%) of its 2010-2011 allocated average daily membership,  
20 regardless of the number of children identified as academically or intellectually gifted in the  
21 unit. The dollar amounts allocated under this section for academically or intellectually gifted  
22 children shall also adjust in accordance with legislative salary increments, retirement rate  
23 adjustments, and health benefit adjustments for personnel who serve academically or  
24 intellectually gifted children.  
25

### 26 **ABCS OF PUBLIC EDUCATION**

27 **SECTION 7.3.** Notwithstanding G.S. 115C-105.36, the State Board of Education  
28 shall place a moratorium on financial awards paid to school personnel in the 2010-2011 fiscal  
29 year based on 2009-2010 student academic performance.  
30

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

32 **SECTION 7.4.(a)** Funds are appropriated in this act for the North Carolina Virtual  
33 Public School (NCVPS). Beginning with 2010-2011 the State Board of Education shall allocate  
34 funds appropriated in this act to local school administrative units based on the NCVPS  
35 allotment formula developed pursuant to Section 7.16(d) of S. L. 2006-66.  
36

37 **SECTION 7.4.(b)** Section 7.9(f) of S. L. 2009-451 is repealed.  
38

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

40 **SECTION 7.5.** In order to ensure compliance with the requirements of Title XIV  
41 of the American Recovery and Reinvestment Act of 2009 and notwithstanding any other  
42 provision of law, the Office of State Budget and Management shall adjust the State Fiscal  
43 Stabilization Fund appropriation amounts, including any associated budget reductions, between  
44 the State Public School Fund and The University of North Carolina budget to align with the  
45 requirements of the North Carolina State Fiscal Stabilization Fund application as amended for  
46 2010-2011.  
47

### 48 **MORE AT FOUR PROGRAM**

49 **SECTION 7.6.(a)** The Department of Public Instruction shall continue the  
50 implementation of the More at Four prekindergarten program for four-year-olds who are at risk  
51 for school failure in all counties. The state prekindergarten program shall serve children who

1 reach the age of four on or before August 31 of that school year and who meet eligibility  
2 criteria that indicate a child's risk for school failure. Prekindergarten classrooms shall be  
3 operated in public schools, Head Start programs, and licensed child care facilities that choose to  
4 participate under procedures defined by the Office of Early Learning within the Department of  
5 Public Instruction. All such classrooms shall be subject to the supervision of the Office of Early  
6 Learning and shall be operated in accordance with standards adopted by the State Board of  
7 Education.

8 **SECTION 7.6.(b)** The Office of Early Learning shall specify program standards  
9 and requirements addressing:

- 10 (1) early learning standards and curricula;
- 11 (2) teacher education and specialized training;
- 12 (3) teacher in-service training and professional development;
- 13 (4) maximum class size;
- 14 (5) staff-child ratio;
- 15 (6) screenings, referrals, and support services;
- 16 (7) meals; and
- 17 (8) monitoring of sites to demonstrate adherence to State programs standards.

18 **SECTION 7.6.(c)** The State Board of Education shall submit an annual report no  
19 later than March 15 of each year to the Joint Legislative Commission on Governmental  
20 Operations, the Joint Legislative Education Oversight Committee, the Senate Appropriations  
21 Committee on Education, the House of Representatives Appropriations Subcommittee on  
22 Education, the Office of State Budget and Management, and the Fiscal Research Division. The  
23 report shall include the following:

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

32 **SECTION 7.6.(d)** The Office of Early Learning shall establish income eligibility  
33 requirements for the program not to exceed seventy-five percent (75%) of the State median  
34 income. Up to twenty percent (20%) of children enrolled may have family incomes in excess of  
35 seventy-five percent (75%) of median income if they have other designated risk factors.  
36 Furthermore, any age-eligible child of (i) an active duty member of the armed forces of the  
37 United States, including the North Carolina National Guard, State military forces, or a reserve  
38 component of the armed forces, who is ordered to active duty by the proper authority within the  
39 last 18 months or expected to be ordered within the next 18 months, or (ii) a member of the  
40 armed forces of the United States, including the North Carolina National Guard, State military  
41 forces, or a reserve component of the armed forces, who was injured or killed while serving on  
42 active duty, shall be eligible for the program.

43 **SECTION 7.6.(e)** The More at Four program funding shall not supplant any  
44 funding for classrooms serving four-year-olds as of the 2005-2006 fiscal year. Support of  
45 existing four-year-old classrooms with More at Four program funding shall be permitted when  
46 current funding is eliminated, reduced, or redirected as required to meet other specified federal  
47 or State mandates.

48 **SECTION 7.6.(f)** The Office of Early Learning shall develop a new More at Four  
49 funding model to be implemented in the 2010-2011 fiscal year. The per child funding rates  
50 shall be based on participating provider cost structures and shall require a contribution of local  
51 resources to support the full cost of providing high quality prekindergarten. The Office of Early



1 Learning shall implement an administrative cap on More at Four program funding and shall  
2 establish parameters for allowable administrative costs.

#### 4 LEADERSHIP ACADEMY

5 SECTION 7.7. Of the funds appropriated in this act to the Department of Public  
6 Instruction for the 2010-2011 fiscal year, up to two hundred thousand dollars (\$200,000) may  
7 be used to support a Leadership Academy that provides professional development to  
8 superintendents enabling them to train principals to address critical areas such as student  
9 achievement and teacher recruitment and retention.

#### 11 PROTECT THE CLASSROOM WHILE MAXIMIZING FLEXIBILITY

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

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

28 SECTION 7.8.(b) Section 7.8(d) of S. L. 2009-451 reads as rewritten:

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

#### 35 DEPARTMENT OF PUBLIC INSTRUCTION

36 SECTION 7.9.(a) Notwithstanding S. L. 2009-451, the Department of Public  
37 Instruction shall eliminate 47 appropriation-supported full-time equivalent (FTE) positions. No  
38 receipt-supported positions are required to be eliminated.

39 SECTION 7.9.(b) Section 7.14 of S. L. 2009-451 is repealed.

40 SECTION 7.9.(c) The Department of Public Instruction shall review all federal  
41 funds, including those currently used for State-level positions and contracts that are not a  
42 condition of receiving the federal funds. The Department shall reallocate these funds to local  
43 school administrative units whenever possible.

44 SECTION 7.9.(d) The Department shall report on the reallocation of these funds to  
45 local school administrative units, the Office of the Governor, and the Office of State Budget  
46 and Management no later than January 15, 2011.

#### 48 WORKERS' COMPENSATION STUDY

49 SECTION 7.10.(a) The Office of State Budget and Management, in consultation  
50 with the Office of State Personnel and the Office of the State Controller, is directed to study the  
51 Workers' Compensation program in the North Carolina Department of Public Instruction and

1 the North Carolina Community College System. The study and report shall contain analyses of  
2 the following items in comparison to states in the Southern Regional Education Board (SREB)  
3 region:

- 4 (1) Funding sources that support claims payments for locally employed public  
5 school and community college campus personnel, including claims payment  
6 analyses for state-funded personnel;
- 7 (2) State policy and statutes regarding claims payment for local school and  
8 campus personnel;
- 9 (3) Number of school and campus claims, and the percent of claims to local  
10 eligible personnel;
- 11 (4) Strategies implemented to limit number of claims and to provide  
12 return-to-work incentives;
- 13 (5) Practices and duration of temporary total disability (TTD) payments,  
14 including percentage of TTD payments compared to all workers'  
15 compensation payments; and
- 16 (6) Policies related to collection of payments by local claimants once retirement  
17 eligibility is reached, and practices related to social security income offset to  
18 TTD claim payments.

19 **SECTION 7.10.(b)** The study and report shall also address the following issues  
20 related to Workers' Compensation statutes, policies, and practices specific to North Carolina  
21 public schools and community college campuses:

- 22 (1) Estimate of financial impact to local schools and campuses, including  
23 staffing costs if these entities were to partially or fully assume claims costs  
24 for State-funded local personnel;
- 25 (2) Risks to schools and campuses associated with the ability to obtain workers'  
26 compensation insurance and to assume claims costs for State-funded local  
27 personnel;
- 28 (3) Statutory and contract changes necessary to revise current claims payment  
29 practices in North Carolina;
- 30 (4) Listing of schools and community college campuses by number of claims as  
31 a percentage of eligible employees and by costs related to the percentage of  
32 eligible employees;
- 33 (5) Listing of all Local Education Agencies and campuses that have no  
34 return-to-work policies and strategies for implementing a return-to-work  
35 policy, including a requirement to follow the State return-to-work policy as a  
36 default;
- 37 (6) Practices/incentives currently used by SREB states but not currently  
38 implemented in North Carolina that could contribute to cost containment;
- 39 (7) Costs incurred by the State and by schools and campuses due to late  
40 claims-reporting to the Third Party Administrator (TPA) by schools and  
41 campuses; and
- 42 (8) Potential cost containment opportunities with implementation of a cap on the  
43 duration of TTD payments.

44 **SECTION 7.10.(c)** A final report is due to the Office of State Budget and  
45 Management, the Joint Legislative Education Oversight Committee, and the Fiscal Research  
46 Division no later than December 1, 2010.

#### 47 **CAREER AND COLLEGE-READY, SET, GO!**

48 **SECTION 7.11.(a)** The State Board of Education shall work with all member  
49 institutions of the Education Cabinet and the Joint Governing Boards to focus funding and  
50 program priorities to ensure that all North Carolina students graduate prepared to successfully  
51

- 1 pursue a career or further education. Each Education Cabinet Institution shall prioritize the  
2 Governor's Ready, Set, Go! Initiative and ensure that all students PK-20:
- 3 (1) Are prepared to be successful in school and can successfully progress  
4 through PK-20 education. This includes, but is not limited to:
    - 5 a. Establishment of the Governor's Child Advocacy Council to increase  
6 ways for all children to come to school healthy and ready to learn;
    - 7 b. Investment in early child development programs like Smart Start and  
8 More at Four;
    - 9 c. Investment in smaller class sizes in K-3;
    - 10 d. Implementation of student diagnostics in grades K-3 and 5 to ensure  
11 that all students at a minimum possess grade-level reading, writing  
12 and math skills;
    - 13 e. Implementation of student diagnostics for career and college  
14 readiness in grades 8 and 11 so students graduate prepared for work,  
15 college, or technical training; and
    - 16 f. Implementation of the Student Learning Conditions Survey for  
17 grades 7, 9, and 11 that is aligned with the Teacher Working  
18 Conditions Survey.
  - 19 (2) Receive clear standards and high expectations, and benefit from the best  
20 teachers and principals that can most effectively help students reach those  
21 standards. This includes, but is not limited to:
    - 22 a. Adoption of the State-led National Common Standards including  
23 Career and College Ready Skills and assessments that prepare  
24 students for the global economy;
    - 25 b. Evaluation of Teacher Preparation programs to identify best practices  
26 and programs that produce effective teachers;
    - 27 c. Increased access to virtual learning opportunities for students and  
28 teachers like those provided through the NC Virtual Public School;
    - 29 d. Increased access to Science, Technology, Engineering and  
30 Mathematics (STEM) opportunities;
    - 31 e. Development of leadership academies that recruit and prepare  
32 effective principals;
    - 33 f. Development of a p/c-20 data system to provide comprehensive  
34 information on students;
    - 35 g. Reduction and eventual elimination of low-performing status in  
36 North Carolina schools; and
    - 37 h. Job-imbedded professional development for teachers and principals.
  - 38 (3) Fully understand and complete the prerequisites for the career, certification,  
39 or degree of choice that promotes workforce success. This includes, but is  
40 not limited to:
    - 41 a. Development of Academic boot camps for high school students who  
42 need additional support in reading, composition, and math;
    - 43 b. Consolidation of high school transition courses to provide high  
44 school students with more college level or career and technical  
45 courses;
    - 46 c. Increased access to virtual college level and specific career and  
47 technical courses for high school students;
    - 48 d. Alignment between high school and college curricula so that all  
49 students are prepared for higher education work; and

- 1 e. Implementation of NCSuccess, a program designed to increase the  
2 number of certificates, associate or bachelor's degrees in higher  
3 education.

4 **SECTION 7.11.(b)** The Education Cabinet shall report by January 15, 2010, to the  
5 Office of the Governor, the Joint Governing Boards, and the Joint Education Oversight  
6 Committee on its progress toward reaching the Governor's goal that every North Carolina  
7 student will graduate ready to be successful in a career, a 2- or 4-year college or technical  
8 training.

9  
10 **SCHOOL CONNECTIVITY INITIATIVE**

11 **SECTION 7.12.** Section 7.12(a) of S.L. 2009-451, as amended by Section 3E of  
12 S.L. 2009-575, reads as rewritten:

13 "**SECTION 7.12.(a)** Up to three hundred fifty thousand dollars (\$350,000) may be  
14 transferred ~~annually~~ for this and succeeding biennia to the Office of the Governor for NC  
15 Virtual (NCV) within the Education Cabinet and for the Education E-Learning Portal. These  
16 funds shall be used to provide services to coordinate e-learning activities across all State  
17 educational agencies and to make the Education E-Learning Portal fully operational by  
18 December 1, 2009."

19  
20 **PART VIII. COMMUNITY COLLEGES**

21  
22 **CARRYFORWARD OF COLLEGE INFORMATION SYSTEM FUNDS**

23 **SECTION 8.1.(a)** Up to one million two hundred fifty thousand dollars  
24 (\$1,250,000) of the funds appropriated in this act to the Community Colleges System Office for  
25 the College Information System shall not revert at the end of the 2009-2010 fiscal year but shall  
26 remain available until expended. These funds may be used only to purchase periodic system  
27 upgrades.

28 **SECTION 8.1.(b)** Subsection (a) of this section becomes effective June 30, 2010.

29  
30 **ESTABLISH GED TESTING FEES**

31 **SECTION 8.2.(a)** The State Board of Community Colleges shall assess an initial  
32 fee of fifteen dollars (\$15.00) to students taking the General Education Development (GED)  
33 test. Students shall be charged an additional five dollars (\$5.00) for each subsequent time they  
34 retake the test. These fees shall become effective August 15, 2010.

35 **SECTION 8.2.(b)** Effective July 1, 2011, G.S. 115D-5(s) reads as rewritten:

36 "(s) **(Effective July 1, 2011)** The State Board of Community Colleges may establish,  
37 retain and budget fees charged to students taking the General Education Development (GED)  
38 test. Fees collected for this purpose shall be used only to (i) offset the costs of the GED test,  
39 including the cost of scoring the test, (ii) offset the costs of printing GED certificates, and (iii)  
40 meet federal and State reporting requirements related to the test."

41 **SECTION 8.2.(c)** The State Board of Community Colleges shall adopt rules  
42 implementing subsection (b) of this section. Such rules shall be in place before fees are  
43 increased.

44  
45 **RESTORE COMMUNITY REENTRY EDUCATION PROGRAMS**

46 **SECTION 8.3.(a)** Section 8.11(e) of S. L. 2009-451 is repealed, effective July 1,  
47 2010.

48 **SECTION 8.3.(b)** Funding in this act restores funding only for Basic Skills and  
49 continuing education courses that ensure adequate literacy and job skills for inmates who will  
50 be released from incarceration and return to their communities. Funding is not restored for

1 curriculum courses, and these courses will no longer generate State funding through budgeted  
2 FTE.

3  
4 **PERMIT TRANSFER OF EQUIPMENT TITLED TO THE STATE BOARD FROM**  
5 **ONE COMMUNITY COLLEGE TO ANOTHER**

6 **SECTION 8.4.** G.S. 115D-15(a) reads as rewritten:

7 "(a) The board of trustees of any institution organized under this Chapter may, with the  
8 prior approval of the North Carolina Community Colleges System Office, convey a  
9 right-of-way or easement for highway construction or for utility installations or modifications.  
10 When in the opinion of the board of trustees the use of any other real property owned or held  
11 by the board of trustees is unnecessary or undesirable for the purposes of the institution, the  
12 board of trustees, subject to prior approval of the State Board of Community Colleges, may  
13 sell, exchange, or lease the property. The board of trustees may dispose of any personal  
14 property owned or held by the board of trustees without approval of the State Board of  
15 Community Colleges. Personal property titled to the State Board of Community Colleges  
16 consistent with G.S. 115D-14 and G.S. 115D-58.5 may be transferred to another community  
17 college at no cost and without the approval of the State Board of Community Colleges or the  
18 Department of Administration, Division of Surplus Property.

19 Article 12 of Chapter 160A of the General Statutes shall apply to the disposal or sale of any  
20 real or personal property under this subsection. Personal property also may be disposed of  
21 under procedures adopted by the North Carolina Department of Administration. The proceeds  
22 of any sale or lease shall be used for capital outlay purposes, except as provided in subsection  
23 (b) of this section."  
24

25 **STUDENT SERVICES BUDGET REALIGNMENT**

26 **SECTION 8.5.** It is the intent of the General Assembly to ensure that community  
27 colleges have the resources necessary to administer student services, especially in the area of  
28 financial aid. The State Board of Community Colleges shall realign formula funding by  
29 increasing formula funding for student services by thirty-two million dollars (\$32,000,000) and  
30 reducing formula funding for curriculum and continuing education instruction by a  
31 commensurate amount.  
32

33 **CARRYFORWARD FOR COMMUNITY COLLEGES EQUIPMENT**

34 **SECTION 8.6.(a)** Subject to the approval of the Office of State Budget and  
35 Management and cash availability, the North Carolina Community College System Office may  
36 carry forward up to ten million dollars (\$10,000,000) of the overrealized tuition and fees that  
37 were not reverted in fiscal year 2009-2010 to be reallocated to the State Board of Community  
38 Colleges' Equipment Reserve Fund. These funds shall be distributed to colleges consistent with  
39 G.S. 115D-31(e).

40 **SECTION 8.6.(b)** This section becomes effective June 30, 2010.  
41

42 **STATE AID BUDGET FLEXIBILITY**

43 **SECTION 8.7.** G.S. 115D-31 is amended by adding a new subsection to read:

44 "(b1) A local community college may use all State funds allocated to it, except for  
45 Literacy funds and Customized Training funds, for any authorized purpose that is consistent  
46 with the college's Institutional Effectiveness Plan. Each local community college shall include  
47 in its Institutional Effectiveness Plan a section on how funding flexibility allows the college to  
48 meet the demands of the local community and to maintain a presence in all previously funded  
49 categorical programs."  
50

51 **MANAGEMENT FLEXIBILITY REDUCTION/COMMUNITY COLLEGES**

1           **SECTION 8.8.** Section 8.24 of S.L. 2009-451 reads as rewritten:

2           **"SECTION 8.24.** The management flexibility reduction for the North Carolina Community  
3 College System shall be allocated by the State Board of Community Colleges in a manner that  
4 accounts for the unique needs of each college and provides for the equitable distribution of  
5 funds to the institutions consistent with G.S. 115D-5(a). Before taking reductions to  
6 instructional budgets, the community colleges shall consider reducing budgets for senior and  
7 middle management personnel and for programs that have both low-enrollment and  
8 low-postgraduate success. Colleges shall minimize the impact on student support services and  
9 on the retraining of dislocated workers. Colleges shall not reduce financial aid, equipment, or  
10 the Small Business Centers. The community colleges shall also review their institutional funds  
11 to determine whether there are monies available in those funds that can be used to assist with  
12 operating costs before taking reductions in instructional budgets."  
13

#### 14 **CAREER AND COLLEGE PROMISE**

15           **SECTION 8.9.(a)** The North Carolina Community College System (NCCCS) and  
16 The University of North Carolina shall develop the Career and College Promise program, a  
17 structured programmatic approach to allow high school students to take identified college  
18 courses that lead to seamless college and career readiness pathways. Career and College  
19 Promise shall establish a core program of courses that supports students' transition into  
20 secondary education and the workplace. The program shall eliminate duplication of community  
21 college and university offerings by delineating responsibilities for courses. The core program  
22 will consist of science, technology, engineering, and math (STEM courses), plus English,  
23 foreign language, and limited other core courses satisfying college general education  
24 requirements and the Comprehensive Articulation Agreement between the NCCCS and UNC.

25           **SECTION 8.9.(b)** Notwithstanding any other provision of law, Career and College  
26 Promise shall be implemented beginning with the spring semester of 2011.

27           **SECTION 8.9.(c)** The NC Community College System Office, the University of  
28 North Carolina General Administration, and the State Board of Education, shall study and  
29 develop a unified plan to provide access to college-level courses to North Carolina high school  
30 students. The study shall determine the following:

- 31           (1) the types of courses to offer;
- 32           (2) the most efficient and cost-effective method to offer those courses;
- 33           (3) the most appropriate entity to offer those courses;
- 34           (4) the most appropriate funding mechanism;
- 35           (5) the possibility of combining existing joint high school programs; and
- 36           (6) the fiscal impact of each recommendation or option.

37           The results of the study shall be provided by November 15, 2010, to the Office of the  
38 Governor, the chairs of the Appropriations and Education Committees of the House and Senate,  
39 the Fiscal Research Division, and the Office of State Budget and Management.  
40

#### 41 **PART IX: UNIVERSITIES**

#### 42 43 **UNC BOARD OF GOVERNORS REVIEW OF FACULTY RECRUITMENT AND** 44 **RETENTION**

45           **SECTION 9.1.** The Board of Governors of The University of North Carolina shall  
46 review its current policies regarding financial incentives to retain faculty. The review shall  
47 focus on the prioritization of Recruitment and Retention dollars and identification of key  
48 metrics to measure overall program effectiveness. The Board of Governors shall report its  
49 findings and recommendations for changes to the policies, if any, to the Joint Legislative  
50 Education Oversight Committee, the Office of State Budget and Management, and the Fiscal  
51 Research Division by April 1, 2011.

**CAMPUS-INITIATED TUITION INCREASES**

**SECTION 9.2.** Section 9.23(a) of S.L. 2009-451 reads as rewritten:

"**SECTION 9.23.(a)** Notwithstanding any other provision of law, ~~no campus-initiated tuition increase for students who are North Carolina residents shall be approved by the Board of Governors of The University of North Carolina or implemented for the 2010-2011 academic year except as provided otherwise by this section.~~ the campus-initiated tuition increases approved by the Board of Governors of The University of North Carolina for the 2010-2011 academic year may be implemented for the 2010-2011 academic year."

**REPORTING ON UNC SCHOOL OF THE ARTS HIGH SCHOOL INITIATIVE**

**SECTION 9.3.(a)** The Board of Governors shall conduct a study on the high school program at the University of North Carolina School of the Arts (UNCSA). Information in the report should include, but is not to be limited to:

- (1) Funding per high school student compared to average cost per student. Costs shall include faculty, educational supplies, meals provided by the State, residential and housing expenses, including residential staff and additional security requirements.
- (2) Academic class size compared to average class size of neighboring public high schools and other comparable performing arts high schools across the nation.
- (3) Composition of high school student body, including county of residence, family income level, school grade and academic achievement level, as measured by end-of-grade tests, upon entering the high school program.
- (4) High school graduation statistics, including overall graduation rate, average number of years each graduate attended UNCSA High School, percentage of graduates who enter the UNCSA college program, percentage of graduates who enroll in a specialized performing arts school or a performing arts program at an institute of higher education.

**SECTION 9.3.(b)** The UNC Board of Governors shall submit the study to the Joint Legislative Education Oversight Committee, the Office of State Budget and Management, and the Fiscal Research Division no later than March 1, 2011.

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

**SECTION 9.4.** 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

1 permanently transferred to the Department of Cultural Resources and allocated to the Roanoke  
2 Island Commission. The amount to be transferred shall be equal to the amount of the  
3 appropriation remaining after all reductions, prior to and included in this act, are incorporated.  
4 The Roanoke Island Commission may use these funds to contract with any of the constituent  
5 institutions of The University of North Carolina System to provide music and drama students  
6 an education in a professional performing environment while providing a public service to the  
7 State. Any available funds may be used to contract with community-based or nonprofit  
8 performing arts groups or other performing arts groups supported with State or local funds to  
9 provide music and drama on Roanoke Island."

## 10 11 **HICKORY METRO HIGHER EDUCATION CENTER MERGER**

12 **SECTION 9.5.** The Hickory Metro Higher Education Center shall be merged with  
13 the North Carolina Center for Engineering and Technology. The merged entity shall be referred  
14 to as the Hickory Metro Higher Education Center. The new Center shall be administered by the  
15 University of North Carolina (with Appalachian State University acting as fiscal agent for the  
16 Center). The new Center shall be housed at the current location of the North Carolina Center  
17 for Engineering and Technology, as soon as such facilities are prepared for that purpose.

## 18 19 **REVIEW OF UNC SCIENCE, TECHNOLOGY, ENGINEERING AND** 20 **MATHEMATICS (STEM) PROGRAMS**

21 **SECTION 9.6.(a)** In order to assess the effectiveness of University-administered  
22 Science, Technology, Engineering and Mathematics (STEM) programs, The University of  
23 North Carolina General Administration shall compile a comprehensive list of programs within  
24 the University system whose primary objective is to provide community outreach in the form of  
25 (1) teacher professional development programs to strengthen the quality of science or  
26 mathematics instruction in the public schools; or (2) K-12 student enrichment programs in the  
27 areas of science, technology, engineering or mathematics. At a minimum, the following  
28 programs shall be included:

- 29 (1) Pre-College and Teacher Professional Development programs administered  
30 through the North Carolina Mathematics and Science Education Network  
31 (NC-MSEN);
- 32 (2) Summer Ventures Program;
- 33 (3) North Carolina Central University Center for Science, Math and Technology  
34 Education;
- 35 (4) Fayetteville State University CHEER Summer Bridges; and
- 36 (5) NCSTEM Community Collaborative.

37 **SECTION 9.6.(b)** The University of North Carolina General Administration shall  
38 conduct an annual review of each of the identified programs and report the results to the Office  
39 of State Budget and Management and the Fiscal Research Division no later than September 30  
40 of each year to assist with future funding decisions. The report shall contain the following  
41 information for each program:

- 42 (1) A description of the program mission, goals, and objectives.
- 43 (2) The statutory objectives for the program if applicable.
- 44 (3) Annual State appropriation and receipt funding for the program.
- 45 (4) Program effectiveness measures for Teacher Professional Development  
46 programs to include at a minimum:
  - 47 a. A measure of teachers' classroom effectiveness in STEM areas  
48 before and after attending a university professional development  
49 program.
  - 50 b. A measure of math and science educators retained as a result of  
51 attending a UNC professional development program.



- 1 (5) Program effectiveness measures for student enrichment programs to include  
2 at a minimum:  
3 a. A measure of students' expected college and career aspirations before  
4 and after attending a STEM program.  
5 b. A measure of students' math and science performance on  
6 standardized tests before and after attending a STEM program.  
7 c. A measure of declared STEM majors within the UNC system who  
8 attended a UNC-sponsored STEM program.

9 **SECTION 9.6.(c)** The University of North Carolina General Administration shall  
10 submit the list of STEM programs to the Office of State Budget and Management and the  
11 Fiscal Research Division by February 15, 2011. The annual reporting requirement is effective  
12 July 1, 2011.

13 **SECTION 9.6.(d)** In addition, the Department of Public Instruction shall survey  
14 math and science educators in North Carolina to identify the number of current math and  
15 science educators who attended a UNC sponsored Pre-College or Summer Ventures program  
16 before entering college. The survey may be conducted in cooperation with ongoing data  
17 collection efforts within The University of North Carolina system. The data shall be reported to  
18 the Office of State Budget and Management and the Fiscal Research Division by February 15,  
19 2011.

## 20 **UNC MANAGEMENT FLEXIBILITY REDUCTION**

21 **SECTION 9.7.** Section 9.19 of S.L. 2009-451 reads as rewritten:

22 **"SECTION 9.19.** The management flexibility reduction for The University of North  
23 Carolina shall not be allocated by the Board of Governors to the constituent institutions and  
24 affiliated entities using an across-the-board method but in a manner that recognizes the  
25 importance of the academic mission and differences among The University of North Carolina  
26 entities. Before taking reductions in instructional budgets, the The Board of Governors and the  
27 campuses of the constituent institutions shall consider reducing budgets for senior and middle  
28 management personnel, centers and institutes, low enrollment degree programs, speaker series,  
29 low-performing or redundant programs, adjustments to faculty workload, restructuring of  
30 research activities, programs or positions that can be shifted to receipt-support, and  
31 nonacademic activities. When implementing personnel reductions, the Board of Governors and  
32 the campuses shall make every effort to abolish vacant positions first. The Board of Governors  
33 and the campuses of the constituent institutions also shall review the institutional trust funds  
34 and the special funds held by or on behalf of the The University of North Carolina and its  
35 constituent institutions to determine whether there are monies available in those funds that can  
36 be used to assist with operating costs before taking reductions in instructional budgets. In  
37 addition, the campuses of the constituent institutions also shall require their faculty to have a  
38 teaching workload at least equal to the national average in their Carnegie classification. Budget  
39 reductions shall not be considered in funding available for need-based financial ~~aid-aid,~~ faculty  
40 recruiting and retention, or the University of North Carolina School of the Arts high school  
41 initiative."

## 42 **TRANSFER OF A+ SCHOOLS FROM UNC GREENSBORO TO DEPARTMENT OF** 43 **CULTURAL RESOURCES**

44 **SECTION 9.8.** The A+ Schools program is transferred from the University of  
45 North Carolina at Greensboro to the North Carolina Arts Council in the Department of Cultural  
46 Resources, as if by a Type I transfer as defined in G.S. 143A-6, with all the elements of such a  
47 transfer. The program transfer shall include the sum of fifty-eight thousand six hundred  
48 thirty-eight dollars (\$58,638).  
49  
50  
51

**SHORTFALLS IN THE STATE CONTRACTUAL SCHOLARSHIP FUND**

**SECTION 9.9.** In the event there are not sufficient funds in the State Contractual Scholarship Fund to provide each eligible student or licensure student with a full grant at the fixed rate as determined by the General Assembly, funds appropriated under the tuition grant program as defined in G.S. 116-21.2 shall be available to meet the shortfall.

**PART X. DEPARTMENT OF HEALTH AND HUMAN SERVICES****CHILD CARE ALLOCATION FORMULA**

**SECTION 10.1.** Section 10.2 of S.L. 2009-451 reads as rewritten:

**"SECTION 10.2.(a)** The Department of Health and Human Services shall allocate child care subsidy voucher funds to pay the costs of necessary child care for minor children of needy families. The mandatory thirty percent (30%) Smart Start subsidy allocation under G.S. 143B-168.15(g) shall constitute the base amount for each county's child care subsidy allocation. The Department of Health and Human Services shall use the following method when allocating federal and State child care funds, not including the aggregate mandatory thirty percent (30%) Smart Start subsidy allocation:

- (1) Funds shall be allocated to a county based upon the projected cost of serving children under age 11 in families with all parents working who earn less than seventy-five percent (75%) of the State median income.
- (2) No county's allocation shall be less than ninety percent (90%) of its State fiscal year 2001-2002 initial child care subsidy allocation.
- (3) The overall Smart Start child care subsidy allocation shall not be affected by a reduction in appropriations to the program. For 2010-2011, the Smart Start subsidy allocation shall not fall below the level of 2009-2010 expenditures.

**"SECTION 10.2.(b)** The Department of Health and Human Services may reallocate unused child care subsidy voucher funds in order to meet the child care needs of low-income families. Any reallocation of funds shall be based upon the expenditures of all child care subsidy voucher funding, including Smart Start funds, within a county.

**"SECTION 10.2.(c)** Notwithstanding subsection (a) of this section, the Department of Health and Human Services shall allocate up to twenty million dollars (\$20,000,000) in federal block grant funds and State funds appropriated for fiscal years 2009-2010 and 2010-2011 for child care services. These funds shall be allocated to prevent termination of child care services. Funds appropriated for specific purposes, including targeted market rate adjustments given in the past, may also be allocated by the Department separately from the allocation formula described in subsection (a) of this section."

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

**SECTION 10.2.** 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-decrease~~ the allowance that county departments of social services may use for administrative costs from ~~four percent (4%)~~ five percent (5%) to ~~five percent (5%)~~ four percent (4%) of the county's total child care subsidy funds allocated in the Child Care Development Fund Block Grant plan. The ~~increase-decrease~~ shall be effective for the ~~2009-2010-2010-2011~~ 2010-2011 fiscal year."

**NC HEALTH CHOICE ENROLLMENT**

**SECTION 10.3.** Section 10.34 of S.L. 2009-451 reads as rewritten:

**"SECTION 10.34.** The Department of Health and Human Services ~~may, may expand~~ enrollment in the NC Health Choice Program for the ~~2009-2010-2010-2011~~ 2010-2011 fiscal year, ~~allow~~

1 enrollment to grow by not more than which is projected to reach 9,098–143,035  
2 children:children by June 2011."  
3

#### 4 NCHC CHANGES

5 **SECTION 10.4.** Effective July 1, 2009, G.S. 108A-70.21(b) reads as rewritten:

6 "(b) Benefits. – Except as otherwise provided for eligibility, fees, deductibles,  
7 copayments, and other cost sharing charges, health benefits coverage provided to children  
8 eligible under the Program shall be equivalent to coverage provided for dependents under the  
9 Predecessor Plan.

10 In addition to the benefits provided under the Predecessor Plan, the following services and  
11 supplies are covered under the Health Insurance Program for Children established under this  
12 Part:

- 13 (1) Oral examinations, teeth cleaning, and topical fluoride treatments twice  
14 during a 12-month period, full mouth X-rays once every 60 months,  
15 supplemental bitewing X-rays showing the back of the teeth once during a  
16 12-month period, sealants, extractions, ~~other than including~~ impacted teeth  
17 teeth, ~~or residual roots and symptomatic wisdom teeth,~~ therapeutic  
18 pulpotomies, space maintainers, dentures and acrylic partial dentures, root  
19 canal therapy for permanent anterior teeth and permanent first molars,  
20 prefabricated stainless steel crowns, periodontal debridement, scaling and  
21 root planning and certain periodontal surgery procedures (with limitations),  
22 inhalation of nitrous oxide, and routine fillings of amalgam or other tooth  
23 colored filling material to restore diseased teeth.
- 24 (1a) Orthognathic surgery or surgical exposure and bonding of impacted teeth to  
25 correct functionally impairing malocclusions when orthodontics was  
26 approved and initiated while the child was covered by Medicaid and the  
27 need for orthognathic surgery or surgical exposure and bonding of impacted  
28 teeth was documented in the orthodontic treatment plan.
- 29 (1b) Orthodontic services to children with malocclusions caused by severe  
30 craniofacial anomalies such as cleft lip and/or palate, hemifacial or  
31 craniofacial microsomia, Apert's syndrome, Crouzon's syndrome, Pierre  
32 Robin syndrome, or Treacher-Collins syndrome, etc. The request for these  
33 services must be accompanied by medical documentation indicating that the  
34 preliminary diagnosis meets the specified criteria.
- 35 (2) Vision: Scheduled routine eye examinations once every 12 months, eyeglass  
36 lenses or contact lenses once every 12 months, routine replacement of  
37 eyeglass frames once every 24 months, and optical supplies and solutions  
38 when needed. ~~Optical NCHC recipients must obtain optical services,~~  
39 ~~supplies, and solutions must be obtained from NCHC enrolled, licensed or~~  
40 ~~certified ophthalmologists, optometrists, or optical dispensing laboratories.~~  
41 opticians. In accordance with G.S. 148-134, NCHC providers must order  
42 complete eyeglasses, eyeglass lenses, and ophthalmic frames through Nash  
43 Optical Plant. Eyeglass lenses are limited to NCHC-approved single vision,  
44 bifocal, trifocal, or other complex lenses necessary for a Plan enrollee's  
45 visual welfare. Coverage for oversized lenses and frames, designer frames,  
46 photosensitive lenses, tinted contact lenses, blended lenses, progressive  
47 multifocal lenses, coated lenses, and laminated lenses is limited to the  
48 coverage for single vision, bifocal, trifocal, or other complex lenses provided  
49 by this subsection. Eyeglass frames are limited to those NCHC-approved  
50 frames made of zylonite, metal, or a combination of zylonite and metal. All  
51 visual aids covered by this subsection require prior approval. Requests for

1 medically necessary complete eyeglasses, eyeglass lenses, and ophthalmic  
2 frames outside of the NCHC-approved selection require prior approval.  
3 Requests for medically necessary fabrication of complete eyeglasses or  
4 eyeglass lenses outside of Nash Optical Plant require prior approval. Upon  
5 prior approval refractions may be covered more often than once every 12  
6 months.

7 (3) Hearing: Auditory diagnostic testing services and hearing aids and  
8 accessories when provided by a licensed or certified audiologist,  
9 otolaryngologist, or other approved hearing aid specialist. Prior approval is  
10 required for hearing aids, accessories, earmolds, repairs, loaners, and rental  
11 aids.

12 (4) Over the counter medications: Selected over the counter medications  
13 provided the medication is covered under the State Medical Assistance Plan.  
14 Coverage shall be subject to the same policies and approvals as required  
15 under the Medicaid program.

16 (5) Routine diagnostic examinations and tests: annual routine diagnostic  
17 examinations and tests, including x-rays, blood and blood pressure checks,  
18 urine tests, tuberculosis tests, and general health check-ups that are  
19 medically necessary for the maintenance and improvement of individual  
20 health are covered.

21 No benefits are to be provided for services and materials under this subsection that do not  
22 meet the standards accepted by the American Dental Association.

23 The Department shall provide services to children enrolled in the NC Health Choice  
24 Program through Community Care of North Carolina (CCNC) and shall pay Community Care  
25 of North Carolina providers ~~for these services as allowed under Medicaid. the per member, per~~  
26 month fees for the management of highly utilized services. The Department shall pay for these  
27 services only if sufficient information is available to the Department for utilization  
28 management of the services provided through CCNC."  
29

### 30 NCHC ER VISIT CO-PAYMENTS

31 **SECTION 10.4A.** NC Health Choice co-pay for nonemergency ER visits for  
32 children in families with income at or below one hundred fifty percent (150%) of FPL is ten  
33 dollars (\$10.00). Children in families between one hundred fifty-one percent (151%) and two  
34 hundred percent (200%) FPL is twenty-five dollars (\$25.00).  
35

### 36 COMMUNITY CARE ENHANCED PRIMARY CARE MANAGEMENT SYSTEM

37 **SECTION 10.5.(a)** Section 10.36 of S.L. 2009-451 reads as rewritten:

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

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

44 ~~"SECTION 10.36.(c) The Department shall ensure that, through CCNC participating~~  
45 ~~physicians and networks, the Department is striving to follow tenets adapted from the National~~  
46 ~~Committee of Quality Assurance's (NCQA) national measures for patient centered Medical~~  
47 ~~Homes Models. The Department shall consult with local CCNC networks to achieve all of the~~  
48 ~~following:~~

49 (1) ~~Identify priority diseases, conditions, and patients for care management.~~

50 (2) ~~Develop, adopt, and implement protocols for consistent and effective care~~  
51 ~~management of those diseases, conditions, and patients.~~

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

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

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

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

29          **SECTION 10.5.(b)** By October 1, 2010, the Department of Health and Human  
30 Services (DHHS) and the Division of Medical Assistance (DMA) shall contract with North  
31 Carolina Community Care Networks, Inc., (NCCCN, Inc.) and the 14 participating local  
32 Community Care networks (CCNC) represented by NCCCN, Inc., to provide standardized  
33 clinical and budgetary coordination, oversight, and reporting for a statewide Enhanced Primary  
34 Care Management System for Medicaid enrollees.

35          The contract with NCCCN, Inc., shall build upon and expand the existing successful  
36 CCNC primary care case management model to include comprehensive statewide quantitative  
37 performance goals and deliverables which shall include, but are not limited to, the areas of (i)  
38 service utilization management, (ii) budget analytics, (iii) budget forecasting methodologies,  
39 (iv) quality of care analytics, (v) participant access measures, and (vi) predictable cost  
40 containment methodologies.

41          NCCCN, Inc., shall report quarterly to DHHS and the Office of State Budget and  
42 Management (OSBM) on the development of the Enhanced Primary Care Case Management  
43 System and its defined goals and deliverables as agreed upon in the contract. Effective July 1,  
44 2010, NCCCN, Inc., shall begin reporting quarterly to the Secretary of DHHS, OSBM, the  
45 House of Representatives Appropriations Subcommittee on Health and Human Services, the  
46 Senate Appropriations Committee on Health and Human Services, and the Fiscal Research  
47 Division on the progress and results of implementation of the quantitative, analytical,  
48 utilization, quality, cost containment, and access goals and deliverables set out in the contract.

49          **SECTION 10.5.(c)** By July 1, 2011, DHHS and OSBM shall assess the  
50 performance of NCCCN, Inc., and CCNC regarding the goals established in the contract. Based  
51 on this assessment, DHHS and DMA shall expand, cancel, or alter the contract with NCCCN,

1 Inc., and CCNC by October 1, 2011. Expansion or alteration of the contract may reflect  
2 refinements based on clearly identified goals and deliverables in the areas of (1) quality of care,  
3 (2) participant access, (3) cost containment, and (4) service delivery.

4 **SECTION 10.5.(d)** By July 1, 2011, DHHS, DMA, and NCCCN, Inc., shall  
5 finalize a comprehensive plan that establishes management methodologies including, but not  
6 limited to, (i) quality of care measures, (ii) utilization measures, (iii) recipient access measures,  
7 (iv) performance incentive models where past experience indicates a benefit from financial  
8 incentives, (v) accountable budget models, (vi) shared savings budget models, and (vii) budget  
9 forecasting analytics as agreed upon by DHHS, DMA, and NCCCN, Inc. In the development of  
10 these methodologies, DHHS, DMA, and NCCCN, Inc., shall consider options for shared risk.

11 DHHS and DMA shall provide assistance to NCCCN, Inc., in its endeavor to meet  
12 the objectives of this provision.

#### 13 14 **MEDICAID POLICY CHANGES**

15 **SECTION 10.6.(a)** Section 10.58(d) of S.L. 2009-451 reads as rewritten:

16 **"SECTION 10.58.(d)** Services and Payment Bases. – The Department shall spend funds  
17 appropriated for Medicaid services in accordance with the following schedule of services and  
18 payment bases. All services and payments are subject to the language at the end of this  
19 subsection. Unless otherwise provided, services and payment bases will be as prescribed in the  
20 State Plan as established by the Department of Health and Human Services and may be  
21 changed with the approval of the Director of the Budget.

- 22 (1) Hospital inpatient. – Payment for hospital inpatient services will be  
23 prescribed by the State Plan as established by the Department of Health and  
24 Human Services.
- 25 (2) Hospital outpatient. – Eighty percent (80%) of allowable costs or a  
26 prospective reimbursement plan as established by the Department of Health  
27 and Human Services.
- 28 (3) Nursing facilities. – Nursing facilities providing services to Medicaid  
29 recipients who also qualify for Medicare must be enrolled in the Medicare  
30 program as a condition of participation in the Medicaid program. State  
31 facilities are not subject to the requirement to enroll in the Medicare  
32 program. Residents of nursing facilities who are eligible for Medicare  
33 coverage of nursing facility services must be placed in a Medicare-certified  
34 bed. Medicaid shall cover facility services only after the appropriate services  
35 have been billed to Medicare.
- 36 (4) Physicians, certified nurse midwife services, certified registered nurse  
37 anesthetists, nurse practitioners. – Fee schedules as developed by the  
38 Department of Health and Human Services.
- 39 (5) Community Alternative Program, EPSDT Screens. – Payments in  
40 accordance with rate schedule developed by the Department of Health and  
41 Human Services.
- 42 (6) Home health and related services, durable medical equipment. – Payments  
43 according to reimbursement plans developed by the Department of Health  
44 and Human Services.
- 45 (7) Hearing aids. – Wholesale cost plus dispensing fee to provider.
- 46 (8) Rural health clinical services. – Provider-based, reasonable cost,  
47 nonprovider-based, single-cost reimbursement rate per clinic visit.
- 48 (9) Family planning. – Negotiated rate for local health departments. For other  
49 providers see specific services, e.g., hospitals, physicians.
- 50 (10) Independent laboratory and X-ray services. – Uniform fee schedules as  
51 developed by the Department of Health and Human Services.

- 1 (11) Ambulatory surgical centers.
- 2 (12) Private duty nursing, clinic services, prepaid health plans.
- 3 (13) Intermediate care facilities for the mentally retarded.
- 4 (14) Chiropractors, ~~podiatrists, podiatrists~~ (treating individuals with diabetes or  
5 vascular disease only), optometrists, dentists.
- 6 (15) Limitations on dental coverage. – Dental services shall be provided on a  
7 restricted basis in accordance with criteria adopted by the Department to  
8 implement this subsection. Adult dental services shall be limited to  
9 emergency services only.
- 10 (16) Medicare Buy-In. – Social Security Administration premium.
- 11 (17) Ambulance services. – Uniform fee schedules as developed by the  
12 Department of Health and Human Services. Public ambulance providers will  
13 be reimbursed at cost.
- 14 (18) Optical supplies. – Payment for materials is made to a contractor in  
15 accordance with 42 C.F.R. § 431.54(d). Fees paid to dispensing providers  
16 are negotiated fees established by the State agency based on industry  
17 charges.
- 18 (19) Medicare crossover claims. – The Department shall apply Medicaid medical  
19 policy to Medicare claims for dually eligible recipients. The Department  
20 shall pay an amount up to the actual coinsurance or deductible or both, in  
21 accordance with the State Plan, as approved by the Department of Health  
22 and Human Services. The Department may disregard application of this  
23 policy in cases where application of the policy would adversely affect  
24 patient care.
- 25 (20) Physical therapy, occupational therapy, respiratory therapy, and speech  
26 therapy. – ~~Services for adults and EPSDT-eligible children.~~ Adult physical  
27 therapy, occupational therapy, respiratory therapy, and speech therapy have  
28 a maximum of three visits per year. Reimbursement for these therapy  
29 services is not allowed when services are provided at the same time as other  
30 home care Medicaid services. Payments are to be made only to qualified  
31 providers at rates negotiated by the Department of Health and Human  
32 Services.
- 33 (21) Personal care services. – Payment in accordance with the State Plan  
34 developed by the Department of Health and Human Services.
- 35 (22) Case management services. – Reimbursement in accordance with the  
36 availability of funds to be transferred within the Department of Health and  
37 Human Services.
- 38 (23) Hospice.
- 39 (24) Medically necessary prosthetics or orthotics. – In order to be eligible for  
40 reimbursement, providers must be licensed or certified by the occupational  
41 licensing board or the certification authority having authority over the  
42 provider's license or certification. Medically necessary prosthetics and  
43 orthotics are subject to prior approval and utilization review.
- 44 (25) Health insurance premiums.
- 45 (26) Medical care/other remedial care. – Services not covered elsewhere in this  
46 section include related services in schools; health professional services  
47 provided outside the clinic setting to meet maternal and infant health goals;  
48 and services to meet federal EPSDT mandates.
- 49 (27) Pregnancy-related services. – Covered services for pregnant women shall  
50 include nutritional counseling, psychosocial counseling, and predelivery and

1 postpartum home visits by maternity care coordinators and public health  
2 nurses.  
3 (28) Drugs. – Reimbursements. Reimbursements shall be available for  
4 prescription drugs as allowed by federal regulations plus a professional  
5 services fee per month, excluding refills for the same drug or generic  
6 equivalent during the same month. Payments for drugs are subject to the  
7 provisions of this subdivision or in accordance with the State Plan adopted  
8 by the Department of Health and Human Services, consistent with federal  
9 reimbursement regulations. Payment of the professional services fee shall be  
10 made in accordance with the State Plan adopted by the Department of Health  
11 and Human Services, consistent with federal reimbursement regulations. The  
12 professional services fee shall be five dollars and sixty cents (\$5.60) per  
13 prescription for generic drugs and four dollars (\$4.00) per prescription for  
14 brand-name drugs. Adjustments to the professional services fee shall be  
15 established by the General Assembly. In addition to the professional services  
16 fee, the Department may pay an enhanced fee for pharmacy services.

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

27 Dispensing of generic drugs. – Notwithstanding G.S. 90-85.27 through  
28 G.S. 90-85.31, or any other law to the contrary, under the Medical  
29 Assistance Program (Title XIX of the Social Security Act), and except as  
30 otherwise provided in this subsection for drugs listed in the narrow  
31 therapeutic index, a prescription order for a drug designated by a trade or  
32 brand name shall be considered to be an order for the drug by its established  
33 or generic name, except when the prescriber has determined, at the time the  
34 drug is prescribed, that the brand-name drug is medically necessary and has  
35 written on the prescription order the phrase "medically necessary." An initial  
36 prescription order for a drug listed in the narrow therapeutic drug index that  
37 does not contain the phrase "medically necessary" shall be considered an  
38 order for the drug by its established or generic name, except that a pharmacy  
39 shall not substitute a generic or established name prescription drug for  
40 subsequent brand or trade name prescription orders of the same prescription  
41 drug without explicit oral or written approval of the prescriber given at the  
42 time the order is filled. Generic drugs shall be dispensed at a lower cost to  
43 the Medical Assistance Program rather than trade or brand-name ~~drugs.~~  
44 drugs unless the trade or brand-name drug can be dispensed at a lower cost  
45 to the Medical Assistance Program. As used in this subsection, "brand name"  
46 means the proprietary name the manufacturer places upon a drug product or  
47 on its container, label, or wrapping at the time of packaging; and  
48 "established name" has the same meaning as in section 502(e)(3) of the  
49 Federal Food, Drug, and Cosmetic Act, as amended, 21 U.S.C. § 352(e)(3).

50 Prior authorization. – ~~The Department of Health and Human Services~~  
51 ~~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. The Department of Health and Human Services 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.

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

- a. Services as defined by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services and approved by the Centers for Medicare and Medicaid Services (CMS) when provided in agencies meeting the requirements of the rules established by the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services and reimbursement is made in accordance with a State Plan developed by the Department of Health and Human Services not to exceed the upper limits established in federal regulations, and
- b. For children eligible for EPSDT services provided by:
  1. Licensed or certified psychologists, licensed clinical social workers, certified clinical nurse specialists in psychiatric mental health advanced practice, nurse practitioners certified as clinical nurse specialists in psychiatric mental health advanced practice, licensed psychological associates, licensed professional counselors, licensed marriage and family therapists, licensed clinical addictions specialists, and certified clinical supervisors, when Medicaid-eligible children are referred by the Community Care of North Carolina primary care physician, a Medicaid-enrolled psychiatrist, or

- 1 the area mental health program or local management entity,  
 2 and  
 3 2. Institutional providers of residential services as defined by the  
 4 Division of Mental Health, Developmental Disabilities, and  
 5 Substance Abuse Services and approved by the Centers for  
 6 Medicare and Medicaid Services (CMS) for children and  
 7 Psychiatric Residential Treatment Facility services that meet  
 8 federal and State requirements as defined by the Department.  
 9 c. For Medicaid-eligible adults, services provided by licensed or  
 10 certified psychologists, licensed clinical social workers, certified  
 11 clinical nurse specialists in psychiatric mental health advanced  
 12 practice, and nurse practitioners certified as clinical nurse specialists  
 13 in psychiatric mental health advanced practice, licensed  
 14 psychological associates, licensed professional counselors, licensed  
 15 marriage and family therapists, certified clinical addictions  
 16 specialists, and licensed clinical supervisors, Medicaid-eligible adults  
 17 may be self-referred.  
 18 d. Payments made for services rendered in accordance with this  
 19 subdivision shall be to qualified providers in accordance with  
 20 approved policies and the State Plan. Nothing in sub-subdivision b.  
 21 or c. of this subdivision shall be interpreted to modify the scope of  
 22 practice of any service provider, practitioner, or licensee, nor to  
 23 modify or attenuate any collaboration or supervision requirement  
 24 related to the professional activities of any service provider,  
 25 practitioner, or licensee. Nothing in sub-subdivision b. or c. of this  
 26 subdivision shall be interpreted to require any private health insurer  
 27 or health plan to make direct third-party reimbursements or payments  
 28 to any service provider, practitioner, or licensee.

29 Notwithstanding G.S. 150B-21.1(a), the Department of Health and Human  
 30 Services may adopt temporary rules in accordance with Chapter 150B of the  
 31 General Statutes further defining the qualifications of providers and referral  
 32 procedures in order to implement this subdivision. Coverage policy for  
 33 services defined by the Division of Mental Health, Developmental  
 34 Disabilities, and Substance Abuse Services under sub-subdivisions a. and  
 35 b.2. of this subdivision shall be established by the Division of Medical  
 36 Assistance.

37 (30) Experimental or trial procedures. – Any procedure not recognized or  
 38 approved by a nationally recognized professional specialty organization is  
 39 not approved.

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

48 **SECTION 10.6.(b)** Section 10.58(e) of S.L. 2009-451 reads as rewritten:

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

- 50 (1) Subject to the provisions of this subdivision, the Department may require  
 51 Medicaid-enrolled providers to purchase a performance bond in an amount

1 not to exceed one hundred thousand dollars (\$100,000) naming as  
2 beneficiary the Department of Health and Human Services, Division of  
3 Medical Assistance, or provide to the Department a validly executed letter of  
4 credit or other financial instrument issued by a financial institution or agency  
5 honoring a demand for payment in an equivalent amount. The Department  
6 may require the purchase of a performance bond or the submission of an  
7 executed letter of credit or financial instrument as a condition of initial  
8 enrollment, reenrollment, or reinstatement if:

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

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

16 (1a) The Department may waive or limit the requirements of this paragraph for  
17 individual Medicaid-enrolled providers or for one or more classes of  
18 Medicaid-enrolled providers based on the following:

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

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

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

48 Prenatal services, all EPSDT children, emergency room visits, and  
49 mental health visits subject to independent utilization review are exempt  
50 from the visit limitations contained in this subdivision. Subject to  
51 appropriate medical review, the Department may authorize exceptions when

1 additional care is medically necessary. Routine or maintenance visits above  
2 the established visit limit will not be covered unless necessary to actively  
3 manage a life threatening disorder or as an alternative to more costly care  
4 options."  
5

## 6 **MEDICAID PREFERRED DRUG LIST**

7 **SECTION 10.7.** Section 10.66(c) of S.L. 2009-451 reads as rewritten:

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

- 10 (1) Guidelines for the presentation and review of drugs for inclusion on the  
11 preferred drug list,
- 12 (2) The manner and frequency of audits of the preferred drug list for  
13 appropriateness of patient care and cost-effectiveness,
- 14 (3) An appeals process for the resolution of disputes, and
- 15 (4) Such other policies and procedures as the Department deems necessary and  
16 appropriate.

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

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

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

28 The Department may negotiate supplemental rebates from manufacturers that are in  
29 addition to those required by Title XIX of the federal Social Security Act. The committee shall  
30 consider a product for inclusion on the preferred drug list if the manufacturer provides a  
31 supplemental rebate. The Department may procure a sole source contract with an outside entity  
32 or contractor to conduct negotiations for supplemental rebates."  
33

## 34 **ACCOUNTING FOR MEDICAID RECEIVABLES AS NONTAX REVENUE**

35 **SECTION 10.7A.** Section 10.64(b) of S.L. 2009-451 reads as rewritten:

36 "**SECTION 10.64.(b)** For the 2009-2010 fiscal year, the Department of Health and Human  
37 Services shall deposit from its revenues one hundred twenty-four million nine hundred  
38 ninety-four thousand nine hundred fifty-four dollars (\$124,994,954) with the Department of  
39 State Treasurer to be accounted for as nontax revenue. For the 2010-2011 fiscal year, the  
40 Department of Health and Human Services shall deposit from its revenues ~~one hundred million~~  
41 ~~dollars (\$100,000,000) one hundred thirty-five million dollars (\$135,000,000)~~ with the  
42 Department of State Treasurer to be accounted for as nontax revenue. These deposits shall  
43 represent the return of General Fund appropriations provided to the Department of Health and  
44 Human Services to provide indigent care services at State-owned and operated mental  
45 hospitals. The treatment of any revenue derived from federal programs shall be in accordance  
46 with the requirements specified in the Code of Federal Regulations, Volume 2, Part 225."  
47

## 48 **AUTHORIZE THE DIVISION OF MEDICAL ASSISTANCE TO TAKE CERTAIN** 49 **STEPS TO EFFECTUATE COMPLIANCE WITH BUDGET REDUCTIONS IN** 50 **THE MEDICAID PROGRAM**

51 **SECTION 10.8.(a)** Section 10.68A(a) of S.L. 2009-451 reads as rewritten:

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

- 6 ...
- 7 (3) ~~Medicaid Personal Care Service provision. — Upon the enactment of this act,~~  
8 ~~the Division of Medical Assistance shall implement the following new~~  
9 ~~criteria for personal care services (PCS):~~
- 10 a. ~~Independent assessment by an entity that does not provide direct PCS~~  
11 ~~services for evaluation of the recipient prior to initiation of service.~~  
12 ~~The independent assessment will determine the qualifying Activities~~  
13 ~~of Daily Living (ADL), the level of assistance required, and the~~  
14 ~~amount and scope of PCS to be provided, according to policy~~  
15 ~~criteria.~~
- 16 b. ~~Independent assessment or review from the assigned Community~~  
17 ~~Care of North Carolina (CCNC) physician of the continued~~  
18 ~~qualification for PCS services under the revised PCS policy criteria.~~
- 19 e. ~~Establishment of time limits on physician service orders and~~  
20 ~~reauthorization in accordance with the recipient's diagnosis and~~  
21 ~~acuity of need.~~
- 22 d. ~~Add the following items to the list of tasks that are not covered by~~  
23 ~~this service: nonmedical transportation, errands and shopping, money~~  
24 ~~management, cueing, and prompting, guiding, or coaching.~~
- 25 e. ~~Online physician attestation of medical necessity.~~
- 26 f. ~~If sufficient reduction in cost is not achieved with the revised policy,~~  
27 ~~the Secretary shall direct the Division of Medical Assistance to~~  
28 ~~further modify the policy to achieve targeted cost savings.~~

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

- 37 (3) Medicaid Personal Care Service Provision. – The Department of Health and  
38 Human Services, Division of Medical Assistance, shall affect the reform of  
39 the Personal Care Services (PCS) and Personal Care Services-Plus  
40 (PCS-Plus) programs provided under the State Medicaid Plan as follows:
- 41 a. Terminate all services provided under these two PCS programs and  
42 implement two new PCS programs, PCS-C and PCS-ADE effective  
43 on January 1, 2011, or when approval is received from CMS.
- 44 b. Determine the most effective and efficient means for Medicaid to  
45 manage the cost, quality, and utilization of personal care services  
46 through one of the available funding options, including revised  
47 Medicaid plan optional services, a §1915(c) home and  
48 community-based services (HCBS) waiver, or through a §1915(i)  
49 option that allows states to establish home and community-based  
50 services that can target specific populations.

- 1                   c.     Submit to CMS applications or State plan amendments as required to  
2                   obtain approval for two PCS programs as follows:
- 3                   1.     PCS for Children (PCS-C) to assist families to meet their  
4                   needs for personal care assistance for children, including  
5                   individuals under the age of 21 receiving comprehensive and  
6                   preventive child health services through the Early and  
7                   Periodic Screening, Diagnosis, and Treatment (EPSDT)  
8                   program.
- 9                   2.     PCS for Disabled and Elderly (PCS-ADE) to meet the needs  
10                  of individuals 21 years of age or older who, because of a  
11                  medical condition, disability, or cognitive impairment,  
12                  demonstrate extensive or higher levels of unmet needs for  
13                  assistance in at least three of the five activities of daily living  
14                  (ADLs) that include eating, dressing, bathing, toileting, and  
15                  mobility. PCS-ADE shall target individuals at the highest  
16                  level of need who are able to safely remain in the home and  
17                  who do not meet the State's criteria for nursing facility  
18                  placement.
- 19                  d.     Establish program limitations:
- 20                  1.     PCS for Children shall be limited to 60 hours of service per  
21                  month, unless additional services are required to correct or  
22                  ameliorate defects and physical and mental illnesses and  
23                  conditions as defined in 42 U.S.C. § 1396d(r)(5) in  
24                  accordance with a plan of care approved by DMA or its  
25                  designee.
- 26                  2.     PCS for Disabled and Elderly up to 80 hours of service per  
27                  month in accordance with a plan of care approved by DMA  
28                  or its designee.
- 29                  e.     For both programs, require that:
- 30                  1.     Services are provided in a manner that supplements not  
31                  supplants family roles and responsibilities and care provided  
32                  by informal caregivers.
- 33                  2.     Prior to admission to PCS, the recipient be seen by his or her  
34                  primary or attending physician and that the recipient's  
35                  physician authorizes referral for PCS in writing and attests to  
36                  the medical necessity for PCS. The Department of Health and  
37                  Human Services shall track and analyze from the written  
38                  referrals to detect and address overutilization of PCS services.
- 39                  3.     Initial assessments and continuing need reassessments be  
40                  performed by an Independent Assessment Entity (IAE) that is  
41                  not a PCS service provider.
- 42                  4.     The IAE authorize the amount of service to be provided on a  
43                  "needs basis," as determined by each recipient's degree of  
44                  functional disability and level of unmet needs for hands-on  
45                  personal assistance in the five qualifying ADLs.
- 46                  5.     PCS shall not be used to perform household chores not  
47                  directly related to the qualifying ADLs, nonmedical  
48                  transportation, money management, running errands and  
49                  shopping, and nonhands-on assistance such as cueing,  
50                  prompting, guiding, or coaching in accordance with the  
51                  Medicaid Clinical Coverage Policy for each program.

6. Transition qualified recipients into the programs at such time that all approvals from CMS have been obtained; Medicaid Clinical Coverage Policies have been posted, reviewed, and approved as required; and all appropriate implementation tasks have been completed.

...  
 (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.

...  
 (11) For the purpose of promoting cost-effective utilization of outpatient mental health services for children, the Division of Medical Assistance shall require prior authorization for services following the 16<sup>th</sup> visit.

(12) Medicaid Private Duty Nursing (PDN) Provision. – The Department of Health and Human Services, Division of Medical Assistance, shall affect the following changes in the Medicaid Private Duty Nursing Program provided under the State Medicaid Plan:

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 CMA 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

1 currently receiving PDN to waiver services provided under the  
2 Technology Dependent Waiver."

3 **SECTION 10.8.(b)** Section 10.68A(c) of S.L 2009-451 reads as rewritten:

4 **"SECTION 10.68A.(c)** At least 30 days prior to the adoption of new or amended medical  
5 coverage policies necessitated by the reductions to the Medicaid program enacted in this act,  
6 the Department shall:

- 7 (1) Publish the proposed new or amended medical coverage policies via the  
8 Medicaid Bulletin published on the Department's Web site, which shall  
9 include an invitation to readers to send written comments on the proposed  
10 new or amended policies to the Department's mailing address, including  
11 e-mail.  
12 (2) Notify via direct mail the members of the Physician Advisory Group (PAG)  
13 of the proposed policies.  
14 (3) Update the policies published on the Web site to reflect any changes made as  
15 a result of written comments received from the PAG and others.  
16 (4) ~~Provide~~ At least 10 days prior to the adoption of new or amended medical  
17 coverage policies, the Department shall provide written notice to recipients  
18 about changes in policy."  
19

#### 20 **SPECIALTY DRUG PROVIDER NETWORK**

21 **SECTION 10.9.** The Department of Health and Human Services shall create a  
22 specialty drug provider network that requires best practices, prevents overutilization and allows  
23 for drug reimbursement rate negotiations for hemophilia, hepatitis C, and IVIG drugs.  
24

#### 25 **MEDICAID WAIVER FOR ASSISTED LIVING**

26 **SECTION 10.10.** The Division of Medical Assistance shall develop and  
27 implement a 1915(c) Home and Community Based Services assisted living waiver in order to  
28 continue Medicaid funding of personal care services to individuals in adult care homes. All  
29 adult care home residents who receive State-County Special Assistance and meet the criteria  
30 for nursing facility level of care will be eligible for participation in the waiver. Waiver services  
31 will be delivered according to the acuity level of adult care home residents. The Division of  
32 Medical Assistance shall develop a new Medicaid payment methodology for waiver services  
33 that is associated with the acuity-based service delivery model. Implementation of the assisted  
34 living waiver is contingent upon approval by the Centers for Medicare and Medicaid Services.  
35

#### 36 **STATEWIDE EXPANSION OF CAPITATED 1915(b)/(c) BEHAVIORAL HEALTH** 37 **WAIVERS**

38 **SECTION 10.11.** The Division of Medical Assistance shall initiate statewide  
39 expansion of the capitated 1915(b)/(c) waivers which have been operating in the Piedmont  
40 Behavioral Healthcare (PBH) LME as a demonstration program since April 2005. Additional  
41 LMEs shall be added to the waiver program as they demonstrate readiness to participate  
42 through a request for proposal process. The waiver program shall include all Medicaid-covered  
43 mental health, developmental disabilities, and substance abuse services. Expansion of the  
44 waiver to additional LMEs shall be contingent upon approval by the Centers for Medicare and  
45 Medicaid Services.  
46

#### 47 **STUDY MEDICAID PROVIDER RATES**

48 **SECTION 10.13.(a)** The Department of Health and Human Services, Division of  
49 Medical Assistance, shall initiate a study or contract out for a study of reimbursement rates for  
50 Medicaid providers and program benefits. The study shall provide: (i) a comparison of  
51 Medicaid reimbursement rates in NC, its surrounding states, and two additional states, and (ii) a



1 comparison of NC's Medicaid program benefits with our surrounding states and two additional  
2 states. Selected provider rates shall be studied for the initial report.

3 **SECTION 10.13.(b)** The Department shall report its initial findings to the  
4 Governor, the Senate Appropriations Committee on Health and Human Services, the House of  
5 Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal  
6 Research Division by April 1, 2011.

7 **SECTION 10.13.(c)** Funds appropriated to the Department of Health and Human  
8 Services may be used to complete this study.

#### 9 10 **MEDICAID PREFERRED DRUG LIST (PDL) POLICY REVIEW PANEL**

11 **SECTION 10.14.(a)** The Secretary of the Department of Health and Human  
12 Services shall establish a Preferred Drug List (PDL) Policy Review Panel within 60 days of  
13 enactment of this bill. The purpose of the PDL Policy Review Panel is to review the Medicaid  
14 PDL recommendations from the Department of Health and Human Services, Division of  
15 Medical Assistance and the Physician Advisory Group (PAG) Pharmacy and Therapeutics  
16 (P&T) Committee.

17 **SECTION 10.14.(b)** The Secretary shall appoint the following individuals to the  
18 review panel:

- 19 (1) The Division of Medical Assistance Director of Pharmacy;
- 20 (2) A representative from PAG's P&T Committee;
- 21 (3) A representative from the Old North State Medical Society;
- 22 (4) A representative from the NC Association of Pharmacist;
- 23 (5) A representative from Community Care of North Carolina; and
- 24 (6) A representative from the NC Psychiatric Association.

25 Each representative, excluding the Division's Director of Pharmacy, shall have  
26 two-year appointments.

27 **SECTION 10.14.(c)** After the recommended policies related to the Medicaid PDL  
28 are posted, about 30 days after the posting, the review panel shall have an open meeting to  
29 review the recommendation from the PAG P&T Committee along with written public comment  
30 received as a result of the posting. In addition, the review panel shall provide an opportunity for  
31 public comment at the meeting. The review panel will then make policy recommendations to  
32 the Division.

#### 33 34 **MEDICAID FRAUD PREVENTION**

35 **SECTION 10.15.(a)** The General Assembly finds that Medicaid fraud costs the  
36 State an inordinate amount of money and preventing the fraud before it occurs is in the best  
37 interests of the State. The Department of Health and Human Services is authorized to create a  
38 fraud prevention program that uses information from State and private databases to develop a  
39 fraud risk analysis of Medicaid providers and recipients. This analysis would be used to prevent  
40 fraud before it takes place and to achieve cost avoidance savings. While it is the intent that this  
41 initiative allow broad new access to information and databases across State government, the  
42 plan shall comply with all necessary security measures and restrictions to ensure that access to  
43 any specific information held confidential under federal and State law shall be limited to  
44 authorized persons.

45 **SECTION 10.15.(b)** Notwithstanding any other provision of law to the contrary,  
46 the Department may propose to modify or extend existing contracts or as necessary propose  
47 sole source contracts to timely achieve the Medicaid fraud prevention savings. Any such  
48 modifications or contract extensions or sole source contracts proposed by the Department must  
49 be reviewed and approved by the Secretary of the Department of Administration and reported  
50 to the Senate Appropriations Committee on Health and Human Services, the House of

1 Representatives Appropriations Subcommittee on Health and Human Services, the Fiscal  
2 Research Division, and the Office of State Budget and Management.

3 **SECTION 10.15.(c)** The Department shall report on the activities conducted under  
4 this section to the House Appropriations Subcommittee on Health and Human Services, the  
5 Senate Appropriations Committee on Health and Human Services, and the Fiscal Research  
6 Division on or before April 1, 2011.

7 **SECTION 10.15.(d)** This authority expires one year from enactment of this bill.

## 8 9 **COMMUNITY HEALTH CENTER CHANGES**

10 **SECTION 10.16.** Section 10.37 of S.L. 2009-451 reads as rewritten:

11 "**SECTION 10.37.** Of the funds appropriated in this act for Community Health Grants, ~~the~~  
12 ~~sum of six million eight hundred sixty thousand dollars (\$6,860,000) in recurring funds for the~~  
13 ~~2009-2010 fiscal year and the sum of five million eight hundred nine thousand two hundred~~  
14 ~~twenty-five dollars (\$5,809,225)~~ six million eight hundred sixty thousand dollars (\$6,860,000)  
15 for the 2010-2011 fiscal year shall be allocated as grants on a competitive basis to rural health  
16 centers, free clinics, public health departments, school-based health centers, federally qualified  
17 health centers, and other nonprofit organizations that provide primary medical and dental care,  
18 behavioral health, and preventive health services to uninsured and indigent persons."

## 19 20 **MEDICAID MANAGEMENT INFORMATION SYSTEM (MMIS)** 21 **FUNDS/IMPLEMENTATION OF MMIS**

22 **SECTION 10.17.** Section 10.41 of S.L. 2009-451 is rewritten as follows:

23 "**SECTION 10.41.(a)** Of the funds appropriated in this act to the Department of Health and  
24 Human Services (Department), the sum of ~~ten million seven hundred sixty five thousand one~~  
25 ~~hundred fifty-three dollars (\$10,765,153) for fiscal year 2009-2010 and eleven million seven~~  
26 ~~hundred thirty-seven thousand four hundred fourteen dollars (\$11,737,414) the sum of eight~~  
27 ~~million sixty-four thousand one hundred twenty-eight dollars (\$8,064,128) for fiscal year~~  
28 2010-2011 shall be (i) deposited to the Department's information technology budget code and  
29 (ii) used to match federal funds for the procurement, design, development, and implementation  
30 of the new Medicaid Management Information System (MMIS) and to fund the central  
31 management of the project. The Department shall utilize all prior year earned revenues received  
32 for the MMIS. In the event that the Department does not receive prior year earned revenues in  
33 the amounts authorized by this section, the Department is authorized, with approval of the  
34 Office of State Budget and Management, to utilize other overrealized receipts and funds  
35 appropriated to the Department to achieve the level of funding specified in this section for the  
36 MMIS.

37 "**SECTION 10.41.(b)** The Department shall make full development of the replacement  
38 MMIS a top priority. During the development and implementation of MMIS, the Department  
39 shall develop plans to ensure the timely and effective implementation of enhancements to the  
40 system to provide the following capabilities:

41 (1) Receiving and tracking premiums or other payments required by law.

42 (2) Compatibility with the administration of the Health Information System.

43 The Department shall make every effort to expedite the implementation of the  
44 enhancements. The Office of Information Technology Services shall work in cooperation with  
45 the Department to ensure the timely and effective implementation of the MMIS and  
46 enhancements. The contract between the Department and the contract vendor shall contain an  
47 explicit provision requiring that the MMIS have the capability to fully implement the  
48 administration of NC Health Choice, NC Kids' Care, Ticket to Work, Families Pay Part of the  
49 Cost of Services under the CAP-MR/DD, CAP Children's Program, and all relevant Medicaid  
50 waivers and the Medicare 646 waiver as it applies to Medicaid eligibles. The Department must  
51 have detailed cost information for each requirement before signing the contract. Any contract

1 between the Department and a vendor for the MMIS that does not contain the explicit provision  
2 required under this subsection is void on its face. Notwithstanding any other provision of law to  
3 the contrary, the Secretary of the Department does not have the authority to sign a contract for  
4 the MMIS if the contract does not contain the explicit provision required under this section.

5 **"SECTION 10.41.(c)** Notwithstanding G.S. 114-2.3, the Department shall engage the  
6 services of private counsel with the pertinent information technology and computer law  
7 expertise to review requests for proposals and to negotiate and review contracts associated with  
8 MMIS. The counsel engaged by the Department shall review the MMIS contract between the  
9 Department and the vendor to ensure that the requirements of subsection (a) of this section are  
10 met in their entirety.

11 **"SECTION 10.41.(d)** The Department shall develop a comprehensive schedule for the  
12 development and implementation of the MMIS that fully incorporates federal and State project  
13 management and review requirements. The Department shall ensure that the schedule is as  
14 accurate as possible. Any changes to the design, development, and implementation schedule  
15 shall be reported as part of the Department's quarterly MMIS reporting requirements. The  
16 Department shall submit the schedule to the Chairs of the House of Representatives Committee  
17 on Appropriations and the House of Representatives Subcommittee on Health and Human  
18 Services, the Chairs of the Senate Committee on Appropriations and the Senate Appropriations  
19 Committee on Health and Human Services, and the Fiscal Research Division. Any change to  
20 key milestones in either schedule shall be immediately reported to the Chairs of the House of  
21 Representatives Committee on Appropriations and the House of Representatives Subcommittee  
22 on Health and Human Services, the Chairs of the Senate Committee on Appropriations and the  
23 Senate Appropriations Committee on Health and Human Services, and the Fiscal Research  
24 Division with a full explanation of the reason for the change.

25 **"SECTION 10.41.(e)** Beginning July 1, 2009, the Department shall make quarterly reports  
26 on changes in the functionality and projected costs of the MMIS. The first quarterly submission  
27 shall contain a final report on the contract award to include total costs and functionality of the  
28 MMIS. Each report shall be made to the Chairs of the House of Representatives Committee on  
29 Appropriations and the House of Representatives Subcommittee on Health and Human  
30 Services, the Chairs of the Senate Committee on Appropriations and the Senate Appropriations  
31 Committee on Health and Human Services, and the Fiscal Research Division. A copy of the  
32 final report on the contract award also shall be submitted to the Joint Legislative Commission  
33 on Governmental Operations.

34 **"SECTION 10.41.(f)** Upon initiation of the NC MMIS Program Reporting and Analytics  
35 Project and the Division of Health Services Regulation Project, the Department shall submit all  
36 reports regarding functionality, schedule, and cost in the next regular cycle of reporting  
37 identified in subsections (d) and (e) of this section. The Department shall ensure that the  
38 solution developed in the Reporting and Analytics Project supports the capability, in its initial  
39 implementation, to interface with the North Carolina Teachers' and State Employees' Health  
40 Plan. The costs for this capability shall be negotiated prior to the award of the Reporting and  
41 Analytics Project contract. The Reporting and Analytics Project solution must be completed  
42 simultaneously with the replacement MMIS."  
43

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

45 **SECTION 10.18.** Section 10.46A of S.L. 2009-451 reads as rewritten:

46 **"SECTION 10.46A.(a)** G.S. 110-141 reads as rewritten:

47 **"§ 110-141. Effectuation of Intent of Article.**

48 The North Carolina Department of Health and Human Services shall supervise the  
49 administration of the program in accordance with federal law and shall cause the provisions of  
50 this Article to be effectuated and to secure child support from absent, deserting, abandoning  
51 and non-supporting parents.

1 Effective July 1, 2010, each child support enforcement program being administered by the  
2 Department of Health and Human Services on behalf of counties shall be administered, or the  
3 administration provided for, by the board of county commissioners of those counties. Until July  
4 1, 2010, it shall be the responsibility of the Department of Health and Human Services to  
5 administer or provide for the administration of the program in those counties.

6 A county may negotiate alternative arrangements to the procedure outlined in G.S. 110-130  
7 for designating a local person or agency to administer the provisions of this Article in that  
8 county."

9 **"SECTION 10.46A.(b)** Counties affected by this section shall submit plans to the  
10 Department of Health and Human Services, Division of Social Services, no later than January  
11 1, 2010, outlining the proposed operation of child support enforcement programs. The Division  
12 shall establish the criteria to be included within county plans for operations and review  
13 submitted plans to ensure the appropriate transitioning of administrative and programmatic  
14 responsibility.

15 **"SECTION 10.46A.(c)** Notwithstanding G.S. 143-64.03 and G.S. 143-64.05, the Secretary  
16 of Department of Health and Human Services may transfer at no cost to county governments or  
17 the Eastern Band of the Cherokee Indians for the sole purpose of facilitating their  
18 administration of the child support program no later than July 1, 2010, State-owned equipment,  
19 including, but not limited to, computers, printers, and furniture that is being used by  
20 State-operated child support offices to administer the program. The county government or the  
21 Eastern Band of the Cherokee Indians assuming responsibility for the child support program  
22 effective July 1, 2010, shall identify from the existing equipment and office furnishing which  
23 items their agency will need to administer the child support program. A comprehensive list of  
24 items to be transferred shall be compiled and signed by the manager of the State-operated child  
25 support office and the manager of the county or tribal child support office, and the list will  
26 serve as official documentation of the transfer. Copies of such documentation shall be provided  
27 to the DHHS Controller's Office and the Department of Administration."

## 28 29 **TANF BENEFIT IMPLEMENTATION**

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

31 **"SECTION 10.51.(a)** The General Assembly approves the plan titled "North Carolina  
32 Temporary Assistance for Needy Families State Plan FY-~~2009-2011~~2010-2012," prepared by  
33 the Department of Health and Human Services and presented to the General Assembly. The  
34 North Carolina Temporary Assistance for Needy Families State Plan covers the period October  
35 1, ~~2009~~2010, through September 30, ~~2011~~2012. The Department shall submit the State Plan, as  
36 revised in accordance with subsection (b) of this section, to the United States Department of  
37 Health and Human Services, as amended by this act or any other act of the 2009 General  
38 Assembly.

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

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

48 **"SECTION 10.51.(d)** ~~For the 2009-2010 fiscal year, Electing Counties shall be held~~  
49 ~~harmless to their Work First Family Assistance allocations for the 2008-2009 fiscal year,~~  
50 ~~provided that remaining funds allocated for Work First Family Assistance and Work First~~

1 Diversion Assistance are sufficient for payments made by the Department on behalf of  
2 Standard Counties pursuant to G.S. 108-27.11(b).

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

## 15 16 **JAILS AND DETENTION PROGRAM RECEIPT-SUPPORTED**

17 **SECTION 10.20.** G.S. 153A-222 reads as rewritten:

18 **"§ 153A-222. Inspections of local confinement facilities.**

19 Department personnel shall visit and inspect each local confinement facility at least  
20 semiannually. The Department shall charge each local confinement facility a nonrefundable  
21 annual inspection fee of four hundred twenty dollars (\$420.00) plus a nonrefundable annual  
22 per-bed fee of seventeen dollars and fifty cents (\$17.50). Assessed fees shall be as of July 1 of  
23 each year and shall be based on the number of local confinement facilities and beds in  
24 operation on the date due. The purpose of the inspections is to investigate the conditions of  
25 confinement, the treatment of prisoners, the maintenance of entry level employment standards  
26 for jailers and supervisory and administrative personnel of local confinement facilities as  
27 provided for in G.S. 153A-216(4), and to determine whether the facilities meet the minimum  
28 standards published pursuant to G.S. 153A-221. The inspector shall make a written report of  
29 each inspection and submit it within 30 days after the day the inspection is completed to the  
30 governing body and other local officials responsible for the facility. The report shall specify  
31 each way in which the facility does not meet the minimum standards. The governing body shall  
32 consider the report at its first regular meeting after receipt of the report and shall promptly  
33 initiate any action necessary to bring the facility into conformity with the standards.  
34 Notwithstanding the provisions of G.S. 8-53 or any other provision of law relating to the  
35 confidentiality of communications between physician and patient, the representatives of the  
36 Department of Health and Human Services who make these inspections may review any  
37 writing or other record in any recording medium which pertains to the admission, discharge,  
38 medication, treatment, medical condition, or history of persons who are or have been inmates  
39 of the facility being inspected. Physicians, psychologists, psychiatrists, nurses, and anyone else  
40 involved in giving treatment at or through a facility who may be interviewed by representatives  
41 of the Department may disclose to these representatives information related to an inquiry,  
42 notwithstanding the existence of the physician-patient privilege in G.S. 8-53 or any other rule  
43 of law; provided the patient, resident or client has not made written objection to such  
44 disclosure. The facility, its employees, and any person interviewed during these inspections  
45 shall be immune from liability for damages resulting from the disclosure of any information to  
46 the Department. Any confidential or privileged information received from review of records or  
47 interviews shall be kept confidential by the Department and not disclosed without written  
48 authorization of the inmate or legal representative, or unless disclosure is ordered by a court of  
49 competent jurisdiction. The Department shall institute appropriate policies and procedures to  
50 ensure that this information shall not be disclosed without authorization or court order. The  
51 Department shall not disclose the name of anyone who has furnished information concerning a

1 facility without the consent of that person. Neither the names of persons furnishing information  
2 nor any confidential or privileged information obtained from records or interviews shall be  
3 considered "public records" within the meaning of G.S. 132-1. Prior to releasing any  
4 information or allowing any inspections referred to in this section the patient, resident or client  
5 must be advised in writing that he has the right to object in writing to such release of  
6 information or review of his records and that by an objection in writing he may prohibit the  
7 inspection or release of his records."  
8

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

11 **SECTION 10.21.(a)** The sum of one million dollars (\$1,000,000) is appropriated  
12 to the Department of Health and Human Services, Division of Aging and Adult Services, for  
13 the 2010-2011 fiscal year and thereafter to be used to offer Project C.A.R.E. (Caregiver  
14 Alternatives to Running on Empty) statewide. Project C.A.R.E. is established to assist  
15 caregivers of people with Alzheimer's disease and other dementia.

16 **SECTION 10.21.(b)** Project C.A.R.E. services may include:

- 17 (1) access to a family consultant with expertise in dementia care who can  
18 provide an in-home needs assessment, counseling, and information;
- 19 (2) funds and assistance in securing respite and support services through  
20 in-home personal care, adult day services, group respite, and overnight  
21 residential respite; and
- 22 (3) linkage to training, educational resources, and other assistance as needed.

23 **SECTION 10.21.(c)** Basic requirements for receiving assistance under Project  
24 C.A.R.E. include:

- 25 (1) confirmation of Alzheimer's disease or other types of dementia; and
- 26 (2) residence in North Carolina.

27 **SECTION 10.21.(d)** There are no age restrictions for the person with dementia or  
28 for the family caregiver.

29 **SECTION 10.21.(e)** While there are no income restrictions, the Division of Aging  
30 and Adult Services will give priority to persons with social and economic needs as defined in  
31 the federal Older Americans Act, and the Division will institute a fee schedule and process to  
32 help cover the cost of providing services and support expansion of these services.

33 **SECTION 10.21.(f)** Funding for the Division of Aging and Adult Services to  
34 administer this program shall not exceed the percentage allowed for administration as provided  
35 in the federal Older Americans Act.

36 **SECTION 10.21.(g)** The sum of two hundred thousand dollars (\$200,000)  
37 appropriated to the Department of Health and Human Services, Division of Aging and Adult  
38 Services, for the 2010-2011 fiscal year and thereafter shall be used to support  
39 Alzheimer's-related activities consistent with the goals of Project C.A.R.E. The Division of  
40 Aging and Adult Services will develop and implement an annual plan for use of these funds  
41 and report on their use to the Governor's Advisory Council on Aging and the Study  
42 Commission on Aging.  
43

44 **UNIVERSAL CHILDHOOD VACCINE PROGRAM**

45 **SECTION 10.21A.** The Department of Health and Human Services shall negotiate  
46 with insurance companies in the State their voluntary participation in creating the Universal  
47 Vaccines for Children Program. The program shall include a Childhood Immunization Account  
48 to assist with the purchase, storage, distribution, and quality assurance of childhood vaccines  
49 approved by the Centers for Disease Control and Prevention (CDC). Insurance companies will  
50 contribute the resources necessary to support the operation of the program, including the  
51 CDC-recommended vaccinations of children enrolled in their plans. The Department of Health

1 and Human Services and the Department of Insurance shall work collaboratively to implement  
 2 the Childhood Immunization Account. Local health directors shall continue to enforce  
 3 immunization requirements as provided by Part 2 of Article 6 of Chapter 130A of the General  
 4 Statutes.

5 In the event voluntary participation cannot be negotiated, on October 1, 2010, the Secretary  
 6 of the Department of Health and Human Services shall implement mandatory assessments to  
 7 require insurance companies to financially support the vaccination of children enrolled in their  
 8 plans. Such assessments to cover the full cost of the program shall be made to each insurance  
 9 company consistent with the proportion of covered lives by each company within North  
 10 Carolina to the total number of covered lives in North Carolina.

## 11 **DHHS BLOCK GRANTS**

12 **SECTION 10.22.(a)** Appropriations from federal block grant funds are made for  
 13 the fiscal year ending June 30, 2011, according to the following schedule:

### 14 TEMPORARY ASSISTANCE TO NEEDY FAMILIES 15 (TANF) BLOCK GRANT

#### 16 Local Program Expenditures

##### 17 Division of Social Services

18	01.	Work First Family Assistance	\$87,827,996
19	02.	Work First County Block Grants	94,453,315
20	03.	Child Protective Services – Child Welfare Workers for Local DSS	14,452,391
21	04.	Work First – Boys and Girls Clubs	1,600,000
22	05.	Work First – After-School Services for At-Risk Children	1,639,714
23	06.	Work First – After School Programs for At-Risk Youth in Middle Schools	400,000
24	07.	Work First – Connect, Inc. (Work Central)	220,000
25	08.	Work First – Citizens Schools Program	360,000
26	09.	Adoption Services – Special Children’s Adoption Fund	819,229
27	10.	Family Violence Prevention	880,000
28	11.	Child Welfare Collaborative Transition	674,784

##### 29 Division of Child Development

30	12.	Subsidized Child Care Program	61,087,077
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1	Division of Public Health	
2		
3	13. Teen Pregnancy Prevention Initiatives	360,000
4		
5	DHHS Administration	
6		
7	14. Division of Social Services	1,093,176
8		
9	15. Office of the Secretary	20,000
10		
11	Transfers to Other Block Grants	
12		
13	Division of Child Development	
14		
15	16. Transfer to the Child Care and	
16	Development Fund	84,330,900
17		
18	Division of Social Services	
19		
20	17. Transfer to Social Services Block Grant for Child	
21	Protective Services –Training	1,000,000
22		
23	18. Transfer to Social Services Block Grant for Maternity Homes	471,501
24		
25	19. Transfer to Social Services Block Grant for Teen	
26	Pregnancy Prevention Initiatives	1,250,000
27		
28	20. Transfer to Social Services Block Grant for County	
29	Departments of Social Services for Children's Services	4,500,000
30		
31	21. Transfer to Social Services Block Grant for	
32	Subsidized Child Care Program	2,000,000
33		
34	TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES	
35	(TANF) BLOCK GRANT	\$359,440,083
36		
37	SOCIAL SERVICES BLOCK GRANT	
38		
39	Local Program Expenditures	
40		
41	Divisions of Social Services and Aging and Adult Services	
42		
43	01. County Departments of Social Services	\$ 28,868,189
44	(Transfer from TANF – \$4,500,000)	
45		
46	02. State In-Home Services Fund (DAAS)	2,101,113
47		
48	03. State Adult Day Care Fund (DAAS)	2,155,301
49		
50	04. Child Protective Services/CPS Investigative	
51	Services-Child Medical Evaluation Program (DSS)	609,455



1		
2	05.	Foster Care Services 1,989,363
3		
4	06.	Maternity Homes (Transfer from TANF) 471,501
5		
6	07.	Special Children Adoption Incentive Fund 500,000
7		
8	08.	Child Protective Services-Child Welfare Training
9		for Counties 1,000,000
10		(Transfer from TANF)
11		
12	09.	Home and Community Care Block Grant (HCCBG) 1,834,077
13		
14		Division of Mental Health, Developmental Disabilities, and Substance
15		Abuse Services
16		
17	10.	Mental Health Services Program 422,003
18		
19	11.	Developmental Disabilities Services Program 5,000,000
20		
21	12.	Mental Health Services-Adult and
22		Child/Developmental Disabilities Program/
23		Substance Abuse Services-Adult 3,234,601
24		
25		Division of Child Development
26		
27	13.	Subsidized Child Care Program 3,150,000
28		(Transfer from TANF \$2,000,000)
29		
30		Division of Vocational Rehabilitation
31		
32	14.	Vocational Rehabilitation Services – Easter Seal Society/UCP
33		Community Health Program 188,263
34		
35		Division of Public Health
36		
37	15.	Teen Pregnancy Prevention Initiatives 1,250,000
38		(Transfer from TANF)
39		
40		DHHS Program Expenditures
41		
42		Division of Aging and Adult Services
43		
44	16.	UNC-CH CARES Training Contract 247,920
45		
46		Division of Services for the Blind
47		
48	17.	Independent Living Program 3,633,077
49		
50		Division of Health Service Regulation
51		

1	18.	Adult Care Licensure Program	411,897
2			
3	19.	Mental Health Licensure and Certification Program	205,668
4			
5	DHHS Administration		
6			
7	20.	Division of Aging and Adult Services	688,436
8			
9	21.	Division of Social Services	892,624
10			
11	22.	Office of the Secretary/Controller's Office	138,058
12			
13	23.	Office of the Secretary/DIRM	87,483
14			
15	24.	Division of Child Development	15,000
16			
17	25.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	29,665
18			
19			
20	26.	Division of Health Service Regulation	235,625
21			
22	27.	Office of the Secretary-NC Inter-Agency Council for Coordinating Homeless Programs	250,000
23			
24			
25	28.	Office of the Secretary	48,053
26			
27	Transfers to Other State Agencies		
28			
29	Department of Administration		
30			
31	29.	NC Commission of Indian Affairs In-Home Services for the Elderly	203,198
32			
33			
34	Transfers to Other Block Grants		
35			
36	Division of Public Health		
37			
38	30.	Transfer to Preventive Health Services Block Grant for HIV/STD Prevention and Community Planning	145,819
39			
40			
41	TOTAL SOCIAL SERVICES BLOCK GRANT		\$ 60,006,389
42			
43	LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT		
44			
45	Local Program Expenditures		
46			
47	Division of Social Services		
48			
49	01.	Low-Income Energy Assistance Program (LIEAP)	\$ 70,909,401
50			
51	02.	Crisis Intervention Program (CIP)	40,373,328

1		
2	Local Administration	
3		
4	Division of Social Services	
5		
6	03.    County DSS Administration	6,362,505
7		
8	DHHS Administration	
9		
10	04.    Division of Social Services	275,000
11		
12	05.    Division of Mental Health, Developmental	
13	Disabilities, and Substance Abuse Services	8,128
14		
15	06.    Office of the Secretary/DIRM	276,784
16		
17	07.    Office of the Secretary/Controller's Office	12,332
18		
19	Transfers to Other State Agencies	
20		
21	Department of Commerce	
22		
23	08.    Weatherization Program	500,000
24		
25	09.    Heating Air Repair and Replacement Program (HARRP)	8,103,157
26		
27	10.    Local Residential Energy Efficiency Service	
28	Providers – Weatherization	25,000
29		
30	11.    Local Residential Energy Efficiency Service Providers–HARRP	266,375
31		
32	12.    Department of Commerce Administration –Weatherization	25,000
33		
34	13.    Department of Commerce Administration – HARRP	266,375
35		
36	14.    Department of Administration –N.C. Commission of Indian Affairs	129,807
37		
38	TOTAL LOW-INCOME HOME ENERGY ASSISTANCE	
39	BLOCK GRANT	\$ 127,533,192
40		
41	CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT	
42		
43	Local Program Expenditures	
44	Division of Child Development	
45		
46	01.    Subsidized Child Care Services (CCDF)	\$156,953,297
47		
48	02.    Child Care Services Support – Contract	502,080
49		
50	03.    Subsidized Child Care Services (Transfer from TANF)	84,330,900
51		

1	04. Quality and Availability Initiatives	23,726,564
2		
3	05. TEACH Scholarships	3,800,000
4		
5	Division of Social Services	
6		
7	06. Child Care Services Support – Local	\$16,108,597
8		
9	DHHS Administration	
10		
11	Division of Child Development	
12		
13	07. DCD Administrative Expenses	6,753,387
14		
15	Division of Central Administration	
16		
17	08. DHHS Central Administration – DIRM	
18	Technical Services	774,317
19		
20	TOTAL CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT	\$292,949,143
21		
22	CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT RECEIVED THROUGH	
23	THE AMERICAN RECOVERY AND REINVESTMENT ACT of 2009 (ARRA)	
24		
25	Local Program Expenditures	
26		
27	Division of Child Development	
28		
29	01. Subsidized Child Care Services (CCDF)	\$9,980,997
30		
31	DHHS Program Expenditures	
32		
33	Division of Child Development	
34		
35	02. Quality and Availability Initiatives	2,904,786
36		
37	TOTAL CHILD CARE AND DEVELOPMENT FUND	
38	BLOCK GRANT RECEIVED THROUGH ARRA	\$12,885,784
39		
40	MENTAL HEALTH SERVICES BLOCK GRANT	
41		
42	Local Program Expenditures	
43		
44	01. Mental Health Services – Adult	\$ 6,856,242
45		
46	02. Mental Health Services – Child	5,421,991
47		
48	03. Administration	100,000
49		
50	TOTAL MENTAL HEALTH SERVICES BLOCK GRANT	\$ 12,378,233
51		

1	SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT	
2		
3	Local Program Expenditures	
4		
5	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	
6		
7	01. Substance Abuse Services – Adult	\$ 22,008,080
8		
9	02. Substance Abuse Treatment Alternative for Women	8,107,303
10		
11	03. Substance Abuse – HIV and IV Drug	5,116,378
12		
13	04. Substance Abuse Prevention – Child	7,186,857
14		
15	05. Substance Abuse Services – Child	4,940,500
16		
17	06. Administration	500,000
18		
19	Division of Public Health	
20		
21	08. Risk Reduction Projects	633,980
22		
23	09. Aid-to-Counties	209,576
24		
25	TOTAL SUBSTANCE ABUSE PREVENTION	
26	AND TREATMENT BLOCK GRANT	\$ 48,702,674
27		
28	MATERNAL AND CHILD HEALTH BLOCK GRANT	
29		
30	Local Program Expenditures	
31		
32	Division of Public Health	
33		
34	01. Children's Health Services	\$7,534,865
35		
36	02. Women's Health	7,701,691
37		
38	03. Oral Health	38,041
39		
40	DHHS Program Expenditures	
41		
42	Division of Public Health	
43		
44	04. Children's Health Services	1,368,778
45		
46	05. Women's Health	135,452
47		
48	06. State Center for Health Statistics	179,483
49		
50	07. Quality Improvement in Public Health	14,646
51		

1	08. Health Promotion	88,746
2		
3	09. Office of Minority Health	55,250
4		
5	10. Immunization Program – Vaccine Distribution	382,648
6		
7	DHHS Administration	
8		
9	Division of Public Health	
10		
11	11. Division of Public Health Administration	631,966
12		
13	TOTAL MATERNAL AND CHILD HEALTH BLOCK GRANT	\$ 18,131,566
14		
15	PREVENTIVE HEALTH SERVICES BLOCK GRANT	
16		
17	Local Program Expenditures	
18		
19	Division of Public Health	
20		
21	01. NC Statewide Health Promotion	\$1,730,653
22		
23	02. Services to Rape Victims	197,112
24		
25	03. HIV/STD Prevention and Community Planning	
26	(Transfer from Social Services Block Grant)	145,819
27		
28	DHHS Program Expenditures	
29		
30	Division of Public Health	
31		
32	04. NC Statewide Health Promotion	1,623,117
33		
34	05. Oral Health	70,000
35		
36	06. State Laboratory of Public Health	16,600
37		
38	TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT	\$ 3,783,301
39		
40	COMMUNITY SERVICES BLOCK GRANT	
41		
42	Local Program Expenditures	
43		
44	Office of Economic Opportunity	
45		
46	01. Community Action Agencies	\$ 17,968,944
47		
48	02. Limited Purpose Agencies	998,275
49		
50	DHHS Administration	
51		

1	03. Office of Economic Opportunity	998,274
2		
3	TOTAL COMMUNITY SERVICES BLOCK GRANT	\$ 19,965,493
4		
5	COMMUNITY SERVICES BLOCK GRANT RECEIVED THROUGH THE AMERICAN	
6	RECOVERY AND REINVESTMENT ACT OF 2009 (ARRA)	
7		
8	Local Program Expenditures	
9		
10	Office of Economic Opportunity	
11		
12	01. Community Action Agencies	\$ 10,000,000
13		
14	TOTAL COMMUNITY SERVICES BLOCK GRANT	
15	RECEIVED THROUGH ARRA	\$ 10,000,000
16		

## 17 GENERAL PROVISIONS

18 **SECTION 10.22.(b)** Information to Be Included in Block Grant Plans. – The  
 19 Department of Health and Human Services shall submit a separate plan for each Block Grant  
 20 received and administered by the Department, and each plan shall include the following:

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

32 **SECTION 10.22.(c)** Changes in Federal Fund Availability. – If the Congress of the  
 33 United States increases the federal fund availability for any of the Block Grants administered  
 34 by the Department of Health and Human Services from the amounts appropriated in this  
 35 section, the Department shall allocate the increase proportionally across the program and  
 36 activity appropriations identified for that Block Grant in this section. In allocating an increase  
 37 in federal fund availability, the Department shall not propose funding for new programs or  
 38 activities not appropriated in this section.

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

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

1           **SECTION 10.22.(d)** Appropriations from federal Block Grant funds are made for  
2 the fiscal year ending June 30, 2011, according to the schedule enacted for State fiscal year  
3 2010-2011 or until a new schedule is enacted by the General Assembly.

4           **SECTION 10.22.(e)** All changes to the budgeted allocations to the Block Grants  
5 administered by the Department of Health and Human Services that are not specifically  
6 addressed in this section shall be approved by the Office of State Budget and Management, and  
7 a report shall be submitted to the Joint Legislative Commission on Governmental Operations  
8 for review prior to implementing the changes. All changes to the budgeted allocations to the  
9 Block Grants shall be reported immediately to the House of Representatives Appropriations  
10 Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health  
11 and Human Services, and the Fiscal Research Division. This subsection does not apply to  
12 Block Grant changes caused by legislative salary increases and benefit adjustments.  
13

#### **TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) BLOCK GRANT**

14           **SECTION 10.22.(f)** The sum of one million ninety-three thousand one hundred  
15 seventy-six dollars (\$1,093,176) appropriated in this section in the TANF Block Grant to the  
16 Department of Health and Human Services, Division of Social Services, for the 2010-2011  
17 fiscal year shall be used to support administration of TANF-funded programs.

18           **SECTION 10.22.(g)** The sum of eight hundred eighty thousand dollars (\$880,000)  
19 appropriated under this section in the TANF Block Grant to the Department of Health and  
20 Human Services, Division of Social Services, for the 2010-2011 fiscal year shall be used to  
21 provide domestic violence services to Work First recipients. These funds shall be used to  
22 provide domestic violence counseling, support, and other direct services to clients. These funds  
23 shall not be used to establish new domestic violence shelters or to facilitate lobbying efforts.  
24 The Division of Social Services may use up to seventy-five thousand dollars (\$75,000) in  
25 TANF funds to support one administrative position within the Division of Social Services to  
26 implement this subsection.

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

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

44           **SECTION 10.22.(h)** The sum of one million six hundred thirty-nine thousand  
45 seven hundred fourteen dollars (\$1,639,714) appropriated in this section in TANF Block Grant  
46 funds to the Department of Health and Human Services, Division of Social Services, for the  
47 2010-2011 fiscal year shall be used to expand after-school programs and services for at-risk  
48 children. The Department shall develop and implement a grant program to award grants to  
49 community-based programs that demonstrate the ability to reach children at risk of teen  
50 pregnancy, school dropout, and gang participation. The Department shall award grants to



1 community-based organizations that demonstrate the ability to develop and implement linkages  
2 with local departments of social services, area mental health programs, schools, and other  
3 human services programs in order to provide support services and assistance to the child and  
4 family. These funds may be used to fund one position within the Division of Social Services to  
5 coordinate at-risk after-school programs and shall not be used for other State administration.

6 **SECTION 10.22.(i)** The sum of fourteen million four hundred fifty-two thousand  
7 three hundred ninety-one dollars (\$14,452,391) appropriated in this section to the Department  
8 of Health and Human Services, Division of Social Services, in the TANF Block Grant for the  
9 2010-2011 fiscal year for child welfare improvements shall be allocated to the county  
10 departments of social services for hiring or contracting staff to investigate and provide services  
11 in Child Protective Services cases; to provide foster care and support services; to recruit, train,  
12 license, and support prospective foster and adoptive families; and to provide interstate and post-  
13 adoption services for eligible families.

14 **SECTION 10.22.(j)** The sum of eight hundred nineteen thousand two hundred  
15 twenty nine dollars (\$819,229) appropriated in this section in TANF Block Grant funds to the  
16 Department of Health and Human Services, Special Children Adoption Fund, for the 2010-  
17 2011 fiscal year shall be used in accordance with G.S. 108A-50.2, as enacted in Section 10.48  
18 of this act. The Division of Social Services, in consultation with the North Carolina Association  
19 of County Directors of Social Services and representatives of licensed private adoption  
20 agencies, shall develop guidelines for the awarding of funds to licensed public and private  
21 adoption agencies upon the adoption of children described in G.S. 108A-50 and in foster care.  
22 Payments received from the Special Children Adoption Fund by participating agencies shall be  
23 used exclusively to enhance the adoption services program. No local match shall be required as  
24 a condition for receipt of these funds.

25 **SECTION 10.22.(k)** The sum of four hundred thousand dollars (\$400,000)  
26 appropriated in this section to the Department of Health and Human Services, Division of  
27 Social Services, in TANF Block Grant funds for the 2010-2011 fiscal year shall be used to  
28 expand after-school programs for at-risk youth attending middle school. The Department shall  
29 develop and implement a grant program to award funds to community-based programs  
30 demonstrating the capacity to reach children at risk of teen pregnancy, school dropout, and  
31 gang participation. These funds shall not be used for training or administration at the State  
32 level. All funds shall be distributed to community-based programs, focusing on those  
33 communities where similar programs do not exist in middle schools.

34 **SECTION 10.22.(l)** In implementing the TANF Block Grants, the Department of  
35 Health and Human Services shall review policies, programs, and initiatives to ensure that they  
36 support men in their role as fathers and strengthen fathers' involvement in their children's lives.  
37 The Department shall encourage county departments of social services to ensure their Work  
38 First programs emphasize responsible fatherhood and increased participation by noncustodial  
39 fathers.

40 **SECTION 10.22.(m)** The sum of two hundred twenty thousand dollars (\$220,000)  
41 appropriated in this section to the Department in TANF Block Grant funds for the 2010-2011  
42 fiscal year shall be transferred to Connect, Inc. Connect, Inc., shall report on the number of  
43 people served and the services received as a result of the receipt of funds. The report shall  
44 contain expenditure data, including the amount of funds used for administration and direct  
45 training. The report shall also include the number of people who have been employed as a  
46 direct result of services provided by Connect, Inc., including the length of employment in the  
47 new position. The Department of Health and Human Services shall evaluate the program and  
48 ensure that services provided are not duplicative of local employment security commissions in  
49 the nine **counties** served by Connect, Inc. The evaluation report shall be submitted to the House  
50 of Representatives Appropriations Subcommittee on Health and Human Services, the Senate

1 Appropriations Committee on Health and Human Services, and the Fiscal Research Division no  
2 later than May 1, 2011.

3 **SECTION 10.22.(n)** The sum of one million six hundred thousand dollars  
4 (\$1,600,000) appropriated in this section to the Department in TANF Block Grant funds for  
5 Boys and Girls Clubs for the 2010-2011 fiscal year shall be used to make grants for approved  
6 programs. The Department of Health and Human Services, in accordance with federal  
7 regulations for the use of TANF Block Grant funds, shall administer a grant program to award  
8 funds to the Boys and Girls Clubs across the State in order to implement programs that improve  
9 the motivation, performance, **and** self-esteem of youths and to implement other initiatives that  
10 would be expected to reduce gang participation, school dropout, and teen pregnancy rates. The  
11 Department shall encourage and facilitate collaboration between the Boys and Girls Clubs and  
12 Support Our Students, Communities in Schools, and similar programs to submit joint  
13 applications for the funds if appropriate.

14 **SECTION 10.22.(o)** The sum of six hundred seventy four thousand, seven hundred  
15 eighty four dollars (\$674,784) appropriated in this section to the Department of Health and  
16 Human Services in the TANF Block Grant for the 2010-2011 fiscal year shall be used to  
17 continue support for the Child Welfare Collaborative transition.

18 **SECTION 10.22.(p)** The sum of three hundred sixty thousand dollars (\$360,000)  
19 appropriated to the Department of Health and Human Services, Division of Social Services,  
20 under this section in TANF Block Grant funds for the 2010-2011 fiscal year shall be used to  
21 continue support for the Citizens Schools Program, an urban/rural dropout prevention pilot  
22 program in the Durham and Vance county public school systems.

#### 23 24 **SOCIAL SERVICES BLOCK GRANT**

25 **SECTION 10.22.(q)** Social Services Block Grant funds appropriated to the North  
26 Carolina Inter-Agency Council for Coordinating Homeless Programs and funds appropriated  
27 for child medical evaluations are exempt from the provisions of 10A NCAC 71R .0201(3).

28 **SECTION 10.22.(r)** The sum of one million dollars (\$1,000,000) appropriated in  
29 this section in the Social Services Block Grant to the Department of Health and Human  
30 Services, Division of Social Services, for the 2010-2011 fiscal year shall be used to support  
31 various child welfare training projects as follows:

- 32 (1) Provide a regional training center in southeastern North Carolina.
- 33 (2) Provide training for residential child caring facilities.
- 34 (3) Provide for various other child welfare training initiatives.

35 **SECTION 10.22.(s)** The sum of four hundred seventy-one thousand five hundred  
36 one dollars (\$471,501) appropriated in this section to the Department of Health and Human  
37 Services in the Social Services Block Grant for the 2010-2011 fiscal year shall be used to  
38 support maternity home services.

39 **SECTION 10.22.(t)** The sum of one million nine hundred eighty-nine thousand  
40 three hundred sixty-three dollars (\$1,989,363) appropriated in this section in the Social  
41 Services Block Grant for the 2010-2011 fiscal year shall be allocated in support of State foster  
42 home children.

43 **SECTION 10.22.(u)** The Department of Health and Human Services is authorized,  
44 subject to the approval of the Office of State Budget and Management, to transfer Social  
45 Services Block Grant funding allocated for departmental administration between divisions that  
46 have received administrative allocations from the Social Services Block Grant.

47 **SECTION 10.22.(v)** Social Services Block Grant funds appropriated for the  
48 Special Children's Adoption Incentive Fund will require fifty percent (50%) local match.

#### 49 50 **LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT**

1           **SECTION 10.22.(w)** Additional emergency contingency funds received may be  
2 allocated for Energy Assistance Payments or Crisis Intervention Payments without prior  
3 consultation with the Joint Legislative Commission on Governmental Operations. Additional  
4 funds received shall be reported to the Joint Legislative Commission on Governmental  
5 Operations and the Fiscal Research Division upon notification of the award. The Department of  
6 Health and Human Services shall not allocate funds for any activities, including increasing  
7 administration, other than assistance payments, without prior consultation with the Joint  
8 Legislative Commission on Governmental Operations.

9           In addition to funds available for weatherization appropriated within the  
10 Low-Income Home Energy Assistance Block Grant, funds available through the American  
11 Recovery and Reinvestment Act of 2009 shall be used to continue to enhance weatherization  
12 activities coordinated by local agencies.  
13

#### 14 **CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT**

15           **SECTION 10.22.(x)** Payment for subsidized child care services provided with  
16 federal TANF funds shall comply with all regulations and policies issued by the Division of  
17 Child Development for the subsidized child care program.

18           **SECTION 10.22.(y)** If funds appropriated through the Child Care and  
19 Development Fund Block Grant for any program cannot be obligated or spent in that program  
20 within the obligation or liquidation periods allowed by the federal grants, the Department may  
21 move funds to child care subsidies, unless otherwise prohibited by federal requirements of the  
22 grant, in order to use the federal funds fully.

23           **SECTION 10.22.(z)** Funds from the Child Care and Development Fund Block  
24 Grant received through the American Recovery and Reinvestment Act of 2009 shall be used to  
25 increase access to child care subsidy. To help address the economic downturn and increasing  
26 unemployment in North Carolina, the Department of Health and Human Services, Division of  
27 Child Development, shall adopt temporary policies that facilitate and expedite the prudent  
28 expenditure of these funds as follows:

- 29           (1) Permit the local purchasing agencies to issue time-limited vouchers to assist  
30 counties in managing onetime, nonrecurring subsidy funding.
- 31           (2) Extend the current 30/60-day job search policy to six months when a  
32 recipient experiences a loss of employment.
- 33           (3) Provide an up-front job search period of six months for applicants who have  
34 lost employment since October 1, 2008.
- 35           (4) Provide a job search period of six months for recipients that complete school  
36 and are entering the job market.
- 37           (5) Notwithstanding any other provision of law, extend the 24-month education  
38 time limit for an additional 12 months for a child care recipient who has lost  
39 a job since October 1, 2008, or otherwise needs additional training to  
40 enhance his or her marketable skills for job placement due to the economic  
41 downturn and who has depleted his or her 24-month allowable education  
42 time.
- 43           (6) Lower the number of hours a parent must be working in order to be eligible  
44 for subsidy to assist parents who are continuing to work but at reduced  
45 hours.

46           **SECTION 10.22.(aa)** If American Recovery and Reinvestment Act of 2009 funds  
47 appropriated through the Child Care and Development Fund Block Grant for any program  
48 cannot be obligated or spent in that program within the obligation or liquidation periods  
49 allowed by the federal grants, the Department may move funds to child care subsidies, unless  
50 otherwise prohibited by federal requirements of the grant, in order to use the federal funds  
51 fully.

**MATERNAL AND CHILD HEALTH BLOCK GRANT**

**SECTION 10.22.(bb)** 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 10.22.(cc)** The Department of Health and Human Services shall ensure that there will be follow-up testing in the Newborn Screening Program.

**COMMUNITY SERVICES BLOCK GRANT**

**SECTION 10.22.(dd)** In accordance with the intent of the American Recovery and Reinvestment Act of 2009, the North Carolina General Assembly strongly encourages recipients of Community Services Block Grant and Community Services Block Grant Recovery funds to enhance cooperation with county departments of social services and regional food banks to increase benefits enrollment for eligible persons.

**SECTION 10.22.(ee)** The sum of two hundred sixty-two thousand four hundred thirty-one dollars (\$262,431) appropriated in this section in the Community Services Block Grant, received through the American Recovery and Reinvestment Act of 2009 (ARRA), to the Department of Health and Human Services, Division of Social Services, for the 2010-2011 fiscal year shall be used for coordination activities relating to the identification and enrollment of eligible individuals and families in federal, State, and local benefit programs.

**PART XI. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES****FEE INCREASES**

**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

1 areas and/or under certain conditions or in certain quantities or concentrations except that any  
2 person licensed to sell such pesticides may purchase and possess such pesticides without a  
3 permit. The Board may require all persons issued such permits to maintain records as to the use  
4 of the restricted use pesticides. The Board may authorize the use of restricted use pesticides by  
5 persons licensed under the North Carolina Structural Pest Control Act without a permit. A  
6 nonrefundable fee of ten dollars (\$10.00) shall be charged for each examination required by  
7 this section. This examination fee is in addition to the certification or recertification fee, and  
8 any other fee authorized pursuant to any other provision of the North Carolina Pesticide Law of  
9 1971, as amended.

10 (c) A fee of fifty dollars (\$50.00) shall be charged for examination of individuals  
11 seeking to be designated as Worker Protection Designated Trainers, in accordance with  
12 provisions of the Federal Worker Protection Standard set forth in 40 C.F.R. Part 170, and  
13 subsequent amendments to those regulations."

14 **SECTION 11.1.(b)** G.S. 143-448 reads as rewritten:

15 "**§ 143-448. Licensing of pesticide dealers; fees.**

16 (a) No person shall act in the capacity of a pesticide dealer, or shall engage or offer to  
17 engage in the business of, advertise as, or assume to act as a pesticide dealer unless he is  
18 licensed annually as provided in this Part. A separate license and fee shall be obtained for each  
19 location or outlet from which restricted use pesticides are distributed, sold, held for sale, or  
20 offered for sale.

21 (b) Applications for a pesticide dealer license shall be in the form and shall contain the  
22 information prescribed by the Board. Each application shall be accompanied by a  
23 non-refundable fee of ~~fifty dollars (\$50.00)~~ seventy-five dollars (\$75.00). All licenses issued  
24 under this Part shall expire on December 31 of the year for which they are issued.

25 (c) The license for a pesticide dealer may be renewed annually upon application to the  
26 Board, accompanied by a fee of fifty dollars (\$50.00) for each license, on or before the first day  
27 of January of the calendar year for which the license is issued.

28 (d) Repealed by Session Laws 1981, c. 592, s. 6.

29 (e) Every licensed pesticide dealer who changes his address or place of business shall  
30 immediately notify the Board.

31 (f) The Board shall issue to each applicant that satisfies the requirements of this Part a  
32 license which entitles the applicant to conduct the business described in the application for the  
33 calendar year for which the license is issued, unless the license is sooner revoked or  
34 suspended."

35 **SECTION 11.1.(c)** G.S. 143-449 reads as rewritten:

36 "**§ 143-449. Qualifications for pesticide dealer license; examinations.**

37 (a) An applicant for a license must present evidence satisfactory to the Board  
38 concerning his qualifications for such license.

39 (b) Each applicant shall satisfy the Board as to his responsibility in carrying on the  
40 business of a pesticide dealer. Each applicant for an original license must demonstrate upon  
41 written, or written and oral, examination to be prescribed by the Board his knowledge of  
42 pesticides, their usefulness and their hazards; his competence as a pesticide dealer; and his  
43 knowledge of the laws and regulations governing the use and sale of pesticides. A  
44 nonrefundable fee of fifty dollars (\$50.00) shall be charged for each examination required by  
45 this section. This examination fee is in addition to any fee authorized pursuant to any other  
46 provision of the North Carolina Pesticide Law of 1971, as amended.

47 (c) The Board shall by regulation:

48 (1) Designate what persons or class of persons shall be required to pass the  
49 examination in the case of a pesticide dealer operating more than one  
50 location, and in the case of an applicant that is a corporation, governmental  
51 unit or agency, or other organized group;

- 1 (2) Provide for renewal license examinations at intervals not more frequent than  
2 four years."

3 **SECTION 11.1.(d)** G.S. 143-452 reads as rewritten:

4 **"§ 143-452. Licensing of pesticide applicators; fees.**

5 (a) No person shall engage in the business of pesticide applicator within this State at  
6 any time unless he is licensed annually as a pesticide applicator by the Board.

7 (b) Applications for pesticide applicator license shall be in the form and shall contain  
8 the information prescribed by the Board. Each application shall be accompanied by a  
9 non-refundable fee of ~~fifty dollars (\$50.00)~~ seventy-five dollars (\$75.00) for each pesticide  
10 applicator's license. In addition, an annual inspection fee of twenty-five dollars (\$25.00) shall  
11 be submitted for each aircraft to be licensed. Should any aircraft fail to pass inspection, making  
12 it necessary for a second inspection to be made, the Board shall require an additional  
13 twenty-five-dollar (\$25.00) inspection fee. In addition to the required inspection, unannounced  
14 inspections may be made without charge to determine if equipment is properly calibrated and  
15 maintained in conformance with the laws and regulations. All aircraft licensed to apply  
16 pesticides shall be identified by a license plate or decal furnished by the Board at no cost to the  
17 licensee, which plate or decal shall be affixed on the aircraft in a location and manner  
18 prescribed by the Board. No applicator inspection or license fee, original or renewal, shall be  
19 charged to State agencies or local governments or their employees. Inspections of ground  
20 pesticide application equipment may be made. Any such equipment determined to be faulty or  
21 unsafe shall not be used for the purpose of applying a pesticide(s) until such time as proper  
22 repairs and/or alterations are made.

23 (c) Repealed by Session Laws 1981, c. 592, s. 6.

24 (d) The Board shall classify licenses to be issued under this Part. Separate  
25 classifications or subclassifications shall be specified for (i) ground and aerial methods of  
26 application, and (ii) State and local government units engaged in the control of rodents and  
27 insects of public health significance. The Board may include such further classifications and  
28 subclassifications as the Board considers appropriate, including provisions for licensing of  
29 apprentice pesticide applicators. For aerial applicators, a license shall be required for both the  
30 contractor and the pilot. Each classification and subclassification may be subject to separate  
31 testing procedures and requirements.

32 (e) Every licensed pesticide applicator who changes his address shall immediately  
33 notify the Board.

34 (f) If the Board finds the applicant qualified to apply pesticides in the classifications he  
35 has applied for and, if the applicant files the bond or insurance required under G.S. 143-467,  
36 and if the applicant applying for a license to engage in aerial application of pesticides has met  
37 all of the requirements of the Federal Aviation Agency to operate the equipment described in  
38 the application, the Board shall issue a pesticide applicator's license limited to the  
39 classifications for which he is qualified. Every such license shall expire at the end of the  
40 calendar year of issue unless it has been revoked or suspended prior thereto by the Board for  
41 cause, or unless such financial security required under G.S. 143-467 is dated to expire at an  
42 earlier date, in which case said license shall be dated to expire upon expiration date of said  
43 financial security. The license may restrict the applicant to the use of a certain type or types of  
44 equipment or pesticides or to certain areas if the Board finds that the applicant is qualified to  
45 use only such type or types. If a license is not issued as applied for, the Board shall inform the  
46 applicant in writing of the reasons therefor.

47 (g) A pesticide applicator's license shall not be transferable. When there is a transfer of  
48 ownership, management, or operation of a business of a licensee hereunder, the new owner,  
49 manager, or operator (as the case may be) whether it be an individual, firm, partnership,  
50 corporation, or other entity, must have available a licensed pesticide applicator to supervise the  
51 pesticide application business prior to continuance of such business.

1 (h) Repealed by Session Laws 1987, c. 559, s. 15."

2 SECTION 11.1.(e) G.S. 143-453 reads as rewritten:

3 **"§ 143-453. Qualifications for pesticide applicator's license; examinations.**

4 (a) An applicant for a license must present satisfactory evidence to the Board  
5 concerning his qualifications for a pesticide applicator license. The contractor and each pilot  
6 involved in aerial application of pesticides shall be licensed.

7 Those qualifications, in the case of a pilot, shall include at least 125 hours and one year's  
8 flying experience as a pilot in the field of aerial pesticide application. A pilot lacking 125 hours  
9 and one year's experience as a pilot in the field of aerial pesticide application shall be licensed  
10 as an apprentice aerial pesticide applicator pilot. All aerial applications of pesticides by a  
11 licensed apprentice shall be conducted under the direct supervision of a licensed pesticide  
12 applicator pilot. The supervising pilot, while directly supervising an apprentice, shall operate  
13 out of the same airstrip as the apprentice and shall be available periodically throughout each  
14 day to provide advice and assistance to the apprentice. A nonrefundable fee of fifty dollars  
15 (\$50.00) shall be charged for the examination required by this subsection. Such examination  
16 fee shall be charged in addition to the fees authorized pursuant to subsection (b) of this section  
17 or any other provision of the North Carolina Pesticide Law of 1971, as amended.

18 (b) Each applicant shall satisfy the Board as to his knowledge of the laws and  
19 regulations governing the use and application of pesticides in the classifications he has applied  
20 for (manually or with various equipment that he may have applied for a license to operate), and  
21 as to his responsibility in carrying on the business of a pesticide applicator. Each applicant for  
22 an original license must demonstrate upon written, or written and oral, examination to be  
23 prescribed by the Board his knowledge of pesticides, their usefulness and their hazards; his  
24 competence as a pesticide applicator; and his knowledge of the laws and regulations governing  
25 the use and application of pesticides in the classification for which he has applied. A  
26 nonrefundable fee of fifty dollars (\$50.00) shall be charged for the core exam and an additional  
27 twenty dollars (\$20.00) shall be charged for each additional specific classification licensure.  
28 Such examination fees shall be charged in addition to the fees authorized pursuant to subsection  
29 (a) of this section or any other provision of the North Carolina Pesticide Law of 1971, as  
30 amended.

31 (c) The Board shall by regulation:

- 32 (1) Designate what persons or class of persons shall be required to pass the  
33 examination in the case of an applicant that is a corporation or governmental  
34 unit or agency;
- 35 (2) Provide for license renewal examinations at intervals not more frequent than  
36 four years, or more frequently if found by the Board to be required to be  
37 necessary in order to qualify North Carolina's State pesticide control plan for  
38 federal approval."

39 SECTION 11.1.(f) G.S. 143-455 reads as rewritten:

40 **"§ 143-455. Pest control consultant license.**

41 (a) No person shall perform services as a pest control consultant without first procuring  
42 from the Board a license. Applications for a consultant license shall be in the form and shall  
43 contain the information prescribed by the Board. The application for a license shall be  
44 accompanied by a non-refundable annual fee of ~~fifty dollars (\$50.00)~~ seventy-five dollars  
45 (\$75.00).

46 (b) An applicant for a consultant license must present satisfactory evidence to the Board  
47 concerning his qualifications for such license. The Board may classify consultant licenses into  
48 one or more classifications or subclassifications based upon types of consulting services  
49 performed or to be performed. Such classifications and subclassifications may reflect the crops  
50 involved in the consulting service, the discipline or training of consultant, the discretion or lack  
51 of discretion involved in the consulting service, and the site or location of the service. Each

1 classification and subclassification may be subject to separate testing procedures and  
2 requirements, and may be subject to its own minimum standards of training in specialized  
3 subject matter from a recognized college or university, or equivalent specialized consulting  
4 experience or training. A nonrefundable fee of fifty dollars (\$50.00) shall be charged for the  
5 consultant examination and an additional twenty dollars (\$20.00) shall be charged for each  
6 additional specific classification licensure permitted by this subsection. Such examination fee  
7 shall be charged in addition to the fees authorized pursuant to subsection (a) of this section or  
8 any other provision of the North Carolina Pesticide Law of 1971, as amended. Qualifications  
9 for licensing may be less stringent if the licensee is restricted to making recommendations  
10 contained in publications recognized by the Board as appropriate for a specific consulting  
11 classification or subclassification.

12 (c) Each applicant shall satisfy the Board as to his responsibility in carrying on the  
13 business of a pesticide consultant. Each applicant for an original license must demonstrate upon  
14 written, or written and oral, examination to be prescribed by the Board his knowledge of  
15 pesticides, their usefulness and their hazards; his competence as a pesticide consultant; and his  
16 knowledge of the laws and regulations governing the use and sale of pesticides.

17 (d) Pest control consultants shall be subject to the same provisions as pesticide  
18 applicators concerning penalties for late applications for license, changes of address,  
19 transferability of licenses, periodic reexamination, and examinations for corporate applicants."

20 **SECTION 11.1.(g)** G.S. 106-65.27 reads as rewritten:

21 "**§ 106-65.27. Examinations of applicants; fee; license not transferable.**

22 (a) Certified Applicator. – All applicants for a certified applicator's identification card  
23 shall demonstrate practical knowledge of the principles and practices of pest control and safe  
24 use of pesticides. Competency shall be determined on the basis of written examinations to be  
25 provided and administered by the Committee and, as appropriate, performance testing. Testing  
26 shall be based upon examples of problems and situations appropriate to the particular phase or  
27 subphase of structural pest control for which application is made and shall include, where  
28 relevant, the following areas of competency:

- 29 (1) Label and labeling comprehension.
- 30 (2) Safety factors associated with pesticides – toxicity, precautions, first aid,  
31 proper handling, etc.
- 32 (3) Influence of and on the environment.
- 33 (4) Pests – identification, biology, and habits.
- 34 (5) Pesticides – types, formulations, compatibility, hazards, etc.
- 35 (6) Equipment – types and uses.
- 36 (7) Application techniques.
- 37 (8) Laws and regulations.

38 An applicant for a certified applicator's identification card shall submit an examination fee  
39 of ~~ten dollars (\$10.00)~~ twenty-five dollars (\$25.00) for each phase or subphase of structural  
40 pest control in which the applicant chooses to be examined. An examination for more than one  
41 phase or subphase may be taken at the same time at any regularly scheduled examination.  
42 Frequency of such examinations shall be at the discretion of the Committee, provided that a  
43 minimum of two examinations be given annually. The examination will cover each phase or  
44 subphase of structural pest control for which application is being made.

45 (b) License. – Each applicant for an original license must demonstrate upon written  
46 examination, to be provided and administered by the Committee, his competency as a structural  
47 pest control operator for the phase or subphase in which he is applying for a license. Frequency  
48 of such examinations shall be at the discretion of the Committee, provided that a minimum of  
49 two examinations shall be given annually. The examination will cover each phase or subphase  
50 of structural pest control for which application is being made. All applicants for a license shall  
51 register with the Division on a prescribed form. A license examination fee of ~~twenty-five~~



1 ~~dollars (\$25.00)~~ fifty dollars (\$50.00) shall be charged for each phase or subphase of structural  
2 pest control in which the applicant chooses to be examined. An examination for more than one  
3 phase or subphase of structural pest control may be taken at the same time.

4 (c) A license, certified applicator's identification card or registered technician's  
5 identification card is not transferable from one person to another. A licensee or certified  
6 applicator may change the name of his business or employer's business on his license certificate  
7 or certified applicator's identification card upon application to the Division.

8 (c1) When there is a transfer of ownership, management, operation of a structural pest  
9 control business or in the event of the death or disability of a licensee there shall be not more  
10 than a total of 90 days during any 12-month period in which said business shall operate without  
11 a licensee assigned to it; provided that, in the event of the death or disability of a licensee, the  
12 Committee shall have the authority to grant up to an additional 90 days within the 12-month  
13 period in which a business may operate without a licensee assigned to it.

14 The owner, partnership, corporation, or other entity operating said business shall, within 10  
15 days of such transfer or disability or within 30 days of death, designate in writing to the  
16 Division a certified applicator who shall be responsible for and in charge of the structural pest  
17 control operations of said business during the 90-day period. If the owner, partnership,  
18 corporation, or other entity operating the business fails to designate a certified applicator who  
19 shall be responsible for the operation of the business during the 90-day period, the business  
20 shall cease all structural pest control activities upon expiration of the applicable notification  
21 period and shall not resume operations until a certified applicator is so designated.

22 During the 90-day period the use of any restricted use pesticide shall be by or under the  
23 direct supervision of the certified applicator designated in writing to the Division. The  
24 designated certified applicator shall be responsible for correcting all deviations on all existing  
25 contracts and for all work performed under his supervision.

26 The new licensee shall be responsible for correcting all deviations on all existing contracts  
27 and for all work performed under his supervision.

28 (d) The Committee shall by regulation provide for:

- 29 (1) Establishing categories of certified applicators, along with such appropriate  
30 subcategories as are necessary, to meet the requirements of this Article;
- 31 (2) All licensees licensed prior to October 21, 1976, to become qualified as  
32 certified applicators; and
- 33 (3) Requalifying certified applicators thereafter as required by the federal  
34 government at intervals no more frequent than that specified by federal law  
35 and federal regulations."

36 **SECTION 11.1.(h)** G.S. 106-65.31 reads as rewritten:

37 **"§ 106-65.31. Annual certified applicator card and license fee; registration of servicemen,  
38 salesmen, solicitors, and estimators; identification cards.**

39 (a) Certified Applicator's Identification Card. – The fee for issuance or renewal of a  
40 certified applicator's identification card shall be ~~thirty dollars (\$30.00)~~ fifty dollars (\$50.00).  
41 Within 75 days after the employment of a certified applicator, the licensee shall apply to the  
42 Division for the issuance of a certified applicator's identification card. A certified applicator's  
43 identification card shall expire on June 30 of each year and shall be renewed annually. All  
44 certified applicators who fail or neglect to renew their card on or before June 30 but make  
45 application before January 1 of the following year may have their card renewed without having  
46 to be reexamined unless the applicant is scheduled for periodic reexamination under regulations  
47 adopted pursuant to G.S. 106-65.27(d)(3). All applicants submitting applications for the  
48 renewal of their cards after June 30 shall not use or supervise the use of restricted use pesticides  
49 until a new card has been issued.

50 Any certified applicator whose employment is terminated with a licensee or agent prior to  
51 the end of any license year may at any time prior to the end of the license year be reissued a

1 certified applicator's identification card for the remainder of the license year as an employee of  
2 another licensee or agency or as an individual for a fee of five dollars (\$5.00). The licensee  
3 shall notify the Division of the termination or change in status of any certified applicator.

4 Any certified applicator whose identification card is lost or destroyed or changed in any  
5 way may be reissued a new card for the remainder of the license year for a fee of five dollars  
6 (\$5.00).

7 (b) License. – The fee for the issuance or renewal of a license for any one phase of  
8 structural pest control shall be ~~one hundred fifty dollars (\$150.00)~~ two hundred dollars  
9 (\$200.00). Each additional phase shall be ~~sixty five dollars (\$65.00)~~ seventy-five dollars  
10 (\$75.00). The fee for each subphase shall be fifteen dollars (\$15.00). Licenses shall expire on  
11 June 30 of each year and shall be renewed annually. All licensees who fail or neglect to renew  
12 their license on or before June 30, but who make application before January 1 of the following  
13 year, may have their license renewed without having to be reexamined, unless the applicant is  
14 scheduled for periodic reexamination under regulations adopted pursuant to  
15 G.S. 106-65.27(d)(3). No structural pest control work may be performed until the license has  
16 been renewed or until a new license has been issued.

17 Any licensee whose employment is terminated by his employer or any licensee who is  
18 transferred to another company or location other than the company or location shown on his  
19 license certificate, may at any time, have his license reissued for the remainder of the license  
20 year for a fee of ten dollars (\$10.00).

21 Any licensee whose license is lost or destroyed may secure a duplicate license for a fee of  
22 ten dollars (\$10.00).

23 (b1) Registration. – Within 75 days after the hiring of an employee who is either an  
24 estimator, salesman, serviceman, or solicitor, the licensee shall apply to the Division for the  
25 issuance of an identification card for such employee. The application must be accompanied by  
26 a fee of ~~twenty five dollars (\$25.00)~~ forty dollars (\$40.00) for each card. The card shall be  
27 issued in the name of the employee and shall bear the name of the employing licensee, the  
28 employer's license number and phases, the name and address of the employer's business, and  
29 such other information as the Committee may specify. The identification card shall be carried  
30 by the employee on his person at all times while performing any phase of structural pest control  
31 work. The card must be displayed upon demand by the Commissioner, the Committee, the  
32 Division, or any representative thereof, or the person for whom any phase of structural pest  
33 control work is being performed. A registered technician's identification card must be renewed  
34 annually on or before June 30 by payment of a renewal fee of twenty-five dollars (\$25.00). If a  
35 card is lost or destroyed the licensee may secure a duplicate for a fee of five dollars (\$5.00). The  
36 licensee shall notify the Division of the termination or change in status of any registered  
37 technician. All identification cards expire when a license expires.

38 When a license is reissued, the licensee shall be responsible for registering and securing  
39 identification cards for all existing employees who engage in structural pest control within 10  
40 days of the reissuance of the license.

41 A certified applicator who is not an employee of a licensed individual shall register the  
42 names of all employees under his supervision who are engaged in the performance of structural  
43 pest control with the Division and shall purchase a registered technician's identification card for  
44 each such employee.

45 (b2) No person shall act as an estimator, serviceman, salesman, solicitor, or agent for any  
46 licensee under this Article nor shall any such person be issued an identification card by the  
47 Committee who has within three years of the date of application for an identification card been  
48 convicted of, plead guilty or nolo contendere, or forfeited bond in any State or federal court for  
49 a felony or any violation of the North Carolina Structural Pest Control Act or any regulation  
50 promulgated by the Committee. This provision shall not apply to any person whose citizenship  
51 has been restored as provided by law.

1 (b3) No person or business shall advertise as a contractor for structural pest control  
2 services nor actually contract for such services unless that person or business advertises or  
3 contracts in the name of the company shown on the license certificate of the licensee or  
4 identification card of the certified applicator who will perform the services.

5 (c) Notwithstanding any other provision of this law, the Committee may adopt rules to  
6 provide for the issuance of licenses, certified applicator's cards, and registered technician's  
7 identification cards with staggered expiration dates and may prorate renewal fees on a monthly  
8 basis to implement such rules."

## 9 10 **PART XII. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

### 11 12 **FISHERY RESOURCE GRANT FUNDS TO BE USED FOR AT-SEA OBSERVER** 13 **PROGRAM**

14 **SECTION 12.1.** Of the funds appropriated to the Department of Environment and  
15 Natural Resources for the Fishery Resource Grant Program, the sum of three hundred thousand  
16 dollars (\$300,000) shall be used by the Division of Marine Fisheries for an At-Sea Observer  
17 Program. This funding is necessary to meet federal requirements to monitor gill net fisheries  
18 statewide and record sea turtle and other endangered and threatened species interactions. These  
19 funds will support the establishment of three FTE Marine Fisheries Technician II positions for  
20 at-sea observer coverage to allow the gill net fisheries to continue as well as enhance the ability  
21 of the Division to collect and analyze data necessary to determine the health of fish stock  
22 measures such as spawning stock biomass, mortality, recruitment, and sustainable harvest  
23 levels that form the basis for all management actions recommended in Fishery Management  
24 Plans.

### 25 26 **TRANSFER CERTAIN ENVIRONMENTAL HEALTH PROGRAMS**

27 **SECTION 12.3.(a)** The following sections of the Division of Environmental  
28 Health that support programs implemented through local health departments and programs  
29 primarily focused on food safety and other public health concerns are transferred from the  
30 Department of Environment and Natural Resources to the Department of Health and Human  
31 Services with all the elements of a Type I transfer as defined by G.S. 143A-6.

- 32 (1) Environmental Health Services Section.
- 33 (2) Public Health Pest Management Section.
- 34 (3) On-site Water Protection Section.
- 35 (4) Radiation Protection Section.
- 36 (5) Shellfish Sanitation and Recreational Water Quality Section.
- 37 (6) Office of Education and Training.

38 The Public Water Supply Section shall remain within the Department of  
39 Environment and Natural Resources.

40 **SECTION 12.3.(b)** The Revisor of the Statutes shall make the conforming  
41 statutory changes necessary to reflect this transfer.

42 **SECTION 12.3.(c)** This transfer is effective July 1, 2010, and funds transferred  
43 shall be net of any changes enacted by this act.

### 44 45 **DAM SAFETY FEE**

46 **SECTION 12.6.** Effective October 1, 2010, a onetime Dam Evaluation Fee of one  
47 thousand one hundred dollars (\$1,100) per equivalent dam unit shall be paid to the Department  
48 of Environment and Natural Resources by electric utility companies in a lump-sum payment  
49 based on the number of dams owned by each company that fall under the jurisdiction of the  
50 Dam Safety Law of 1967, Part 3 of Article 21 of Chapter 143 of the General Statutes. Fees  
51 collected pursuant to this section shall be used to support onetime limited engineering position

1 and operating funds necessary to perform the evaluation and integration of regulated power  
 2 plant dams into the Department's dam safety inventory program. These fees shall remain  
 3 available to the Department and shall not revert until the evaluation and integration of regulated  
 4 power plants is complete.

5  
 6 **AMEND HAZARDOUS WASTE FEE**

7 **SECTION 12.7.** G.S. 130A-294.1(f) reads as rewritten:

8 "(f) A person who generates 100 kilograms or more of hazardous waste in any calendar  
 9 month during the year beginning 1 July and ending 30 June but less than 1000 kilograms of  
 10 hazardous waste in each calendar month during that year shall pay an annual fee of ~~one~~  
 11 ~~hundred twenty-five dollars (\$125.00); one hundred seventy dollars (\$170.00).~~"

12  
 13 **PART XIII. DEPARTMENT OF COMMERCE**

14  
 15 **JMAC RESERVE**

16 **SECTION 13.1.(a)** G.S. 143B-437.012(b) is repealed.

17 **SECTION 13.1.(b)** Article 9 of Chapter 143C of the General Statutes is amended  
 18 by adding a new section to read:

19 **"§ 143C-9-7. JMAC Reserve Fund.**

20 The State Controller shall establish a reserve in the General Fund to be known as the JMAC  
 21 Reserve. Funds from the JMAC Reserve shall not be expended or transferred except in  
 22 accordance with G.S. 143B-437.012. It is the intent of the General Assembly to appropriate  
 23 funds annually to the JMAC Reserve established in this section in amounts sufficient to meet  
 24 the anticipated cash requirements for each fiscal year of the Job Maintenance and Capital  
 25 Development Program established pursuant to G.S. 143B-437.012."

26  
 27 **NER BLOCK GRANTS**

28 **SECTION 13.3.(a)** Appropriations from federal block grant funds are made for the  
 29 fiscal year ending June 30, 2011, according to the following schedule:

30  
 31 **COMMUNITY DEVELOPMENT BLOCK GRANT**

32		
33	01. State Administration	\$ 1,000,000
34		
35	02. Scattered Site Housing	16,500,000
36		
37	03. Economic Development	7,210,000
38		
39	04. Small Business/Entrepreneurship	3,000,000
40		
41	05. NC Catalyst	8,240,000
42		
43	06. State Technical Assistance	450,000
44		
45	07. Infrastructure	8,000,000
46		
47	08. Capacity Building	600,000

48  
 49 **TOTAL COMMUNITY DEVELOPMENT**  
 50 **BLOCK GRANT – 2011 Program Year** \$ 45,000,000  
 51

1           **SECTION 13.3.(b)** Decreases in Federal Fund Availability. – If federal funds are  
2 reduced below the amounts specified above after the effective date of this act, then every  
3 program in each of these federal block grants shall be reduced by the same percentage as the  
4 reduction in federal funds.

5           **SECTION 13.3.(c)** Increases in Federal Fund Availability for Community  
6 Development Block Grant. – Any block grant funds appropriated by the Congress of the United  
7 States in addition to the funds specified in this section shall be expended as follows: each  
8 program category under the Community Development Block Grant shall be increased by the  
9 same percentage as the increase in federal funds.

10           **SECTION 13.3.(d)** Limitations on Community Development Block Grant Funds. –  
11 Of the funds appropriated in this section for the Community Development Block Grant, the  
12 following shall be allocated in each category for each program year: up to one million dollars  
13 (\$1,000,000) may be used for State Administration; up to sixteen million five hundred thousand  
14 dollars (\$16,500,000) may be used for Scattered Site Housing; up to seven million two hundred  
15 ten thousand dollars (\$7,210,000) may be used for Economic Development; up to three million  
16 dollars (\$3,000,000) may be used for Small Business/Entrepreneurship; not less than eight  
17 million two hundred forty thousand dollars (\$8,240,000) shall be used for NC Catalyst; up to  
18 four hundred fifty thousand dollars (\$450,000) may be used for State Technical Assistance; up  
19 to eight million dollars (\$8,000,000) may be used for Infrastructure; six hundred thousand  
20 dollars (\$600,000) may be used for Capacity Building. If federal block grant funds are reduced  
21 or increased by the Congress of the United States after the effective date of this act, then these  
22 reductions or increases shall be allocated in accordance with subsection (b) or (c) of this  
23 section, as applicable.

24           **SECTION 13.3.(e)** Increase Capacity for Nonprofit Organizations. – Assistance to  
25 nonprofit organizations to increase their capacity to carry out CDBG-eligible activities in  
26 partnership with units of local government is an eligible activity under any program category in  
27 accordance with federal regulations. Capacity building grants may be made from funds  
28 available within program categories, program income, or unobligated funds.

29           **SECTION 13.3.(f)** The Department of Commerce shall report with the Joint  
30 Legislative Commission on Governmental Operations prior to reallocating Community  
31 Development Block Grant Funds. Notwithstanding the provisions of this subsection, whenever  
32 the Director of the Budget finds that:

- 33           (1) A reallocation is required because of an emergency that poses an imminent  
34 threat to public health or public safety, the Director of the Budget may  
35 authorize the reallocation without consulting the Commission. The  
36 Department of Commerce shall report to the Commission on the reallocation  
37 no later than 30 days after it was authorized and shall identify in the report  
38 the emergency, the type of action taken, and how it was related to the  
39 emergency.
- 40           (2) The State will lose federal block grant funds or receive less federal block  
41 grant funds in the next fiscal year unless a reallocation is made, the  
42 Department of Commerce shall provide a written report to the Commission  
43 on the proposed reallocation and shall identify the reason that failure to take  
44 action will result in the loss of federal funds. If the Commission does not  
45 hear the issue within 30 days of receipt of the report, the Department may  
46 take the action without consulting the Commission.

#### 47 **RURAL ECONOMIC DEVELOPMENT CENTER/JOBS NOW FUNDS**

48           **SECTION 13.4.(a)** Of the funds appropriated in this act to the North Carolina  
49 Rural Economic Development Center, Inc. (Rural Center), the sum of five million dollars  
50 (\$5,000,000) for the 2010-2011 fiscal year shall be used for the following purposes:  
51

- 1 (1) Expansion of the Home Grown Jobs Initiative. Three million dollars  
2 (\$3,000,000) to strengthen the capacity of rural communities to compete for  
3 and attract new and expanding businesses by providing additional funding  
4 for the Rural Economic Development Center's Building Reuse and  
5 Restoration Program.
- 6 (2) Expansion of the Small Business Assistance Fund. One million dollars  
7 (\$1,000,000) to increase small business access to credit as part of the  
8 Governor's JobsNOW Small Business Package. The Fund leverages  
9 third-party funding to create a loan loss reserve that provides additional  
10 guarantees for SBA-backed loans made to eligible small businesses through  
11 participating lending institutions.
- 12 (3) Creation of the Family Farm Opportunity and Innovation Fund. One million  
13 dollars (\$1,000,000) to develop cost-shared assistance programs to help  
14 small family farm businesses improve energy efficiency, access new  
15 markets, and develop new value-added products. Funds allocated under this  
16 item should be used to leverage maximum additional funding from third  
17 parties.

18 Priority for grant funds shall be given to eligible applicants in development tier one areas as  
19 defined in G.S. 143B-437.08.

20 **SECTION 13.4.(b)** The Rural Center may use a portion of the funds appropriated  
21 in subsection (a) of this section, not to exceed two percent (2%), for administration of the  
22 programs for which funds are appropriated in subsection (a) of this section.

23 **SECTION 13.4.(c)** The Rural Center may contract with other agencies and  
24 institutions for certain aspects of the programs for which funds are appropriated in subsection  
25 (a) of this section, including the design of program guidelines and evaluation of program  
26 results.

27 **SECTION 13.4.(d)** The Rural Center shall report to the Joint Legislative  
28 Commission of Governmental Operations concerning the progress of the programs for which  
29 funds are appropriated in subsection (a) of this section by September 1, 2011.

### 30 **UPDATE MAIN STREET SOLUTIONS STATUTES**

31 **SECTION 13.5.** Part 15 of Article 10 of Chapter 143B of the General Statutes  
32 reads as rewritten:

33 "Part 15. Main Street Solutions.

34 **"§ 143B-472.35. Establishment of fund; use of funds; application for grants; disbursal;  
35 repayment; inspections; rules; reports.**

36 (a) A fund to be known as the Main Street Solutions Fund is established in the  
37 Department of Commerce. This Fund shall be administered by the Department of Commerce.  
38 The Department of Commerce shall be responsible for receipt and disbursement of all funds as  
39 provided in this section. Interest earnings shall be credited to the Main Street Solutions Fund.

40 (b) Definitions. – The following definitions shall apply in this subsection:

41 (1) Designated Micropolitans – Those communities that are selected for  
42 participation in the Main Street Solutions Fund Program. The Main Street  
43 Solutions Program is an economic development program that provides  
44 structured planning and economic development assistance to geographic  
45 entities containing an urban core with a population of between 10,000 and  
46 50,000 people according to the most recent U.S. Census.

47 (2) Tier Counties – The Department annually ranks the State's 100 counties  
48 based on economic well-being and assigns each a Tier designation. The 40  
49 most distressed counties are designated as Tier 1, the next 40 as Tier 2, and  
50

- 1                    the 20 least distressed as Tier 3. North Carolina micropolitans located in Tier  
2                    2 and Tier 3 counties are eligible for grant funding through this program.
- 3                    (3)                The Main Street Program – The Main Street Program was developed by the  
4                    National Trust for Historic Preservation to promote downtown revitalization  
5                    based on economic development within the context of historic preservation.  
6                    The Office of Urban Development, under the North Carolina Department of  
7                    Commerce is the designated agency to administer this program for North  
8                    Carolina.
- 9                    (4)                The North Carolina Main Street Center – The North Carolina Main Street  
10                   Center is located within the North Carolina Department of Commerce,  
11                   Office of Urban Development, and shall receive applications and make  
12                   decisions respecting Main Street Solutions Fund grant applications from  
13                   Eligible Local Governments.
- 14                   (5)                Designated North Carolina Main Street Communities – Those communities  
15                   that are selected by the Department for participation in the North Carolina  
16                   Main Street Program. Designated North Carolina Main Street Communities,  
17                   including, but not limited to, Small Town Main Street Communities in Tier  
18                   1, 2, or 3 counties that are designated as active communities and that met the  
19                   annual reporting responsibilities requirements of the North Carolina Main  
20                   Street Program to be eligible for participation in the Main Street Solutions  
21                   Fund.
- 22                   (6)                Eligible Projects – Strategic projects developed as part of a collaborative  
23                   process between representatives of the Department of Commerce and the  
24                   Designated Micropolitan or North Carolina Main Street Community that will  
25                   strengthen the economy of the municipality and its role as a regional growth  
26                   and employment hub.
- 27                   (7)                Designated Downtown Area – A designated area within a community that is  
28                   considered the primary, traditional downtown business district of its  
29                   community. A Downtown Core Area may be further defined by a municipal  
30                   service district or an historic district, or can be clearly delineated through  
31                   mapping as the primary downtown business district.
- 32                   (8)                Historic Properties – Properties that have received designation as historically  
33                   significant, either through the National Register of Historic Places or a local  
34                   Historic Properties Commission.
- 35                   (9)                Small Business – An independently owned and operated business with less  
36                   than 100 employees and with annual revenues less than six million dollars  
37                   (\$6,000,000).
- 38                   (10)              Revolving Loan Programs for Private Investment – A property  
39                   redevelopment or small business assistance fund that is administered on the  
40                   local level and that may be used to stabilize or appropriately redevelop  
41                   properties located in the downtown area in connection with private  
42                   investment, or that may be used to provide necessary operating capital for  
43                   small business creation or expansion in connection with private investment  
44                   in a designated downtown area.
- 45                   (11)              Program – The Main Street Solutions Fund Program and the associated  
46                   grant.
- 47                   (12)              Eligible Local Governments – Municipal governmental entities that are  
48                   located in Designated Micropolitans or Designated North Carolina Main  
49                   Street Communities.
- 50                   (13)              Private Investment Projects – A project or a group of projects in a designated  
51                   downtown area that will spur private investment and improve property.

- 1                    Projects must be owned and maintained by the private sector through this  
2                    program or the grant and must provide a direct benefit to small businesses.
- 3                    (14) Public Improvements and Public Infrastructure – The improvement of  
4                    property or infrastructure that is owned and maintained by the public sector,  
5                    provided the improvements are necessary to create or stimulate private  
6                    investment in the designated downtown area, through this program or the  
7                    grant, with direct benefit to small businesses.
- 8                    (15) Mixed-Use Center of Activity – An area zoned and developed for a mix of  
9                    uses, including retail, service, professional, governmental, institutional, and  
10                    residential.
- 11                    (16) Interlocal Economic Development Projects – A project or a group of projects  
12                    in a cluster of communities, counties, or a region that share a common  
13                    economic development strategy for small business growth and job creation.
- 14                    (17) Main Street Organizations – Main Street Organizations are defined as  
15                    agencies working in public-private partnership on the local level, guided by  
16                    a professional downtown manager and/or a board of directors or  
17                    revitalization committee, and charged with administering the local Main  
18                    Street Program initiative and facilitating revitalization initiatives in the  
19                    traditional downtown business district through appropriate design,  
20                    promotion, and economic restructuring activities.
- 21                    (18) Downtown Organizations – Downtown Organizations are defined as  
22                    agencies working in public-private partnership on the local level whose core  
23                    mission is to revitalize the traditional downtown business district.
- 24                    (19) Downtown Economic Development Organizations – Downtown Economic  
25                    Development Organizations are defined as agencies working in  
26                    public-private partnership to develop and recruit business opportunities or to  
27                    undertake economic development projects that will create jobs.
- 28                    (20) Grant – Monies awarded to eligible grantees for activities that carry out the  
29                    specific purposes of the Program.
- 30                    (c) Purpose of the Program. – The Program's purpose is to provide economic  
31                    development planning assistance and coordinated grant support to Designated Micropolitans  
32                    located in Tier 2 and Tier 3 counties and to Designated North Carolina Main Street  
33                    Communities, including, but not limited to, Small Town Main Street Communities in Tier 1, 2,  
34                    or 3 counties that are designated as active communities.
- 35                    (d) Implementation of the Program. – To achieve the purposes of the Program, the  
36                    North Carolina Main Street Center will develop criteria for community participation, provide  
37                    technical assistance, and strategic planning support to eligible communities. Local  
38                    governments, in collaboration with the Main Street Organization, Downtown Organization,  
39                    and/or Downtown Economic Development Organization, and the small businesses that will  
40                    directly benefit from these funds, may apply for grants of monies, as provided herein, to  
41                    implement elements of a strategic plan developed under the Program.
- 42                    (e) Grants Made Under the Program. – Monies in the Main Street Solutions Fund shall  
43                    be allocated and granted by the Secretary of Commerce through the North Carolina Main Street  
44                    Center and shall be spent by all grant recipients in accordance with this subsection. Such  
45                    monies shall be used to implement eligible projects that support a strategic plan for  
46                    Micropolitan and Main Street Community small business economic development developed  
47                    with technical assistance from the Department of Commerce.
- 48                    ~~(b)~~(f) Funds in the Main Street Solutions Fund shall be available to micropolitan cities in  
49                    development tier two and three counties in the State. State and/or to designated North Carolina  
50                    Main Street Communities, including, but not limited to, Small Town Main Street Communities  
51                    in Tier 1, 2, or 3 counties that are designated as active communities. For purposes of this section,



1 a "micropolitan city" is a city located within the State with a population, according to the most  
2 recent U.S. census, of between 10,000 and 50,000 people. Funds in the Main Street Solutions  
3 Fund shall be used for any of the following eligible activities:

- 4 (1) ~~The acquisition or rehabilitation of properties in connection with private~~  
5 ~~investment in a designated downtown area.~~
- 6 (2) ~~The establishment of revolving loan programs for private investment in a~~  
7 ~~designated downtown area.~~
- 8 (3) ~~The subsidization of interest rates for these revolving loan programs.~~
- 9 (4) ~~The establishment of facade incentive grants in connection with private~~  
10 ~~investment in a designated downtown area.~~
- 11 (5) ~~Market studies, design studies, design assistance, or strategic planning~~  
12 ~~efforts, provided the activity can be shown to lead directly to private~~  
13 ~~investment in a designated downtown area.~~
- 14 (6) ~~Any approved project that provides construction or rehabilitation in a~~  
15 ~~designated downtown area and can be shown to lead directly to private~~  
16 ~~investment in the designated downtown area.~~
- 17 (7) ~~Public improvements and public infrastructure within a designated~~  
18 ~~downtown area, provided these improvements are necessary to create or~~  
19 ~~stimulate private investment in the designated downtown area.~~

20 (1) Downtown Economic Development Initiatives that:

- 21 a. Encourage the development and/or redevelopment of traditional  
22 downtowns in Designated Micropolitans or Designated Main Street  
23 Communities by increasing the capacity for Mixed-Use Centers of  
24 Activity within Downtown Core Areas. Grants may be made to  
25 support the rehabilitation of properties, utility infrastructure  
26 improvements, new construction, and the development and/or  
27 redevelopment of parking in order to foster private investment and in  
28 association with direct benefit to small business retention, expansion  
29 or recruitment.
- 30 b. Attract and leverage private sector investments and entrepreneurial  
31 growth in downtown areas through strategic planning efforts, market  
32 studies, and downtown master plans in association with direct benefit  
33 to small business retention, expansion, or recruitment.
- 34 c. Attract and stimulate the growth of business professionals and  
35 entrepreneurs within Downtown Core Areas.
- 36 d. Establish Revolving Loan Programs for Private Investment and small  
37 business assistance in Downtown Historic Properties in Designated  
38 North Carolina Main Street Communities.
- 39 e. Encourage public improvements and public infrastructure within  
40 designated downtown areas so as to stimulate private investment and  
41 small business retention, expansion, or recruitment in and affecting  
42 such areas.
- 43 (2) Historic preservation initiatives outside of Downtown Core Areas that  
44 enhance community economic development and small business retention,  
45 expansion, or recruitment in Designated Micropolitans or Designated Main  
46 Street Communities and regional or community job creation.
- 47 (3) Public improvements and public infrastructure outside of Downtown Core  
48 Areas that are consistent with sound municipal planning and that support  
49 community economic development, small business retention, expansion or  
50 recruitment, and regional or community job creation in Designated  
51 Micropolitans or Designated Main Street Communities.

1           (4) Interlocal small business economic development projects designed to  
2 enhance regional economic growth and job creation among Designated  
3 Micropolitans and Designated Main Street Communities.

4           (5) Worker retraining initiatives designed to support a strategic plan for  
5 Designated Metropolitan or Designated Main Street Community small  
6 business economic development developed with technical assistance from  
7 the Department of Commerce.

8           ~~(e)(g)~~ Any micropolitan city located within a development tier two or three county may  
9 apply for assistance from the Main Street Solutions Fund by submitting an application to the  
10 Main Street Center in the Division of Community Assistance, Department of Commerce. ~~Any~~  
11 ~~city affiliated with the North Carolina Main Street Center Program may apply for a grant for a~~  
12 ~~proposed project.~~

13           ~~(e1)(g1)~~ The application shall include each of the following:

14           (1) ~~A copy of the consensus local economic development plan developed by the~~  
15 ~~micropolitan city in conjunction with the Department's Main Street Program~~  
16 ~~and the city's regional economic development commission or its local~~  
17 ~~council of government or both.~~

18           (1a) The proposed activities for which the funds are to be used and the projected  
19 cost of the project.

20           (2) The amount of grant funds requested for these activities.

21           (3) Projections of the dollar amount of private investment that is expected to  
22 occur in the designated downtown area as a direct result of the city's  
23 proposed activities.

24           (4) ~~Whether local public dollars are required to match any grant funds according~~  
25 ~~to the provisions of subdivision (g)(2) of this section, and if so, the amount~~  
26 ~~of local public funds required.~~

27           (5) An explanation of the nature of the private investment in the designated  
28 downtown area that will result from the city's proposed activities.

29           (6) Projections of the time needed to complete the city's proposed activities.

30           (7) Projections of the time needed to realize the private investment that is  
31 expected to result from the city's proposed activities.

32           (8) ~~Identification of the proposed source of funds to be used for repayment of~~  
33 ~~any loan obligations.~~

34           (9) Any additional or supplemental information requested by the Division.

35           ~~(d) A committee, comprised of representatives of: the Division of Community~~  
36 ~~Assistance of the Department of Commerce, the North Carolina Main Street Program, the~~  
37 ~~Local Government Commission, and the League of Municipalities shall do each of the~~  
38 ~~following:~~

39           (1) ~~Review a city's application.~~

40           (2) ~~Determine whether the activities listed in the application are activities that~~  
41 ~~are eligible for a grant.~~

42           (3) ~~Determine which applicants are selected to receive funds from the Main~~  
43 ~~Street Solutions Fund.~~

44           (h) A city whose application is denied may file a new or amended application.

45           ~~(e) A Main Street City that is selected may not receive a grant pursuant to this section~~  
46 ~~totaling less than twenty thousand dollars (\$20,000) or more than three hundred thousand~~  
47 ~~dollars (\$300,000).~~

48           ~~(f)(i)~~ Repealed by Session Laws 2009-451, s. 14.10, effective July 1, 2009.

49           ~~(g)(j)~~ (1) A city that has been selected to receive a grant shall use the full amount of  
50 the grant for the activities that were approved pursuant to subsection (d) of

1 this section. Funds are deemed used if the city is legally committed to spend  
2 the funds on the approved activities.

3 (2) ~~If a city has received approval to use the grant for public improvements or~~  
4 ~~public infrastructure, that city shall be required to raise, before funds for~~  
5 ~~these public improvements may be drawn from the city's account, local~~  
6 ~~public funds to match the amount of the grant from the Main Street~~  
7 ~~Solutions Fund on the basis of at least one local public dollar (\$1.00) for~~  
8 ~~every one dollar (\$1.00) from the Main Street Solutions Fund. This match~~  
9 ~~requirement applies only to those funds received for public improvements or~~  
10 ~~public infrastructure and is in addition to the requirement set forth in~~  
11 ~~subdivision (1) of this subsection.~~The Main Street Solutions Fund is a  
12 reimbursable, matching grant program. The Department of Commerce and  
13 the North Carolina Main Street Center are authorized to award grants  
14 totaling not more than two hundred thousand dollars (\$200,000) to Eligible  
15 Local Governments and the Main Street Organization, Downtown  
16 Organization, and/or Downtown Economic Development Organization, and  
17 the small businesses that will directly benefit from these funds. Funds from  
18 Eligible Local Governments, Main Street Organization, Downtown  
19 Organization, and/or Downtown Economic Development Organization, and  
20 sources other than the State or federal government must be committed to  
21 match the amount of any grant from the Main Street Solutions Fund on the  
22 basis of a minimum of two non-State dollars (\$2.00) for every one dollar  
23 (\$1.00) provided by the State from the Main Street Solutions Fund.

24 (3) A city that fails to satisfy the condition set forth in subdivision (1) of this  
25 subsection shall lose any funds that have not been used within three years of  
26 being selected. These unused funds shall be credited to the Main Street  
27 Solutions Fund. A city that fails to satisfy the conditions set forth in  
28 subdivisions (1) and (2) of this subsection may file a new application.

29 (4) Any funds repaid or credited to the Main Street Solutions Fund pursuant to  
30 subdivision (3) of this subsection shall be available to other applicants as  
31 long as the Main Street Solutions Fund is in effect.

32 (h) ~~Repealed by Session Laws 2009 451, s. 14.10, effective July 1, 2009.~~

33 ~~(i)(k)~~ After a project financed ~~in whole or in part~~ pursuant to this section has been  
34 completed, the city shall report the actual cost of the project to the Department of Commerce. ~~If~~  
35 ~~the actual cost of the project exceeds the projected cost upon which the grant was based, the~~  
36 ~~city may submit an application to the Department of Commerce for a grant for the difference. If~~  
37 ~~the actual cost of the project is less than the projected cost, the city shall arrange to pay the~~  
38 ~~difference to the Main Street Solutions Fund according to terms set by the Department.~~

39 ~~(j)(l)~~ Inspection of a project for which a grant has been awarded may be performed by  
40 personnel of the Department of Commerce. No person may be approved to perform inspections  
41 who is an officer or employee of the unit of local government to which the grant was made or  
42 who is an owner, officer, employee, or agent of a contractor or subcontractor engaged in the  
43 construction of any project for which the grant was made.

44 ~~(k)(m)~~ The Department of Commerce may adopt, modify, and repeal rules establishing the  
45 procedures to be followed in the administration of this section and regulations interpreting and  
46 applying the provisions of this section, as provided in the Administrative Procedure Act.

47 ~~(l)(n)~~ The Department of Commerce and cities that have been selected to receive a grant  
48 from the Main Street Solutions Fund shall prepare and file on or before September 1 of each  
49 year with the Joint Legislative Commission on Governmental Operations and the Fiscal  
50 Research Division a consolidated report for the preceding fiscal year concerning the allocation  
51 of grants authorized by this section.

1 The portion of the annual report prepared by the Department of Commerce shall set forth  
2 for the preceding fiscal year itemized and total allocations from the Main Street Solutions Fund  
3 for grants. The Department of Commerce shall also prepare a summary report of all allocations  
4 made from the fund for each fiscal year; the total funds received and allocations made and the  
5 total unallocated funds in the Fund.

6 The portion of the report prepared by the city shall include each of the following:

- 7 (1) The total amount of private funds that was committed and the amount that  
8 was invested in the designated downtown area during the preceding fiscal  
9 year.
- 10 (2) ~~The total amount of local public matching funds that was raised, if required~~  
11 ~~by subdivision (g)(2) of this section.~~
- 12 (3) The total amount of grants received from the Main Street Solutions Fund  
13 during the preceding fiscal year.
- 14 (4) ~~Repealed by Session Laws 2009-451, s. 14.10, effective July 1, 2009.~~
- 15 (5) A description of how the grant funds and funds from private investors were  
16 used during the preceding fiscal year.
- 17 (6) Details regarding the types of private investment created or stimulated, the  
18 dates of this activity, the amount of public money involved, and any other  
19 pertinent information, including any jobs created, businesses started, and  
20 number of jobs retained due to the approved activities.

21 ~~(m)(o)~~ The Department of Commerce may use up to fifty thousand dollars (\$50,000) of the  
22 funds in the Main Street Solutions Fund for expenses related to the administration of the Fund."  
23

## 24 PART XIV. JUDICIAL DEPARTMENT

### 25 COLLECTION OF WORTHLESS CHECK FUNDS

26 **SECTION 14.1.** Notwithstanding the provisions of G.S. 7A-308(c), the Judicial  
27 Department may use any balance remaining in the Collection of Worthless Checks Fund on  
28 June 30, 2010, for the purchase or repair of office or information technology equipment during  
29 the 2010-2011 fiscal year. Prior to using any funds under this section, the Judicial Department  
30 shall report to the Joint Legislative Commission on Governmental Operations and the Chairs of  
31 the House of Representatives and Senate Appropriations Subcommittees on Justice and Public  
32 Safety on the equipment to be purchased or repaired and the reasons for the purchases.  
33  
34

### 35 INCREASE CERTAIN COURT FEES

36 **SECTION 14.2.(a)** G.S. 7A-304(a)(4) reads as rewritten:

- 37 "(4) For support of the General Court of Justice, the sum of ~~ninety five dollars~~  
38 ~~and fifty cents (\$95.50)~~ one hundred three dollars and fifty cents (\$103.50) in  
39 the district court, including cases before a magistrate, and the sum of ~~one~~  
40 ~~hundred two dollars and fifty cents (\$102.50)~~ one hundred fifteen dollars and  
41 fifty cents (\$115.50) in the superior court, to be remitted to the State  
42 Treasurer. For a person convicted of a felony in superior court who has made  
43 a first appearance in district court, both the district court and superior court  
44 fees shall be assessed. The State Treasurer shall remit the sum of two dollars  
45 and five cents (\$2.05) of each fee collected under this subdivision to the  
46 North Carolina State Bar for the provision of services described in  
47 G.S. 7A-474.4, and ninety-five cents (\$.95) of each fee collected under this  
48 subdivision to the North Carolina State Bar for the provision of services  
49 described in G.S. 7A-474.19."

50 **SECTION 14.2.(b)** G.S. 7A-304(a)(6) reads as rewritten:

"(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 14.2.(c)** G.S. 7A-305(a)(2) reads as rewritten:

"(2) For support of the General Court of Justice, the sum of ~~ninety-three dollars (\$93.00)~~one hundred thirty dollars (\$130.00) 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)~~seventy-eight dollars (\$78.00) 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 14.2.(d)** G.S. 7A-305(a2) reads as rewritten:

"(a2) In every action for absolute divorce filed in the district court, a cost of ~~seventy-five dollars (\$75.00)~~one hundred dollars (\$100.00) shall be assessed against the person filing the divorce action. Costs collected by the clerk pursuant to this subsection shall be remitted to the State Treasurer, who shall deposit fifty-five dollars (\$55.00) to the North Carolina Fund for Displaced Homemakers established under G.S. 143B-394.10 and twenty dollars (\$20.00) to the Domestic Violence Center Fund established under G.S. 50B-9. The remainder shall be deposited in the General Fund as a nontax revenue. Costs assessed under this subsection shall be in addition to any other costs assessed under this section."

**SECTION 14.2.(e)** G.S. 7A-307(b1) reads as rewritten:

- "(b1) The clerk shall assess the following miscellaneous fees:
- (1) Filing and indexing a will with no probate
    - first page..... \$ 1.00
    - each additional page or fraction thereof..... .25
  - (2) Issuing letters to fiduciaries, per letter over five letters issued..... 1.00
  - (3) Inventory of safe deposits of a decedent, per box, per day ..... 15.00
  - (4) Taking a deposition ..... 10.00
  - (5) Docketing and indexing a will probated in another county in the State
    - first page ..... 6.00
    - each additional page or fraction thereof ..... .25
  - (6) Hearing petition for year's allowance to surviving spouse or child, in cases not assigned to a magistrate, and allotting the same ..... 8.00
  - (7) Assignment of title..... 10.00."

**SECTION 14.2.(f)** G.S. 7A-305 is amended by adding a new subsection to read:

1        "(a5) For the support of the General Court of Justice, a fee of forty dollars (\$40.00) shall  
2 be assessed against a party filing a motion for summary judgment pursuant to G.S. 1A-1, Rule  
3 56.

4        Sums collected under this subsection shall be remitted to the State Treasurer."  
5

## 6        **RECOUP COSTS OF CERTAIN COURT CASES FROM HIGHWAY FUNDS**

7        **SECTION 14.3.** G.S. 7A-300 is amended by adding a new subsection to read:

8        "(c) To defray the expenses associated with the processing of cases initiated by the State  
9 Highway Patrol, there shall be transferred monthly from the Highway Fund fifteen dollars  
10 (\$15.00) per case for which the State Highway Patrol is the initiating law enforcement agency.  
11 These funds shall be transferred to the General Fund for the support of the General Court of  
12 Justice. The Administrative Office of the Courts shall provide monthly notification to the  
13 Highway Fund of the number of cases initiated by the State Highway Patrol in the preceding  
14 month for determination of the amount to be transferred, and the funds shall be transferred no  
15 later than 30 days after notification by the Administrative Office of the Courts."  
16

## 17        **BOND FORFEITURE SET ASIDE PROCESSING FEE**

18        **SECTION 14.4.(a)** G.S. 15A-544.5(c) reads as rewritten:

19        "(c) Procedure When Failure to Appear Is Stricken. – If the court before which a  
20 defendant's appearance was secured by a bail bond enters an order striking the defendant's  
21 failure to appear and recalling any order for arrest issued for that failure to appear, that court  
22 may simultaneously enter an order setting aside any forfeiture of that bail bond. If the court  
23 enters an order setting aside a forfeiture of bail bond under this subsection, the court also shall  
24 assess a fee against the defendant pursuant to subsection (i) of this section. When an order  
25 setting aside a forfeiture is entered, the defendant's further appearances shall continue to be  
26 secured by that bail bond unless the court orders otherwise."

27        **SECTION 14.4.(b)** G.S. 15A-544.5 is amended by adding a new subsection to  
28 read:

29        "(i) Fee. – If the court enters an order to set aside a forfeiture of bail bond pursuant to  
30 subsection (c) of this section, the court shall, upon conviction, impose a processing fee of fifty  
31 dollars (\$50.00) against the defendant, if the notice of forfeiture was given pursuant to  
32 G.S. 15A-544.4 prior to entry of the order setting the forfeiture aside. Upon a showing to the  
33 court that the failure to appear underlying the forfeiture was due to an error or omission of a  
34 judicial official, a prosecutor, or a law enforcement officer, or that the forfeiture was otherwise  
35 issued in error, the court shall waive this fee. The fee shall be collected in addition to other  
36 costs as provided in G.S. 7A-304(c) and shall be remitted to the State Treasurer to be used for  
37 support of the General Court of Justice."  
38

## 39        **PART XV. DEPARTMENT OF JUSTICE**

### 40        **SAFE COMMUNITIES: FELONY ARRESTEE DNA FORENSIC STAFFING &** 41 **OPERATIONS**

42        **SECTION 15.1.** G.S. 7A-304(a) is amended by adding a new subdivision to read:

43        "(3c) For the scientific analysis of DNA and bodily fluids and associated services,  
44 staffing and operations of the North Carolina State Bureau of Investigation  
45 Crime Laboratory, the sum of three dollars (\$3.00) shall be remitted to the  
46 Department of Justice."  
47  
48

### 49        **SEAT BELT USE MANDATORY**

50        **SECTION 15.2.** G.S. 20-135.2A(e) reads as rewritten:

1       "(e) Any driver or front seat passenger who fails to wear a seat belt as required by this  
2 section shall have committed an infraction and shall pay a penalty of twenty-five dollars and  
3 fifty cents (\$25.50) plus the following court costs: the General Court of Justice fee provided  
4 for in G.S. 7A-304(a)(4), the telephone facilities fee provided for in G.S. 7A-304(a)(2a), ~~and~~  
5 the law enforcement training and certification fee provided for in  
6 ~~G.S. 7A-304(a)(3b)~~ G.S. 7A-304(a)(3b), and the scientific analysis of DNA and bodily fluids  
7 fee provided for in G.S. 7A-304(a)(3c). Any rear seat occupant of a vehicle who fails to wear a  
8 seat belt as required by this section shall have committed an infraction and shall pay a penalty  
9 of ten dollars (\$10.00) and no court costs. Court costs assessed under this section are for the  
10 support of the General Court of Justice and shall be remitted to the State Treasurer. Conviction  
11 of an infraction under this section has no other consequence."  
12

## 13       **PART XVI. DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY** 14       **PREVENTION**

### 15       **ANNUAL EVALUATION OF COMMUNITY PROGRAMS**

16       **SECTION 16.1.** Section 18.1 of S.L. 2009-451 reads as rewritten:

17       **"SECTION 18.1.** The Department of Juvenile Justice and Delinquency Prevention shall  
18 conduct an evaluation of the Eckerd ~~and Camp Woodson~~-wilderness camp ~~programs~~program  
19 and of multipurpose group homes.  
20

21       In conducting the evaluation of each of these programs, the Department shall consider  
22 whether participation in each program results in a reduction of court involvement among  
23 juveniles. The Department also shall identify whether the programs are achieving the goals and  
24 objectives of the Juvenile Justice Reform Act, S.L. 1998-202. The Department shall report the  
25 results of the evaluation to the Joint Legislative Corrections, Crime Control, and Juvenile  
26 Justice Oversight Committee, the chairs of the Senate and House of Representatives  
27 Appropriations Committees and the chairs of the Subcommittees on Justice and Public Safety  
28 of the Senate and House of Representatives Appropriations Committees by March 1 of each  
29 year."  
30

### 31       **STATE FUNDS MAY BE USED AS FEDERAL MATCHING FUNDS**

32       **SECTION 16.2.** Funds appropriated in this act to the Department of Juvenile  
33 Justice and Delinquency Prevention for the 2010-2011 fiscal year may be used as matching  
34 funds for the Juvenile Accountability Incentive Block Grants. If North Carolina receives  
35 Juvenile Accountability Incentive Block Grants or a notice of funds to be awarded, the Office  
36 of State Budget and Management and the Governor's Crime Commission shall consult with the  
37 Department of Juvenile Justice and Delinquency Prevention regarding the criteria for awarding  
38 federal funds. The Office of State Budget and Management, the Governor's Crime  
39 Commission, and the Department of Juvenile Justice and Delinquency Prevention shall report  
40 to the Appropriations Committees of the Senate and House of Representatives and the Joint  
41 Legislative Commission on Governmental Operations prior to allocation of the federal funds.  
42 The report shall identify the amount of funds to be received for the 2010-2011 fiscal year, the  
43 amount of funds anticipated for the 2010-2011 fiscal year, and the allocation of funds by  
44 program and purpose.  
45

## 46       **REPEAL TREATMENT STAFFING MODEL AT YOUTH DEVELOPMENT** 47       **CENTERS**

48       **SECTION 16.3.** Section 18.4 of S.L. 2009-451 is repealed.  
49

## 50       **PART XVII. DEPARTMENT OF CORRECTION**

51

**1 USE OF CLOSED PRISON FACILITIES**

2 SECTION 17.1. Section 19.4(a) of S.L. 2009-451 is repealed.

**4 FEDERAL GRANT MATCHING FUNDS**

5 SECTION 17.2. Notwithstanding the provisions of G.S. 143C-6-9, the Department  
6 of Correction may use up to the sum of one million two hundred thousand dollars (\$1,200,000)  
7 during the 2010-2011 fiscal year from funds available to the Department to provide the State  
8 match needed in order to receive federal grant funds. Prior to using funds for this purpose, the  
9 Department shall report to the chairs of the House of Representatives and Senate  
10 Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative  
11 Commission on Governmental Operations on the grants to be matched using these funds.

**13 REPORTS ON NONPROFIT PROGRAMS**

14 SECTION 17.3. Section 19.10 of S.L. 2009-451 is repealed.

**16 INCREASE FEE FOR COMMUNITY SERVICE WORK PROGRAM**

17 SECTION 17.4.(a) G.S. 143B-262.4(b) reads as rewritten:

18 "(b) A fee of ~~two hundred twenty five dollars (\$225.00)~~ three hundred dollars (\$300.00)  
19 shall be paid by all persons who participate in the program or receive services from the  
20 program staff. Only one fee may be assessed for each sentencing transaction, even if the person  
21 is assigned to the program on more than one occasion, or while on deferred prosecution, or  
22 while serving a sentence for the offense. A sentencing transaction shall include all offenses  
23 considered and adjudicated during the same term of court. Fees collected pursuant to this  
24 subsection shall be deposited in the General Fund. If the person is convicted in a court in this  
25 State, the fee shall be paid to the clerk of court in the county in which the person is convicted,  
26 regardless of whether the person is participating in the program as a condition of probation  
27 imposed by the court or pursuant to the exercise of authority delegated to the probation officer  
28 pursuant to G.S. 15A-1343.2(e) or (f). If the person is participating in the program as a result of  
29 a deferred prosecution or similar program, the fee shall be paid to the clerk of court in the  
30 county in which the agreement is filed. If the person is participating in the program as a  
31 condition of parole, the fee shall be paid to the clerk of the county in which the person is  
32 released on parole. Persons participating in the program for any other reason shall pay the fee  
33 to the clerk of court in the county in which the services are provided by the program staff. The  
34 fee shall be paid in full before the person may participate in the community service program,  
35 except that:

- 36 (1) A person convicted in a court in this State may be given an extension of time  
37 or allowed to begin the community service before the person pays the fee by  
38 the court in which the person is convicted; or
- 39 (2) A person performing community service pursuant to a deferred prosecution  
40 or similar agreement may be given an extension of time or allowed to begin  
41 community service before the fee is paid by the official or agency  
42 representing the State in the agreement.
- 43 (3) A person performing community service as a condition of parole may be  
44 given an extension of time to pay the fee by the Post-Release Supervision  
45 and Parole Commission. No person shall be required to pay the fee before  
46 beginning the community service unless the Commission orders the person  
47 to do so in writing.
- 48 (4) A person performing community service as ordered by a probation officer  
49 pursuant to authority delegated by G.S. 15A-1343.2 may be given an  
50 extension of time to pay the fee by the probation officer exercising the  
51 delegated authority."



1           **SECTION 17.4.(d)** This section applies to persons ordered on or after July 1, 2010,  
2 to perform community service.

3  
4           **INCREASE FEES FOR PROBATION, PAROLE, AND POST-RELEASE**  
5           **SUPERVISION**

6           **SECTION 17.5.(a)** G.S. 15A-1343(c1) reads as rewritten:

7           "(c1) Supervision Fee. – Any person placed on supervised probation pursuant to  
8 subsection (a) of this section shall pay a supervision fee of ~~thirty dollars (\$30.00)~~forty dollars  
9 (\$40.00) per month, unless exempted by the court. The court may exempt a person from paying  
10 the fee only for good cause and upon motion of the person placed on supervised probation. No  
11 person shall be required to pay more than one supervision fee per month. The court may require  
12 that the fee be paid in advance or in a lump sum or sums, and a probation officer may require  
13 payment by such methods if he is authorized by subsection (g) to determine the payment  
14 schedule. Supervision fees must be paid to the clerk of court for the county in which the  
15 judgment was entered or the deferred prosecution agreement was filed. Fees collected under  
16 this subsection shall be transmitted to the State for deposit into the State's General Fund."

17           **SECTION 17.5.(b)** G.S. 15A-1374(c) reads as rewritten:

18           "(c) Supervision Fee. – The Commission must require as a condition of parole that the  
19 parolee pay a supervision fee of ~~thirty dollars (\$30.00)~~forty dollars (\$40.00) per month. The  
20 Commission may exempt a parolee from this condition of parole only if it finds that requiring  
21 him to pay the fee will constitute an undue economic burden. The fee must be paid to the clerk  
22 of superior court of the county in which the parolee was convicted. The clerk must transmit any  
23 money collected pursuant to this subsection to the State to be deposited in the general fund of  
24 the State. In no event shall a person released on parole be required to pay more than one  
25 supervision fee per month."

26           **SECTION 17.5.(c)** G.S. 15A-1368.4(f) reads as rewritten:

27           "(f) Required Supervision Fee. – The Commission shall require as a condition of  
28 post-release supervision that the supervisee pay a supervision fee of ~~thirty dollars (\$30.00)~~forty  
29 dollars (\$40.00) per month. The Commission may exempt a supervisee from this condition only  
30 if it finds that requiring payment of the fee is an undue economic burden. The fee shall be paid  
31 to the clerk of superior court of the county in which the supervisee was convicted. The clerk  
32 shall transmit any money collected pursuant to this subsection to the State to be deposited in the  
33 State's General Fund. In no event shall a supervisee be required to pay more than one  
34 supervision fee per month."

35           **SECTION 17.5.(d)** This section shall become effective July 1, 2010, and shall  
36 apply to all persons on supervised probation, parole, and post-release prior to that date and to  
37 all persons placed on supervised probation, parole, and post-release on or after that date.

38  
39           **INMATE MEDICAL COST CONTAINMENT**

40           **SECTION 17.6.(a)** The Department of Correction shall establish a fee schedule for  
41 health care services provided to those inmates committed to its custody. The fee schedule will  
42 represent one hundred thirty percent (130%) of the reimbursable cost for each service under the  
43 Medicare Fee Schedule. Providers and facilities that deliver medically necessary services to  
44 inmates in the Department's custody shall be paid in accordance with the fee schedule  
45 established under the terms of this subsection. The requirements of this subsection shall apply  
46 to all medical and facility services provided outside the correctional facility, including  
47 hospitalizations, professional services, medical supplies, and other medications provided to any  
48 inmate confined in a correctional facility.

49           **SECTION 17.6.(b)** The Department of Correction shall make every effort to  
50 contain inmate medical costs by making use of its own hospital and health care facilities to  
51 provide health care services to inmates. To the extent that the Department of Correction must

1 utilize other facilities and services to provide health care services to inmates, the Department  
2 shall make use of hospitals with available capacity or other health care facilities in a region to  
3 accomplish that goal. The Department shall work to ensure that care usage is distributed  
4 equitably among all hospitals or other appropriate health care facilities, with no one health care  
5 facility being required to admit more than twenty percent (20%) of all patients requiring  
6 hospitalization or hospital services, unless doing so would jeopardize the health of the inmate.  
7 The Department shall also give preference to those hospitals in the same county or an adjoining  
8 county to the correctional facility where an inmate requiring hospitalization is incarcerated.

9 **SECTION 17.6.(c)** The Department of Correction shall consult with the Division  
10 of Medical Assistance in the Department of Health and Human Services to develop protocols  
11 for prisoners who would otherwise be eligible for Medicaid if they were not incarcerated to  
12 access Medicaid while in custody or under extended limits of confinement. The Department  
13 shall seek reimbursement from Medicaid for those health care costs incurred by the Department  
14 in those instances when an inmate has had his or her Medicaid eligibility temporarily reinstated  
15 due to a hospitalization.

16 **SECTION 17.6.(d)** The Department of Correction, in consultation with the Office  
17 of State Budget and Management, shall study the impact on inmate medical costs resulting  
18 from the measures set forth in subsections (a), (b), and (c) of this section. The Department shall  
19 present its findings by March 1, 2011, to the chairs of the House of Representatives and Senate  
20 Appropriations Subcommittees on Justice and Public Safety and to the Joint Legislative  
21 Corrections, Crime Control, and Juvenile Justice Oversight Committee.

22 **SECTION 17.6.(e)** If the findings of the Department of Correction demonstrate  
23 that the Department has been unable to achieve the savings in inmate medical costs called for in  
24 the 2010-2011 budget, the Office of State Budget and Management is authorized to require that  
25 any hospital that provides health care services to Medicaid and Medicare patients must also  
26 provide services to any inmate confined in a correctional facility at the rates applicable under  
27 subsection (a) of this section.

28 **SECTION 17.6.(f)** The Department of Correction shall make every effort to  
29 explore other cost containment methods not expressly outlined in this section. These methods  
30 may included but are not limited to the following: contracting with a private third party to  
31 manage and provide all inmate medical services; partnering with the federal government to  
32 allow for treatment of state inmates in federal correctional hospitals; and purchasing a fixed  
33 number of beds at a hospital.

## 34 **PART XVIII. DEPARTMENT OF ADMINISTRATION**

### 35 **SMALL BUSINESS PROTECTION ACT**

36 **SECTION 18.1.** Section 28.16.(g) of S.L. 2008-107 is repealed.

## 37 **PART XIX. DEPARTMENT OF REVENUE**

### 38 **DISTRIBUTION OF ADDITIONAL TAXES**

39 **SECTION 19.1.** G.S. 105-501 reads as rewritten:

40 **"§ 105-501. (Effective October 1, 2009) Distribution of additional taxes.**

41 (a) Method. – The Secretary must, on a monthly basis, allocate to each taxing county  
42 the net proceeds of the additional one-half percent (1/2%) sales and use taxes collected in that  
43 county under this Article. If the Secretary collects taxes under this Article in a month and the  
44 taxes cannot be identified as being attributable to a particular taxing county, the Secretary must  
45 allocate the net proceeds of these taxes among the taxing counties in proportion to the amount  
46 of taxes collected in each county under this Article in that month.  
47  
48  
49  
50

1 The Secretary must divide and distribute the funds allocated to a taxing county each month  
2 under this section between the county and the municipalities located in the county in  
3 accordance with the method by which the one percent (1%) sales and use taxes levied in that  
4 county pursuant to Article 39 of this Chapter or Chapter 1096 of the 1967 Session Laws are  
5 distributed. No municipality may receive any funds under this section if it was incorporated  
6 with an effective date of on or after January 1, 2000, and is disqualified from receiving funds  
7 under G.S. 136-41.2. No municipality may receive any funds under this section, incorporated  
8 with an effective date on or after January 1, 2000, unless a majority of the mileage of its streets  
9 are open to the public.

10 (b) Deductions. – In determining the net proceeds of the tax to be distributed, the  
11 Secretary must deduct from the collections to be allocated ~~an amount equal to one-twelfth of~~  
12 ~~the costs during the preceding fiscal year of:~~ the following amounts:

13 (1) ~~The Department of Revenue in performing the duties imposed by~~  
14 ~~G.S. 105-275.2 and by Article 15 of this Chapter.~~ An amount equal to  
15 one-twelfth of the cost during the preceding year of the following:

16 ~~(1a)~~ a. Seventy percent (70%) of the expenses of the Department of  
17 Revenue in performing the duties imposed by Article 2D of this  
18 Chapter.

19 ~~(2)~~ ~~The Property Tax Commission.~~

20 ~~(3)~~ b. The School of Government at the University of North Carolina at  
21 Chapel Hill in operating a training program in property tax appraisal  
22 and assessment.

23 ~~(4)~~ c. The personnel and operations provided by the Department of State  
24 Treasurer for the Local Government Commission.

25 (2) An amount equal to the cost during the preceding month of the following:

26 a. The Department of Revenue in performing the duties imposed by  
27 Article 15 of this Chapter.

28 b. The Property Tax Commission

29 For fiscal year 2010-2011, the deductions under G.S. 105-501(b) include one-twelfth of the  
30 costs during the preceding fiscal year."

## 31 32 **PART XX. OFFICE OF THE GOVERNOR**

### 33 34 **TRANSFER OF YOUTH ADVOCACY AND INVOLVEMENT FUNCTIONS TO THE** 35 **OFFICE OF THE GOVERNOR AND THE STATE BOARD OF EDUCATION**

36 **SECTION 20.1.(a)** Effective July 1, 2010, the State Youth Advisory Council, the  
37 State Youth Council, the Governor's Advocacy Council on Children and Youth, the North  
38 Carolina Internship Council, and the North Carolina Youth Advocacy and Involvement Fund  
39 are hereby transferred by a Type I transfer, as defined in G.S. 143B-385, 143B-387, 143B-414,  
40 143B-417, and 143B 387.1, from the Department of Administration to the Office of the  
41 Governor. The program transfer shall include the sum of five hundred five thousand two  
42 hundred eighty-four dollars (\$505,284) and five positions.

43 **SECTION 20.1.(b)** Effective July 1, 2010, the Students Against Destructive  
44 Decisions program is hereby transferred by a Type I transfer from the Department of  
45 Administration to the State Board of Education. The program transfer shall include the sum of  
46 one hundred thirteen thousand eight hundred fifty-three dollars (\$113,853) and two positions.

47 **SECTION 20.1.(c)** G.S. 143B-385 reads as rewritten:

48 "**§ 143B-385. State Youth Advisory Council – creation; powers and duties.**

49 There is hereby created the State Youth Advisory Council of the ~~Department of~~  
50 ~~Administration.~~ Office of the Governor. The State Youth Advisory Council shall have the  
51 following functions and duties:

- 1 (1) To advise the youth councils of North Carolina;
- 2 (2) To encourage State and local councils to take active part in governmental
- 3 and civic affairs, promote and participate in leadership and citizenship
- 4 programs, and cooperate with other youth-oriented groups;
- 5 (3) To receive on behalf of the ~~Department of Administration~~ Office of the
- 6 Governor and to recommend expenditure of gifts and grants from public and
- 7 private donors;
- 8 (4) To establish procedures for the election of its youth representatives by the
- 9 State Youth Council; and
- 10 (5) To advise the ~~Secretary of Administration~~ Governor's Chief of Staff upon
- 11 any matter the ~~Secretary~~ Governor may refer to it."

12 **SECTION 20.1.(d)** G.S. 143B-387.1 reads as rewritten:

13 **"§ 143B-387.1. North Carolina Youth Advocacy and Involvement Fund.**

14 The North Carolina Youth Advocacy and Involvement Fund is created as a special and

15 nonreverting fund. Conference registration fees, gifts, donations, or contributions to or for the

16 North Carolina Youth Legislative Assembly (YLA) and the North Carolina Students Against

17 Destructive Decisions (SADD) programs shall be credited to the Fund.

18 The Fund shall be used solely to support planning and execution of the YLA and SADD

19 programs. The ~~Department~~ Office of the Governor shall maintain separate cost centers for each

20 ~~program~~ program and transfer funds to the State Board of Education for administration of the

21 SADD program as necessary."

22 **SECTION 20.1.(e)** G.S. 143B-414 reads as rewritten:

23 **"§ 143B-414. Governor's Advisory Council on Children and Youth – creation; powers**

24 **and duties.**

25 There is hereby created the Governor's Advocacy Council on Children and Youth of the

26 ~~Department of Administration~~ Office of the Governor. The Council shall have the following

27 functions and duties:

- 28 (1) To act as an advocate for children and youth within State and local
- 29 governments, and with private agencies serving children and youth;
- 30 (2) To provide assistance in the development and coordination of child
- 31 advocacy systems at the regional and local levels within the State;
- 32 (3) To perform a continuing review of existing programs of State government
- 33 for children and youth and their families;
- 34 (4) To, in cooperation with State, local or private agencies, identify needs of
- 35 children and youth and their families that are not currently being met and
- 36 recommend new programs or improvement of existing programs;
- 37 (5) To review any new programs affecting children and youth proposed by any
- 38 State agency and recommend changes to avoid duplication of services, to
- 39 promote better planning, or otherwise to make more effective use of
- 40 available resources;
- 41 (6) To meet at least annually with the Governor and present a written report
- 42 concerning the health and well-being of North Carolina's children and the
- 43 effectiveness of current programs and the need for new programs for
- 44 children and youth;
- 45 (7) To provide information to the general public and State, local and private
- 46 agencies serving children and youth and their families concerning the
- 47 activities and findings of the Council; and
- 48 (8) To perform other advisory functions assigned by the ~~Secretary~~ Governor's Chief of Staff or a legislative committee."
- 49 Administration

50 **SECTION 20.1.(f)** G.S. 143B-417 reads as rewritten:

51 **"§ 143B-417. North Carolina Internship Council – creation; powers and duties.**

1 There is hereby created the North Carolina Internship Council of the ~~Department of~~  
2 ~~Administration~~. Office of the Governor. The North Carolina Internship Council shall have the  
3 following functions and duties:

- 4 (1) To determine the number of student interns to be allocated to each of the  
5 following offices or departments:  
6 a. Office of the Governor  
7 b. Department of Administration  
8 c. Department of Correction  
9 d. Department of Cultural Resources  
10 e. Department of Revenue  
11 f. Department of Transportation  
12 g. Department of Environment and Natural Resources  
13 h. Department of Commerce  
14 i. Department of Crime Control and Public Safety  
15 j. Department of Health and Human Services  
16 k. Office of the Lieutenant Governor  
17 l. Office of the Secretary of State  
18 m. Office of the State Auditor  
19 n. Office of the State Treasurer  
20 o. Department of Public Instruction  
21 p. Repealed by Session Laws 1985, c. 757, s. 162.  
22 q. Department of Agriculture and Consumer Services  
23 r. Department of Labor  
24 s. Department of Insurance  
25 t. Office of the Speaker of the House of Representatives  
26 u. Justices of the Supreme Court and Judges of the Court of Appeals  
27 v. Community Colleges System Office  
28 w. Office of State Personnel  
29 x. Office of the Senate President Pro Tempore  
30 y. Department of Juvenile Justice and Delinquency Prevention  
31 z. Administrative Office of the Courts  
32 aa. State Ethics Commission  
33 bb. Employment Security Commission  
34 cc. State Board of Elections  
35 dd. Department of Justice  
36 (2) To screen applications for student internships and select from these  
37 applications the recipients of student internships; and  
38 (3) To determine the appropriateness of proposals for projects for student interns  
39 submitted by the offices and departments enumerated in subdivision (1) of  
40 this section."  
41

## 42 AMEND NORTH CAROLINA HOUSING FINANCE AGENCY STATUTE

43 SECTION 20.2.(a) G.S.122A-2 reads as rewritten:

### 44 "§ 122A-2. Legislative findings and purposes.

45 The General Assembly hereby finds and declares that as a result of the spread of slum  
46 conditions and blight to formerly sound urban and rural neighborhoods and as a result of  
47 actions involving highways, public facilities and urban renewal activities there exists in the  
48 State of North Carolina a serious shortage of decent, safe and sanitary residential housing  
49 available at low prices or rentals to persons and families of lower income. This shortage is  
50 severe in certain urban areas of the State, is especially critical in the rural areas, and is inimical

1 to the health, safety, welfare and prosperity of all residents of the State and to the sound growth  
2 of North Carolina communities.

3 The General Assembly hereby finds and declares further that private enterprise and  
4 investment have not been able to produce, without assistance, the needed construction of  
5 decent, safe and sanitary residential housing at low prices or rentals which persons and families  
6 of lower income can afford, or to achieve the urgently needed rehabilitation of much of the  
7 present lower income housing. It is imperative that the supply of residential housing for persons  
8 and families of lower income affected by the spread of slum conditions and blight and for  
9 persons and families of lower income displaced by public actions or natural disaster be  
10 increased; and that private enterprise and investment be encouraged to sponsor, build and  
11 rehabilitate residential housing for such persons and families, to help prevent the recurrence of  
12 slum conditions and blight and assist in their permanent elimination throughout North Carolina.

13 The General Assembly hereby finds and declares further that the purposes of this Chapter  
14 are to provide financing for residential housing construction, new or rehabilitated, for sale or  
15 rental to persons and families of lower income.

16 The General Assembly hereby finds and declares further that in accomplishing this purpose,  
17 the North Carolina Housing Finance Agency, a public ~~agency~~ corporation and an  
18 instrumentality of the State, is acting in all respects for the benefit of the people of the State in  
19 the performance of essential public functions and serves a public purpose in improving and  
20 otherwise promoting their health, welfare and prosperity, and that the North Carolina Housing  
21 Finance Agency, is empowered to act on behalf of the State of North Carolina and its people in  
22 serving this public purpose for the benefit of the general public.

23 The General Assembly hereby further finds and declares that it shall be the policy of said  
24 Agency, whenever feasible, to give first priority in its programs to assisting persons and  
25 families of lower income in the purchase and rehabilitation of residential housing, and to  
26 undertake its programs in the areas where the greatest housing need exists, and to give priority  
27 to projects and individual units which conform to sound principles and practices of  
28 comprehensive land use and environmental planning, regional development planning and  
29 transportation planning as established by units of local government and regional organizations  
30 having jurisdiction over the area within which such projects and units are to be located if such  
31 government agencies exist in an area under consideration. However, no area of need shall be  
32 penalized because government planning agencies do not exist in such areas.

33 The General Assembly hereby also further finds and declares that private enterprise and  
34 investment have not been able to provide, without assistance, the needed installation of energy  
35 saving materials in owner occupied residences of persons and families of lower income. It is  
36 imperative for the health, safety and welfare of these persons and the general public that their  
37 residences be suitably heated at affordable cost in order to provide decent housing; and that the  
38 consumption of nonrenewable sources of energy be reduced. Therefore, the General Assembly  
39 finds that one of the purposes of this Chapter is to assist persons and families of lower income  
40 to obtain loans for the purpose of heating their homes at affordable cost and at the same time to  
41 significantly reduce the amount of consumption of nonrenewable sources of energy."

42 **SECTION 20.2.(b)** G.S.122A-4(a) reads as rewritten:

43 "(a) There is hereby created a body politic and corporate to be known as "North Carolina  
44 Housing Finance Agency" which shall be constituted a public ~~agency~~ corporation of the State,  
45 having a distinct legal existence from the State, with the politic and corporate powers as are set  
46 forth in this Chapter. The corporation is constituted a public and an instrumentality of the State  
47 for the performance of essential public functions, and the corporation is vested with all of the  
48 powers, authority, rights, privileges, and titles that may be necessary to enable it to accomplish  
49 its purposes under this chapter. The powers conferred by this Chapter shall be deemed and held  
50 to be the performance of an essential government function of the State."

1 **PART XXI. DEPARTMENT OF TRANSPORTATION**2  
3 **MOBILITY FUND ESTABLISHED**4 **SECTION 21.1.(a)** Chapter 136 of the General Statutes is amended by adding a  
5 new Article to read:6 "Article 14A.7 "North Carolina Mobility Fund.8 **"§136-181.1. Creation of the North Carolina Mobility Fund within the Highway Trust**  
9 **Fund.**10 (a) A special account designated as the North Carolina Mobility Fund is hereby created  
11 within the North Carolina Highway Trust Fund within the State treasury, to which certain  
12 Highway Use Tax proceeds and certain registration fees shall be deposited. This account shall  
13 be held separate and apart from funds deposited to the Highway Trust Fund pursuant to  
14 G.S. 136-176(a). The amounts deposited to the North Carolina Mobility Fund shall be  
15 deposited, applied, and used as provided in this Article, notwithstanding any provision of  
16 Article 14 to the contrary. Notwithstanding any other provision of law, the provisions of  
17 G.S. 136-17.2A shall not apply to the application of the North Carolina Mobility Fund.18 (b) Amounts deposited in the North Carolina Mobility Fund are to be appropriated as  
19 follows:

- 20 (1)
- There shall be appropriated an amount equal to six and one-half percent (6
- 
- 21
- ½%) of the amount collected annually to be used for distribution in
- 
- 22
- accordance with G.S.136-41.1.
- 
- 23 (2)
- There shall be appropriated to the Department of Transportation the sum of
- 
- 24
- thirty million dollars (\$30,000,000) annually to be used for interstate route
- 
- 25
- maintenance and preservation.
- 
- 26 (3)
- Of the funds remaining in the account, the Department of Transportation
- 
- 27
- shall fund transportation projects to relieve congestion and enhance mobility.
- 
- 28 (4)
- The Department may issue debt-financing instruments to finance highway
- 
- 29
- projects using North Carolina Mobility Fund fee revenue equal to the
- 
- 30
- amount allocated in this section to expedite the delivery of strategic
- 
- 31
- congestion and mobility projects. These bonds shall be issued by the State
- 
- 32
- Treasurer on behalf of the Department and shall be issued pursuant to an
- 
- 33
- order adopted by the Council of State under G.S. 159-88. The State
- 
- 34
- Treasurer shall develop and adopt appropriate debt instruments, consistent
- 
- 35
- with the terms of the State and Local Government Revenue Bond Act,
- 
- 36
- Article 5 of Chapter 159 of the General Statutes, for use under this
- 
- 37
- subdivision. Notes issued under the provisions of this subdivision may not
- 
- 38
- be deemed to constitute a debt or liability of the State or of any political
- 
- 39
- subdivision thereof, or a pledge of the full faith and credit of the State or of
- 
- 40
- any political subdivision thereof, but shall be payable solely from the funds
- 
- 41
- and revenues pledged therefor. All the notes shall contain on their face a
- 
- 42
- statement to the effect that the State of North Carolina shall not be obligated
- 
- 43
- to pay the principal or the interest on the notes, except from the North
- 
- 44
- Carolina Mobility Fund fee revenues as shall be provided by the documents
- 
- 45
- governing the revenue note issuance, and that neither the faith and credit nor
- 
- 46
- the taxing power of the State of North Carolina or any of its political
- 
- 47
- subdivisions is pledged to the payment of the principal or interest on the
- 
- 48
- notes. The issuance of notes under this section shall not directly or indirectly
- 
- 49
- or contingently obligate the State or any of its political subdivisions to levy
- 
- 50
- or to pledge any form of taxation whatever or to make any appropriation for
- 
- 51
- their payment.

1       (c) The initial project funded from this North Carolina Mobility Fund shall be the  
2 widening and improvement of Interstate 85 north of the Yadkin River Bridge.

3       (d) Projects to relieve congestion and enhance mobility which are funded pursuant to  
4 subdivision (b)(3) of this section shall be selected by the Department using a selection process.  
5 By January 1, 2012, the Department shall develop a project criteria and selection process  
6 through stakeholder and public involvement that shall include, but not be limited to, the North  
7 Carolina Association of Municipal Planning Organizations, the North Carolina Association of  
8 Rural Planning Organizations, the North Carolina League of Municipalities, the North Carolina  
9 Association of County Commissioners, the North Carolina Metropolitan Mayors Coalition, and  
10 the North Carolina Council of Regional Governments. The Department shall report quarterly to  
11 the Governor and the General Assembly on its progress and present a final report prior to  
12 approval by the Board of Transportation."

13       **SECTION 21.1.(b)** The provisions of Chapter 692, section 8.4 of the 1989 Session  
14 Laws, as amended by Chapter 590, section 7 of the 1995 Session Laws, and as further amended  
15 by Session Laws 1999-380, section 3, regarding the repeal of the Highway Trust Fund upon the  
16 occurrence of the events described therein shall not apply to the North Carolina Mobility Fund  
17 created hereunder or the deposit of funds thereto. Nothing contained in this section shall  
18 otherwise restrict or prohibit the General Assembly from repealing any provision hereof.

19       **SECTION 21.1.(c)** G.S. 105-187.3(a) reads as rewritten:

20       "(a) Amount. – The rate of the use tax imposed by this Article is three percent (3%) of  
21 the retail value of a motor vehicle for which a certificate of title is issued. The tax is payable as  
22 provided in G.S. 105-187.4. The maximum tax is ~~one thousand dollars (\$1,000)~~ one thousand  
23 five hundred dollars (\$1,500) for each certificate of title issued for a Class A or Class B motor  
24 vehicle that is a commercial motor vehicle, as defined in G.S. 20-4.01. The maximum tax is  
25 one thousand five hundred dollars (\$1,500) for each certificate of title issued for a recreational  
26 vehicle that is not subject to the ~~one thousand dollar (\$1,000)~~ one thousand five hundred dollars  
27 (\$1,500) maximum tax."

28       **SECTION 21.1.(d)** G.S. 105-187.3(b) reads as rewritten:

29       "(b) Retail Value. – The retail value of a motor vehicle for which a certificate of title is  
30 issued because of a sale of the motor vehicle by a retailer is the sales price of the motor vehicle,  
31 including all accessories attached to the vehicle when it is delivered to the ~~purchaser, less the~~  
32 ~~amount of any allowance given by the retailer for a motor vehicle taken in trade as a full or~~  
33 ~~partial payment for the purchased motor vehicle.~~ purchaser. The retail value of a motor vehicle  
34 for which a certificate of title is issued because of a sale of the motor vehicle by a seller who is  
35 not a retailer is the market value of the ~~vehicle, less the amount of any allowance given by the~~  
36 ~~seller for a motor vehicle taken in trade as a full or partial payment for the purchased motor~~  
37 ~~vehicle.~~ vehicle. A transaction in which two parties exchange motor vehicles is considered a  
38 sale regardless of whether either party gives additional consideration as part of the transaction.  
39 The retail value of a motor vehicle for which a certificate of title is issued because of a reason  
40 other than the sale of the motor vehicle is the market value of the vehicle. The market value of  
41 a vehicle is presumed to be the value of the vehicle set in a schedule of values adopted by the  
42 Commissioner."

43       **SECTION 21.1.(e)** G.S. 105-187.6(c) is repealed.

44       **SECTION 21.1.(f)** G.S. 105-187.9(a) reads as rewritten:

45       "(a) Distribution. – ~~Taxes~~ Unless subsection (a1) of this section ~~requires a different~~  
46 ~~disposition, all taxes collected under this Article at the rate of eight percent (8%)~~ shall be  
47 ~~credited to the General Fund. Taxes collected under this Article at the rate of three percent (3%)~~  
48 ~~shall be credited to the North Carolina Highway Trust Fund.~~ the North Carolina Highway Trust  
49 Fund and the North Carolina Mobility Fund. Of the tax collected under this Article at the rate  
50 of three percent (3%), eighty-six percent (86%) shall be credited to the North Carolina  
51 Highway Trust Fund and fourteen percent (14%) shall be credited to the North Carolina



1 Mobility Fund. Of the tax collected under this Article at the rate of eight percent (8%), the  
2 entire collection shall be credited to the North Carolina Mobility Fund."

3 **SECTION 21.1.(f1)** G.S. 105-187.9 is amended by adding a new subsection to  
4 read:

5 "(a1) For the 2011-2012 fiscal year, fifty percent (50%) of the taxes collected under this  
6 Article at the rate of eight percent (8%) shall be credited to the General Fund. The remaining  
7 taxes collected under this Article shall be credited in accordance with subsection (a) of this  
8 section."

9 **SECTION 21.1.(g)** G.S. 20-7(i) reads as rewritten:

10 "(i) Fees. – The fee for a regular drivers license is the amount set in the following table  
11 multiplied by the number of years in the period for which the license is issued:

<u>Class of Regular License</u>	<u>Fee For Each Year</u>
Class A	\$4.00
Class B	\$4.00
Class C	\$4.00

12  
13  
14  
15  
16  
17  
18 The fee for a motorcycle endorsement is ~~one dollar and seventy five cents (\$1.74)~~ two dollars  
19 (\$2.00) for each year of the period for which the endorsement is issued. The appropriate fee  
20 shall be paid before a person receives a regular drivers license or an endorsement. Twenty-five  
21 percent (25%) of all motorcycle endorsement fees collected pursuant to this subsection shall be  
22 credited by the Division to the North Carolina Mobility Fund."

23 **SECTION 21.1.(h)** G.S. 20-26(c) reads as rewritten:

24 "(c) The Division shall furnish copies of license records required to be kept by  
25 subsection (a) of this section in accordance with G.S. 20-43.1 to other persons for uses other  
26 than official upon prepayment of the following fees:

- 27 (1) Limited extract copy of license record, for
- 28 period up to three years ..... ~~\$8.00~~ \$10.00
- 29 (2) Complete extract copy of license record ..... ~~8.00~~ 10.00
- 30 (3) Certified true copy of complete license
- 31 record ..... ~~11.00~~ 13.00

32 Twenty-five percent (25%) of all fees collected pursuant to this subsection shall be credited  
33 by the Division to the North Carolina Mobility Fund. All remaining fees received by the  
34 Division under this subsection shall be credited to the Highway Fund."

35 **SECTION 21.1.(i)** G.S. 20-50(b) reads as rewritten:

36 "(b) The Division may issue a temporary license plate for a vehicle. A temporary license  
37 plate is valid for the period set by the Division. The period may not be less than 10 days nor  
38 more than 60 days.

39 A person may obtain a temporary license plate for a vehicle by filing an application with  
40 the Division and paying the required fee. An application must be filed on a form provided by  
41 the Division.

42 The fee for a temporary license plate that is valid for 10 days is ~~five dollars (\$5.00)~~ seven  
43 dollars (\$7.00). The fee for a temporary license plate that is valid for more than 10 days is the  
44 amount that would be required with an application for a license plate for the vehicle. If a person  
45 obtains for a vehicle a temporary license plate that is valid for more than 10 days and files an  
46 application for a license plate for that vehicle before the temporary license plate expires, the  
47 person is not required to pay the fee that would otherwise be required for the license plate.

48 A temporary license plate is subject to the following limitations and conditions:

- 49 (1) It may be issued only upon proper proof that the applicant has met the
- 50 applicable financial responsibility requirements.
- 51 (2) It expires on midnight of the day set for expiration.

- 1 (3) It may be used only on the vehicle for which issued and may not be
- 2 transferred, loaned, or assigned to another.
- 3 (4) If it is lost or stolen, the person who applied for it must notify the Division.
- 4 (5) It may not be issued by a dealer.
- 5 (6) The provisions of G.S. 20-63, 20-71, 20-110 and 20-111 that apply to license
- 6 plates apply to temporary license plates insofar as possible.

7 Twenty-five percent (25%) of all fees collected pursuant to this subsection shall be credited  
8 by the Division to the North Carolina Mobility Fund."

9 **SECTION 21.1.(j)** G.S. 20-85 (a) and (b) read as rewritten:

10 "(a) The following fees are imposed concerning a certificate of title, a registration card,  
11 or a registration plate for a motor vehicle. These fees are payable to the Division and are in  
12 addition to the tax imposed by Article 5A of Chapter 105 of the General Statutes.

- 13 (1) Each application for certificate of title..... \$40.00
- 14 (2) Each application for duplicate or corrected certificate of
- 15 title ..... ~~15.00~~20.00
- 16 (3) Each application of reposessor for certificate of title ..... ~~15.00~~20.00
- 17 (4) Each transfer of registration ..... ~~15.00~~20.00
- 18 (5) Each set of replacement registration plates ..... ~~15.00~~20.00
- 19 (6) Each application for duplicate registration card..... ~~15.00~~20.00
- 20 (7) Each application for recording supplementary lien ..... ~~15.00~~20.00
- 21 (8) Each application for removing a lien from a certificate of
- 22 title ..... ~~15.00~~20.00
- 23 (9) Each application for certificate of title for a motor vehicle
- 24 transferred to a manufacturer, as defined in G.S. 20-286, or
- 25 a motor vehicle retailer for the purpose of resale..... ~~15.00~~20.00
- 26 (10) Each application for a salvage certificate of title made by
- 27 an insurer..... ~~15.00~~20.00
- 28 (11) Each set of replacement Stock Car Racing Theme plates
- 29 issued under G.S. 20-79.4 ..... ~~25.00~~30.00

30 (b) Twenty-five percent (25%) of all fees collected pursuant to this subsection shall be  
31 credited by the Division to the North Carolina Mobility Fund. The remaining fees shall be  
32 distributed as set forth in this paragraph. Except as otherwise provided in subsection (a1) of this  
33 section, the fees collected under subdivisions (a)(1) through (a)(9) of this section shall be  
34 credited to the North Carolina Highway Trust Fund. The fees collected under subdivision  
35 (a)(10) of this section shall be credited to the Highway Fund. Fifteen dollars (\$15.00) of each  
36 title fee credited to the Trust Fund under subdivision (a)(1) shall be added to the amount  
37 allocated for secondary roads under G.S. 136-176 and used in accordance with G.S. 136-44.5."

38 **SECTION 21.1.(k)** G.S. 20-85.1(b) and (c) read as rewritten:

39 "(b) The Commissioner and the employees of the Division designated by the  
40 Commissioner may prepare and deliver upon request a certificate of title, charging a fee of  
41 ~~seventy five dollars (\$75.00)~~one hundred dollars (\$100.00) for one-day title service, in lieu of  
42 the title fee required by G.S. 20-85(a). The fee for one-day title service must be paid by cash or  
43 by certified check.

44 (c) Twenty-five percent (25%) of all fees collected pursuant to this subsection shall be  
45 credited by the Division to the North Carolina Mobility Fund. The remaining fee collected  
46 under subsection (a) shall be credited to the Highway Fund. The remaining fee collected under  
47 subsection (b) shall be credited to the Highway Trust Fund."

48 **SECTION 21.1.(l)** G.S. 20-87 reads as rewritten:

49 **"§ 20-87. Passenger vehicle registration fees.**

1 These shall be paid to the Division annually, as of the first day of January, for the  
 2 registration and licensing of passenger vehicles, fees according to the following classifications  
 3 and schedules:

4 (1) For-Hire Passenger Vehicles. – The fee for a passenger vehicle that is  
 5 operated for compensation and has a capacity of 15 passengers or less is  
 6 seventy-eight dollars (\$78.00). The fee for a passenger vehicle that is  
 7 operated for compensation and has a capacity of more than 15 passengers is  
 8 one dollar and forty cents (\$1.40) per hundred pounds of empty weight of  
 9 the vehicle.

10 (2) U-Drive-It Vehicles. – U-drive-it vehicles shall pay the following tax:

11	Motorcycles:	1-passenger capacity.....	<del>\$18.00</del> <u>\$23.00</u>
12		2-passenger capacity.....	<del>22.00</del> <u>\$28.00</u>
13		3-passenger capacity.....	<del>26.00</del> <u>\$33.00</u>
14	Automobiles:	15 or fewer passengers .....	<del>\$51.00</del> <u>\$60.00</u>
15	Buses:	16 or more passengers .....	<del>\$2.00</del> <u>\$2.25</u> per
16			hundred
17			pounds of
18			empty weight

19	Trucks under		
20	7,000 pounds		
21	that do not		
22	haul products		
23	for hire:	4,000 pounds .....	<del>\$41.50</del> <u>\$52.00</u>
24		5,000 pounds .....	<del>\$51.00</del> <u>\$64.00</u>
25		6,000 pounds .....	<del>\$61.00</del> <u>\$76.00</u>

26 (3) Repealed by Session Laws 1981, c. 976, s. 3.

27 (4) Limousine Vehicles. – For-hire passenger vehicles on call or demand which  
 28 do not solicit passengers indiscriminately for hire between points along  
 29 streets or highways, shall be taxed at the same rate as for-hire passenger  
 30 vehicles under G.S. 20-87(1) but shall be issued appropriate registration  
 31 plates to distinguish such vehicles from taxicabs.

32 (5) Private Passenger Vehicles. – There shall be paid to the Division annually,  
 33 as of the first day of January, for the registration and licensing of private  
 34 passenger vehicles, fees according to the following classifications and  
 35 schedules:

36	Private passenger vehicles of not more than fifteen		
37	passengers .....		<del>\$28.00</del> <u>\$35.00</u>
38	Private passenger vehicles over fifteen		
39	passengers .....		<del>31.00</del> <u>\$39.00</u>

40 Provided, that a fee of only one dollar (\$1.00) shall be charged for any  
 41 vehicle given by the federal government to any veteran on account of any  
 42 disability suffered during war so long as such vehicle is owned by the  
 43 original donee or other veteran entitled to receive such gift under Title 38,  
 44 section 252, United States Code Annotated.

45 (6) Private Motorcycles. – The base fee on private passenger motorcycles shall  
 46 be ~~fifteen dollars (\$15.00); eighteen dollars (\$18.00)~~ except that when a  
 47 motorcycle is equipped with an additional form of device designed to  
 48 transport persons or property, the base fee shall be ~~twenty-two dollars~~  
 49 ~~(\$22.00); twenty-eight dollars (\$28.00)~~. An additional fee of three dollars  
 50 (\$3.00) is imposed on each private motorcycle registered under this  
 51 subdivision in addition to the base fee. The revenue from the additional fee,

in addition to any other funds appropriated for this purpose, shall be used to fund the Motorcycle Safety Instruction Program created in G.S. 115D-72.

- (7) Dealer License Plates. – The fee for a dealer license plate is the regular fee for each of the first five plates issued to the same dealer and is one-half the regular fee for each additional dealer license plate issued to the same dealer. The "regular fee" is the fee set in subdivision (5) of this section for a private passenger motor vehicle of not more than 15 passengers.
- (8) Driveaway Companies. – Any person engaged in the business of driving new motor vehicles from the place of manufacture to the place of sale in this State for compensation shall pay a fee of one-half of the amount that would otherwise be payable under this section for each set of plates.
- (9) House Trailers. – In lieu of other registration and license fees levied on house trailers under this section or G.S. 20-88, the registration and license fee on house trailers shall be ~~eleven dollars (\$11.00)~~twenty-five dollars (\$25.00) for the license year or any portion thereof.
- (10) Special Mobile Equipment. – The fee for special mobile equipment for the license year or any part of the license year is two times the fee in subdivision (5) for a private passenger motor vehicle of not more than 15 passengers.
- (11) Any vehicle fee determined under this section according to the weight of the vehicle shall be increased by the sum of three dollars (\$3.00) to arrive at the total fee.
- (12) Low-Speed Vehicles. – The fee for a low-speed vehicle is the same as the fee for private passengers vehicles of not more than 15 passengers.

Twenty-five percent (25%) of all fees collected pursuant to this subsection shall be credited by the Division to the North Carolina Mobility Fund."

**SECTION 21.1.(m)** G.S. 20-88 reads as rewritten:

**"§ 20-88 Property-hauling vehicles.**

(a) Determination of Weight. – For the purpose of licensing, the weight of self-propelled property-carrying vehicles shall be the empty weight and heaviest load to be transported, as declared by the owner or operator; provided, that any determination of weight shall be made only in units of 1,000 pounds or major fraction thereof, weights of over 500 pounds counted as 1,000 and weights of 500 pounds or less disregarded. The declared gross weight of self-propelled property-carrying vehicles operated in conjunction with trailers or semitrailers shall include the empty weight of the vehicles to be operated in the combination and the heaviest load to be transported by such combination at any time during the registration period, except that the gross weight of a trailer or semitrailer is not required to be included when the operation is to be in conjunction with a self-propelled property-carrying vehicle which is licensed for 6,000 pounds or less gross weight and the gross weight of such combination does not exceed 9,000 pounds, except wreckers as defined under G.S. 20-4.01(50). Those property-hauling vehicles registered for 4,000 pounds shall be permitted a tolerance of 500 pounds above the weight permitted under the table of weights and rates appearing in subsection (b) of this section.

(b) The following fees are imposed on the annual registration of self-propelled property-hauling vehicles; the fees are based on the type of vehicle and its weight:

SCHEDULE OF WEIGHTS AND RATES

Rates Per Hundred Pound Gross Weight

	Farmer Rate
Not over 4,000 pounds	<del>\$0.29</del> <u>\$0.37</u>
4,001 to 9,000 pounds inclusive	<u>.40.50</u>

1	9,001 to 13,000 pounds inclusive	<u>.50.63</u>
2	13,001 to 17,000 pounds inclusive	<u>.68.85</u>
3	Over 17,000 pounds	<u>.77.97</u>

Rates Per Hundred Pound Gross Weight

6		General Rate
7	Not over 4,000 pounds	<del>\$0.59</del> <u>\$0.74</u>
8	4,001 to 9,000 pounds inclusive	<del>.81</del> <u>1.02</u>
9	9,001 to 13,000 pounds inclusive	<del>1.00</del> <u>1.25</u>
10	13,001 to 17,000 pounds inclusive	<del>1.36</del> <u>1.70</u>
11	Over 17,000 pounds	<del>1.54</del> <u>1.93</u>

13 (1) The minimum fee for a vehicle licensed under this subsection is ~~twenty-four~~  
 14 ~~dollars (\$24.00)~~thirty dollars (\$30.00) at the farmer rate and ~~twenty-eight~~  
 15 ~~dollars (\$28.00)~~thirty-five dollars (\$35.00) at the general rate.

16 (2) The term "farmer" as used in this subsection means any person engaged in  
 17 the raising and growing of farm products on a farm in North Carolina not  
 18 less than 10 acres in area, and who does not engage in the business of buying  
 19 products for resale.

20 (3) License plates issued at the farmer rate shall be placed upon trucks and  
 21 truck-tractors that are operated for the primary purpose of carrying or  
 22 transporting the applicant's farm products, raised or produced on the  
 23 applicant's farm, and farm supplies. The license plates shall not be used on a  
 24 vehicle operated in hauling for hire.

25 (4) "Farm products" means any food crop, livestock, poultry, dairy products,  
 26 flower bulbs, or other nursery products and other agricultural products  
 27 designed to be used for food purposes, including in the term "farm products"  
 28 also cotton, tobacco, logs, bark, pulpwood, tannic acid wood and other forest  
 29 products grown, produced, or processed by the farmer.

30 (5) The Division shall issue necessary rules and regulations providing for the  
 31 recall, transfer, exchange or cancellation of "farmer" plates, when vehicle  
 32 bearing such plates shall be sold or transferred.

33 (5a) Notwithstanding any other provision of this Chapter, license plates issued  
 34 pursuant to this subsection at the farmer rate may be purchased for any  
 35 three-month period at one fourth of the annual fee.

36 (6) There shall be paid to the Division annually the following fees for  
 37 "wreckers" as defined under G.S. 20-4.01(50): a wrecker fully equipped  
 38 weighing 7,000 pounds or less, seventy-five dollars (\$75.00); wreckers  
 39 weighing in excess of 7,000 pounds shall pay one hundred forty-eight dollars  
 40 (\$148.00). Fees to be prorated monthly. Provided, further, that nothing  
 41 herein shall prohibit a licensed dealer from using a dealer's license plate to  
 42 tow a vehicle for a customer.

43 (c) The fee for a semitrailer or trailer is ~~nineteen dollars (\$19.00)~~twenty-five dollars  
 44 (\$25.00) for each year or part of a year. The fee is payable each year. Upon the application of  
 45 the owner of a semitrailer or trailer, the Division may issue a multiyear plate and registration  
 46 card for the semitrailer or trailer for a fee of seventy-five dollars (\$75.00). A multiyear plate  
 47 and registration card for a semitrailer or trailer are valid until the owner transfers the semitrailer  
 48 or trailer to another person or surrenders the plate and registration card to the Division. A  
 49 multiyear plate may not be transferred to another vehicle.

1 The Division shall issue a multiyear semitrailer or trailer plate in a different color than an  
 2 annual semitrailer or trailer plate and shall include the word "multiyear" on the plate. The  
 3 Division may not issue a multiyear plate for a house trailer.

4 (d) Rates on trucks, trailers and semitrailers wholly or partially equipped with solid tires  
 5 shall be double the above schedule.

6 (e) Repealed by Session Laws 1981, c. 976, s. 6.

7 (f) Repealed by Session Laws 1995, c. 163, s. 6.

8 (g) Repealed by Session Laws 1969, c. 600, s. 17.

9 (h) Repealed by Session Laws 1979, c. 419.

10 (i) Any vehicle fee determined under this section according to the weight of the vehicle  
 11 shall be increased by the sum of three dollars (\$3.00) to arrive at the total fee.

12 (j) No heavy vehicle subject to the use tax imposed by Section 4481 of the Internal  
 13 Revenue Code of 1954 (26 U.S.C. 4481) may be registered or licensed pursuant to G.S. 20-88  
 14 without proof of payment of the use tax imposed by that law. The proof of payment shall be on  
 15 a form prescribed by the United States Secretary of Treasury pursuant to the provisions of 23  
 16 U.S.C. 141(d).

17 (k) A person may not drive a vehicle on a highway if the vehicle's gross weight exceeds  
 18 its declared gross weight. A vehicle driven in violation of this subsection is subject to the  
 19 axle-group weight penalties set in G.S. 20-118(e). The penalties apply to the amount by which  
 20 the vehicle's gross weight exceeds its declared weight.

21 (l) The Division shall issue permanent truck and truck-tractor plates to Class A and  
 22 Class B Motor Vehicles and shall include the word "permanent" on the plate. The permanent  
 23 registration plates issued pursuant to this section shall be subject to annual registration fees set  
 24 in this section. The Division shall issue the necessary rules providing for the recall, transfer,  
 25 exchange, or cancellation of permanent plates issued pursuant to this section.

26 (m) Twenty-five percent (25%) of all fees collected pursuant to this subsection shall be  
 27 credited by the Division to the North Carolina Mobility Fund."

28 **SECTION 21.1.(n)** G.S. 20-385 reads as rewritten:

29 **"§ 20-385. Fee schedule.**

30 (a) The fees listed in this section apply to a motor carrier. These fees are in addition to  
 31 any fees required under the Unified Carrier Registration Agreement.

32 (1) Repealed by Session Laws 2007-492, s. 5, effective August 30, 2007.

33 (2) Application by an intrastate motor carrier for a  
 34 certificate of exemption 45-0047.00

35 (3) Certification by an interstate motor carrier that it is  
 36 not regulated by the United States Department  
 37 of Transportation 45-0057.00

38 (4) Application by an interstate motor carrier for an  
 39 emergency trip permit 18-0023.00.

40 (b) Repealed by Session Laws 2007-492, s. 5, effective August 30, 2007.

41 (c) Twenty-five percent (25%) of all fees collected pursuant to this subsection shall be  
 42 credited by the Division to the North Carolina Mobility Fund."

43 **SECTION 21.1.(o)** G.S. 105-187.9 reads as rewritten:

44 **"§ 105-187.9. Disposition of tax proceeds.**

45 (a) ~~Distribution.—Taxes collected under this Article at the rate of eight percent (8%)~~  
 46 ~~shall be credited to the General Fund. Taxes collected under this Article at the rate of three~~  
 47 ~~percent (3%) shall be credited to the North Carolina Highway Trust Fund.~~

48 (b) **(Effective until July 1, 2009)** Transfer. – In each fiscal year the State Treasurer  
 49 shall transfer the amounts provided below from the taxes deposited in the Trust Fund to the  
 50 General Fund. The transfer of funds authorized by this section may be made by transferring

1 one-fourth of the amount at the end of each quarter in the fiscal year or by transferring the full  
2 amount annually on July 1 of each fiscal year, subject to the availability of revenue.

3 (1) The sum of one hundred forty-five million dollars (\$145,000,000).

4 (2) In addition to the amount transferred under subdivision (1) of this  
5 subsection, the sum of one million seven hundred thousand dollars  
6 (\$1,700,000) shall be transferred in the 2001-2002 fiscal year. The amount  
7 distributed under this subdivision shall increase in the 2002-2003 fiscal year  
8 to the sum of two million four hundred thousand dollars (\$2,400,000). In  
9 each fiscal year thereafter, the sum transferred under this subdivision shall  
10 be the amount distributed in the previous fiscal year plus or minus a  
11 percentage of this sum equal to the percentage by which tax collections  
12 under this Article increased or decreased for the most recent 12-month  
13 period for which data are available.

14 (b) **(Effective July 1, 2009 until July 1, 2010)** Transfer. – In each fiscal year the State  
15 Treasurer shall transfer the amounts provided below from the taxes deposited in the Trust Fund  
16 to the General Fund. The transfer of funds authorized by this section may be made by  
17 transferring one-fourth of the amount at the end of each quarter in the fiscal year or by  
18 transferring the full amount annually on July 1 of each fiscal year, subject to the availability of  
19 revenue.

20 (1) The sum of one hundred six million dollars (\$106,000,000).

21 (2) In addition to the amount transferred under subdivision (1) of this  
22 subsection, the sum of one million seven hundred thousand dollars  
23 (\$1,700,000) shall be transferred in the 2001-2002 fiscal year. The amount  
24 distributed under this subdivision shall increase in the 2002-2003 fiscal year  
25 to the sum of two million four hundred thousand dollars (\$2,400,000). In  
26 each fiscal year thereafter, the sum transferred under this subdivision shall  
27 be the amount distributed in the previous fiscal year plus or minus a  
28 percentage of this sum equal to the percentage by which tax collections  
29 under this Article increased or decreased for the most recent 12-month  
30 period for which data are available.

31 ~~(b) **(Effective July 1, 2010)** Transfer. – In each fiscal year the State Treasurer shall~~  
32 ~~transfer the amounts provided below from the taxes deposited in the Trust Fund to the General~~  
33 ~~Fund. The transfer of funds authorized by this section may be made by transferring one fourth~~  
34 ~~of the amount at the end of each quarter in the fiscal year or by transferring the full amount~~  
35 ~~annually on July 1 of each fiscal year, subject to the availability of revenue.~~

36 ~~(1) The sum of seventy one million dollars (\$71,000,000).~~

37 ~~(2) In addition to the amount transferred under subdivision (1) of this~~  
38 ~~subsection, the sum of one million seven hundred thousand dollars~~  
39 ~~(\$1,700,000) shall be transferred in the 2001-2002 fiscal year. The amount~~  
40 ~~distributed under this subdivision shall increase in the 2002-2003 fiscal year~~  
41 ~~to the sum of two million four hundred thousand dollars (\$2,400,000). In~~  
42 ~~each fiscal year thereafter, the sum transferred under this subdivision shall~~  
43 ~~be the amount distributed in the previous fiscal year plus or minus a~~  
44 ~~percentage of this sum equal to the percentage by which tax collections~~  
45 ~~under this Article increased or decreased for the most recent 12-month~~  
46 ~~period for which data are available.~~

47 (a) Highway Trust Fund. – All taxes collected under this Article must be credited to the  
48 Highway Trust Fund unless subsection (b) of this section requires a different disposition.

49 (b) General Fund Transfer. – For the fiscal years listed below, the following amounts  
50 shall be transferred to the General Fund, with the balance to remain in the Highway Trust Fund:

1           (1) For the 2010-2011 fiscal year, fifty million eight hundred ninety-four  
2           thousand eight hundred sixty-four dollars (\$50,894,864)."

3           **SECTION 21.1.(p)** G.S. 136-41.1(a) reads as rewritten:

4           "(a) There is annually appropriated out of the State Highway Fund a sum equal to the net  
5 amount after refunds that was produced during the fiscal year by a one and three-fourths cents  
6 (1 3/4¢) tax on each gallon of motor fuel taxed under Article 36C of Chapter 105 of the General  
7 Statutes and on the equivalent amount of alternative fuel taxed under Article 36D of that  
8 Chapter. The amount appropriated shall be allocated in cash on or before October 1 of each  
9 year to the cities and towns of the State in accordance with this section. In addition, as provided  
10 in G.S. 136-176(b)(3), revenue is allocated and appropriated from the Highway Trust Fund to  
11 the cities and towns of this State to be used for the same purposes and distributed in the same  
12 manner as the revenue appropriated to them under this section from the Highway Fund. Like  
13 the appropriation from the Highway Fund, the appropriation from the Highway Trust Fund  
14 shall be based on revenue collected during the fiscal year preceding the date the distribution is  
15 made.

16           There is annually appropriated from the North Carolina Mobility Fund within the Highway  
17 Trust Fund, as provided in G.S. 136-186.1, an amount equal to six and one-half percent (6½%)  
18 of the annual collections for North Carolina Mobility Fund to the eligible municipalities of the  
19 State in the percentage proportion that the mileage of public streets in each eligible  
20 municipality which does not form a part of the State highway system bears to the total mileage  
21 of the public streets in all eligible municipalities which do not constitute a part of the State  
22 highway system.

23           Seventy-five percent (75%) of the funds appropriated for cities and towns shall be  
24 distributed among the several eligible municipalities of the State in the percentage proportion  
25 that the population of each eligible municipality bears to the total population of all eligible  
26 municipalities according to the most recent annual estimates of population as certified to the  
27 Secretary of Revenue by the State Budget Officer. This annual estimation of population shall  
28 include increases in the population within the municipalities caused by annexations  
29 accomplished through July 1 of the calendar year in which these funds are distributed.  
30 Twenty-five percent (25%) of said fund shall be distributed among the several eligible  
31 municipalities of the State in the percentage proportion that the mileage of public streets in  
32 each eligible municipality which does not form a part of the State highway system bears to the  
33 total mileage of the public streets in all eligible municipalities which do not constitute a part of  
34 the State highway system.

35           It shall be the duty of the mayor of each municipality to report to the Department of  
36 Transportation such information as it may request for its guidance in determining the eligibility  
37 of each municipality to receive funds under this section and in determining the amount of  
38 allocation to which each is entitled. Upon failure of any municipality to make such report  
39 within the time prescribed by the Department of Transportation, the Department of  
40 Transportation may disregard such defaulting unit in making said allotment.

41           The funds to be allocated under this section shall be paid in cash to the various eligible  
42 municipalities on or before October 1 of each year. Provided that eligible municipalities are  
43 authorized within the discretion of their governing bodies to enter into contracts for the purpose  
44 of maintenance, repair, construction, reconstruction, widening, or improving streets of such  
45 municipalities at any time after January 1 of any calendar year in total amounts not to exceed  
46 ninety percent (90%) of the amount received by such municipality during the preceding fiscal  
47 year, in anticipation of the receipt of funds under this section during the next fiscal year, to be  
48 paid for out of such funds when received.

49           The Department of Transportation may withhold each year an amount not to exceed one  
50 percent (1%) of the total amount appropriated for distribution under this section for the purpose  
51 of correcting errors in allocations: Provided, that the amount so withheld and not used for



1 correcting errors will be carried over and added to the amount to be allocated for the following  
2 year.

3 The word "street" as used in this section is hereby defined as any public road maintained by  
4 a municipality and open to use by the general public, and having an average width of not less  
5 than 16 feet. In order to obtain the necessary information to distribute the funds herein  
6 allocated, the Department of Transportation may require that each municipality eligible to  
7 receive funds under this section submit to it a statement, certified by a registered engineer or  
8 surveyor of the total number of miles of streets in such municipality. The Department of  
9 Transportation may in its discretion require the certification of mileage on a biennial basis."

10 **SECTION 21.1.(q)** G.S. 105-164.44D reads as rewritten:

11 "**§ 105-164.44D. Reimbursement for sales tax exemption for purchases by the**  
12 **Department of Transportation.**

13 The amount of sales and use tax revenue that is not realized by the General Fund as the  
14 result of the sales and use tax exemption in G.S. 105-164.13 for purchases by the Department  
15 of Transportation shall be transferred from the Highway Fund to ~~the General Fund in~~  
16 ~~accordance with this section. This direct transfer is made in lieu of eliminating the Department~~  
17 ~~of Transportation's sales and use tax exemption to alleviate the administrative and accounting~~  
18 ~~burden that would be placed on the Department of Transportation by eliminating the~~  
19 ~~exemption.~~ the North Carolina Mobility Fund created pursuant to G.S. 136-186.1.

20 For the 1991-92 fiscal year, the State Treasurer shall transfer the sum of eight million seven  
21 hundred thousand dollars (\$8,700,000) from the Highway Fund to the General Fund. The  
22 transfer shall be made on a quarterly basis by transferring one fourth of the annual amount each  
23 quarter.

24 For each fiscal year following the 1991-92 fiscal year, the State Treasurer shall transfer the  
25 sum transferred the previous fiscal year plus or minus the percentage of that amount by which  
26 the total collection of State sales and use taxes increased or decreased during the previous fiscal  
27 year. In each fiscal year, the transfer shall be made on a quarterly basis by transferring  
28 one fourth of the annual amount each quarter."

29 **SECTION 21.1.(r)** G.S. 136-176 is amended by adding a new subsection to read:

30 "**(b3) Any amounts appropriated for a particular fiscal year under subsection (b2) of this**  
31 **section to a project for which the North Carolina Department of Transportation or North**  
32 **Carolina Turnpike Authority has not issued bonds requiring debt service or related financing by**  
33 **the end of that fiscal year shall be transferred to the North Carolina Mobility Fund established**  
34 **pursuant to G.S. 136-181.1.**"

35 **SECTION 21.1.(s)** Sections 21.1(c), 21.1(f), and 21.1(f1) become effective July 1,  
36 2011. Sections 21.1(d), 21.1(e), 21.1(p), and 21.1(q) become effective July 1, 2012. The  
37 remaining provisions become effective July 1, 2010.

## 38 39 **PART XXII. SALARIES AND BENEFITS**

### 40 41 **TEACHERS AND STATE EMPLOYEES' PAYBACK**

42 **SECTION 22.1.(a)** Notwithstanding any law to the contrary, all persons employed  
43 in the Executive, Judicial, and Legislative branches of State government, and all employees of  
44 the public schools, community colleges, and universities whose salaries are paid in whole or in  
45 part from moneys appropriated by the Appropriations Act of 2009 shall receive a onetime  
46 bonus payment equivalent to one-half percent (0.5%) of their annualized base salary paid  
47 between July 1, 2009, and June 30, 2010.

48 **SECTION 22.1.(b)** The onetime bonus payment shall not be included in the  
49 retirement average final compensation and shall not be subject to employee or employer  
50 contributions to the Retirement Systems Division or Optional Retirement Program (ORP).

**TEACHER SALARY SCHEDULES**

**SECTION 22.2.(a)** Effective for the 2010-2011 school year, the Director of the Budget shall transfer from the Reserve for Compensation Increases funds necessary to implement the teacher salary schedules set out in subsection (b) of this section and for longevity in accordance with subsection (c) of this section, including funds for the employer's retirement and social security contributions for all teachers whose salaries are supported from the State's General Fund. These funds shall be allocated to individuals according to rules adopted by the State Board of Education.

**SECTION 22.2.(b)** 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 schedule contains 33 steps with each step corresponding to one year of teaching experience.

2010-2011 Monthly Salary Schedule  
"A" Teachers

Years of Experience	"A" Teachers	NBPTS Certification
0	\$3,043	N/A
1	\$3,043	N/A
2	\$3,085	N/A
3	\$3,129	\$3,504
4	\$3,264	\$3,656
5	\$3,404	\$3,812
6	\$3,538	\$3,963
7	\$3,667	\$4,107
8	\$3,771	\$4,224
9	\$3,819	\$4,277
10	\$3,868	\$4,332
11	\$3,918	\$4,388
12	\$3,967	\$4,443
13	\$4,018	\$4,500
14	\$4,069	\$4,557
15	\$4,122	\$4,617
16	\$4,176	\$4,677
17	\$4,231	\$4,739
18	\$4,286	\$4,800
19	\$4,345	\$4,866
20	\$4,403	\$4,931
21	\$4,461	\$4,996
22	\$4,523	\$5,066
23	\$4,584	\$5,134
24	\$4,650	\$5,208
25	\$4,714	\$5,280
26	\$4,779	\$5,352
27	\$4,845	\$5,426
28	\$4,913	\$5,503
29	\$4,984	\$5,582
30	\$5,055	\$5,662
31	\$5,153	\$5,771
32+	\$5,255	\$5,886

## 2010-2011 Monthly Salary Schedule

## "M" Teachers

Years of Experience	"M" Teachers	NBPTS Certification
0	\$3,347	N/A
1	\$3,347	N/A
2	\$3,394	N/A
3	\$3,442	\$3,855
4	\$3,590	\$4,021
5	\$3,744	\$4,193
6	\$3,892	\$4,359
7	\$4,034	\$4,518
8	\$4,148	\$4,646
9	\$4,201	\$4,705
10	\$4,255	\$4,766
11	\$4,310	\$4,827
12	\$4,364	\$4,888
13	\$4,420	\$4,950
14	\$4,476	\$5,013
15	\$4,534	\$5,078
16	\$4,594	\$5,145
17	\$4,654	\$5,212
18	\$4,715	\$5,281
19	\$4,780	\$5,354
20	\$4,843	\$5,424
21	\$4,907	\$5,496
22	\$4,975	\$5,572
23	\$5,042	\$5,647
24	\$5,115	\$5,729
25	\$5,185	\$5,807
26	\$5,257	\$5,888
27	\$5,330	\$5,970
28	\$5,404	\$6,052
29	\$5,482	\$6,140
30	\$5,561	\$6,228
31	\$5,668	\$6,348
32+	\$5,781	\$6,475

**SECTION 22.2.(c)** Annual longevity payments for teachers shall be at the rate of one and one-half percent (1.5%) of base salary for 10 to 14 years of State service, two and twenty-five hundredths percent (2.25%) of base salary for 15 to 19 years of State service, three and twenty-five hundredths percent (3.25%) of base salary for 20 to 24 years of State service, and four and one-half percent (4.5%) of base salary for 25 or more years of State service. The longevity payment shall be paid in a lump sum once a year.

**SECTION 22.2.(d)** 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

1 addition to the compensation provided for certified personnel of the public schools who are  
 2 classified as "M" teachers.

3 **SECTION 22.2.(e)** The first step of the salary schedule for school psychologists  
 4 shall be equivalent to Step 5, corresponding to five years of experience, on the salary schedule  
 5 established in this section for certified personnel of the public schools who are classified as  
 6 "M" teachers. Certified psychologists shall be placed on the salary schedule at an appropriate  
 7 step based on their years of experience. Certified psychologists shall receive longevity  
 8 payments based on years of State service in the same manner as teachers.

9 Certified psychologists with certification based on academic preparation at the  
 10 six-year degree level shall receive a salary supplement of one hundred twenty-six dollars  
 11 (\$126.00) per month in addition to the compensation provided for certified psychologists.

12 Certified psychologists with certification based on academic preparation at the  
 13 doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars  
 14 (\$253.00) per month in addition to the compensation provided for certified psychologists.

15 **SECTION 22.2.(f)** Speech pathologists who are certified as speech pathologists at  
 16 the master's degree level and audiologists who are certified as audiologists at the master's  
 17 degree level and who are employed in the public schools as speech and language specialists and  
 18 audiologists shall be paid on the school psychologist salary schedule. Speech pathologists and  
 19 audiologists with certification based on academic preparation at the six-year degree level shall  
 20 receive a salary supplement of one hundred twenty-six dollars (\$126.00) per month in addition  
 21 to the compensation provided for speech pathologists and audiologists. Speech pathologists and  
 22 audiologists with certification based on academic preparation at the doctoral degree level shall  
 23 receive a salary supplement of two hundred fifty-three dollars (\$253.00) per month in addition  
 24 to the compensation provided for speech pathologists and audiologists.

25 **SECTION 22.2.(g)** Certified school nurses who are employed in the public schools  
 26 as nurses shall be paid on the "M" salary schedule.

27 **SECTION 22.2.(h)** As used in this section, the term "teacher" shall also include  
 28 instructional support personnel.  
 29

30 **SCHOOL BASED ADMINISTRATOR SALARY SCHEDULE**

31 **SECTION 22.3.(a)** Effective for the 2010-2011 school year, the Director of the  
 32 Budget shall transfer from the Reserve for Compensation Increases funds necessary to  
 33 implement the salary schedules for school-based administrators as provided in this section.  
 34 These funds shall be used for State-paid employees only.

35 **SECTION 22.3.(b)** The base salary schedule for school-based administrators shall  
 36 apply only to principals and assistant principals. The base salary schedule for the 2010-2011  
 37 fiscal year, commencing July 1, 2010, is as follows:  
 38

39 2010-2011 Principal and Assistant Principal Salary Schedules Classification

40	41	42	43	44	45	46
Years of Exp	Assistant	Prin I	Prin II	Prin III	Prin IV	
	Principal	(0-10)	(11-21)	(22-32)	(33-43)	
43	0-4	\$3,781				
44	5	\$3,931				
45	6	\$4,074				
46	7	\$4,189				
47	8	\$4,243	\$4,243			
48	9	\$4,298	\$4,298			
49	10	\$4,353	\$4,353	\$4,408		
50	11	\$4,408	\$4,408	\$4,464		
51	12	\$4,464	\$4,464	\$4,521	\$4,579	

1	13	\$4,521	\$4,521	\$4,579	\$4,640	\$4,701
2	14	\$4,579	\$4,579	\$4,640	\$4,701	\$4,762
3	15	\$4,640	\$4,640	\$4,701	\$4,762	\$4,828
4	16	\$4,701	\$4,701	\$4,762	\$4,828	\$4,891
5	17	\$4,762	\$4,762	\$4,828	\$4,891	\$4,956
6	18	\$4,828	\$4,828	\$4,891	\$4,956	\$5,025
7	19	\$4,891	\$4,891	\$4,956	\$5,025	\$5,092
8	20	\$4,956	\$4,956	\$5,025	\$5,092	\$5,166
9	21	\$5,025	\$5,025	\$5,092	\$5,166	\$5,237
10	22	\$5,092	\$5,092	\$5,166	\$5,237	\$5,310
11	23	\$5,166	\$5,166	\$5,237	\$5,310	\$5,383
12	24	\$5,237	\$5,237	\$5,310	\$5,383	\$5,458
13	25	\$5,310	\$5,310	\$5,383	\$5,458	\$5,537
14	26	\$5,383	\$5,383	\$5,458	\$5,537	\$5,617
15	27	\$5,458	\$5,458	\$5,537	\$5,617	\$5,725
16	28	\$5,537	\$5,537	\$5,617	\$5,725	\$5,839
17	29	\$5,617	\$5,617	\$5,725	\$5,839	\$5,956
18	30	\$5,725	\$5,725	\$5,839	\$5,956	\$6,075
19	31	\$5,839	\$5,839	\$5,956	\$6,075	\$6,197
20	32		\$5,956	\$6,075	\$6,197	\$6,321
21	33			\$6,197	\$6,321	\$6,447
22	34			\$6,321	\$6,447	\$6,576
23	35				\$6,576	\$6,708
24	36				\$6,708	\$6,842
25	37					\$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+)
0-14	\$4,828			
15	\$4,891			
16	\$4,956	\$5,025		
17	\$5,025	\$5,092	\$5,237	
18	\$5,092	\$5,166	\$5,310	\$5,383
19	\$5,166	\$5,237	\$5,383	\$5,458
20	\$5,237	\$5,310	\$5,458	\$5,537
21	\$5,310	\$5,383	\$5,537	\$5,617
22	\$5,383	\$5,458	\$5,617	\$5,725
23	\$5,458	\$5,537	\$5,725	\$5,839
24	\$5,537	\$5,617	\$5,839	\$5,956
25	\$5,617	\$5,725	\$5,956	\$6,075
26	\$5,725	\$5,839	\$6,075	\$6,197
27	\$5,839	\$5,956	\$6,197	\$6,321
28	\$5,956	\$6,075	\$6,321	\$6,447
29	\$6,075	\$6,197	\$6,447	\$6,576
30	\$6,197	\$6,321	\$6,576	\$6,708
31	\$6,321	\$6,447	\$6,708	\$6,842
32	\$6,447	\$6,576	\$6,842	\$6,979
33	\$6,576	\$6,708	\$6,979	\$7,119
34	\$6,708	\$6,842	\$7,119	\$7,261

1	35	\$6,842	\$6,979	\$7,261	\$7,406
2	36	\$6,979	\$7,119	\$7,406	\$7,554
3	37	\$7,119	\$7,261	\$7,554	\$7,705
4	38	\$7,261	\$7,406	\$7,705	\$7,859
5	39		\$7,554	\$7,859	\$8,016
6	40		\$7,705	\$8,016	\$8,176
7	41			\$8,176	\$8,340

**SECTION 22.3.(c)** The appropriate classification for placement of principals and assistant principals on the salary schedule, except for principals in alternative schools and in cooperative innovative high schools, shall be determined in accordance with the following schedule:

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

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

The beginning classification for principals in alternative schools and in cooperative innovative high school programs shall be the Principal III level. Principals in alternative schools who supervise 33 or more teachers shall be classified according to the number of teachers supervised.

**SECTION 22.3.(d)** A principal shall be placed on the step on the salary schedule that reflects total number of years of experience as a certificated employee of the public schools and an additional step for every three years of experience as a principal. A principal or assistant principal shall also continue to receive any additional State-funded percentage increases earned for the 1997-1998, 1998-1999, and 1999-2000 school years for improvement in student performance or maintaining a safe and orderly school.

**SECTION 22.3.(e)** 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 22.3.(f)** Longevity pay for principals and assistant principals shall be as provided for State employees under the State Personnel Act.

**SECTION 22.3.(g)** 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.

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

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

9 **SECTION 22.3.(h)** Participants in an approved full-time master's in school  
10 administration program shall receive up to a 10-month stipend at the beginning salary of an  
11 assistant principal during the internship period of the master's program. For the 2006-2007  
12 fiscal year and subsequent fiscal years, the stipend shall not exceed the difference between the  
13 beginning salary of an assistant principal plus the cost of tuition, fees, and books and any  
14 fellowship funds received by the intern as a full-time student, including awards of the Principal  
15 Fellows Program. The Principal Fellows Program or the school of education where the intern  
16 participates in a full-time master's in school administration program shall supply the  
17 Department of Public Instruction with certification of eligible full-time interns.

18 **SECTION 22.3.(i)** During the 2010-2011 fiscal year, the placement on the salary  
19 schedule of an administrator with a one-year provisional assistant principal's certificate shall be  
20 at the entry-level salary for an assistant principal or the appropriate step on the teacher salary  
21 schedule, whichever is higher.

## 22 **BONUS LEAVE FOR STATE EMPLOYEES**

23 **SECTION 22.4.(a)** Except as provided by subsection (b) of this section, any  
24 person (i) who is a full-time permanent employee of the State, a community college institution,  
25 or a local board of education on July 1, 2010, and (ii) who is eligible to earn annual leave shall  
26 have a onetime additional 32 hours of bonus leave credited on that date. The additional leave  
27 shall be accounted for separately from other leave. Of these 32 hours, 24 flexible bonus hours  
28 shall remain available until used, notwithstanding any other limitation on the total number of  
29 days of annual leave that may be carried forward. The remaining eight hours must be used on  
30 December 23, 2010, or be forfeited, notwithstanding requirements for employees who are  
31 required to work on December 23 in order to provide scheduled services. Employees who are  
32 required to work on December 23 or who work in institutions that would be closed on that day  
33 must be allowed to use these eight hours of leave within 30 days before or after December 23,  
34 2010, or forfeit it if unused by January 23, 2011. Part-time permanent employees who earn  
35 annual leave shall receive a pro rata amount.

36 **SECTION 22.4.(b)** The following persons are not eligible to receive the special  
37 annual leave bonus authorized by this section:

- 38 (1) Any employee or officer who does not earn annual leave.
- 39 (2) Any public school employee or State employee paid on the Teacher Salary  
40 Schedule or the School-Based Administrator Salary Schedule.

## 41 **SALARY-RELATED CONTRIBUTIONS/EMPLOYER**

42 **SECTION 22.5.(b)** Section 6(c) of S.L. 2009-16 reads as rewritten:

43 **"SECTION 6.(c)** Effective July 1, 2010, the State's employer contribution rates budgeted  
44 for retirement and related benefits as percentage of covered salaries for the 2010-2011 fiscal  
45 year are: (i) ~~eight and ninety-four hundredths percent (8.94%)~~ ten and seventy hundredths  
46 percent (10.70%) – Teachers and State Employees; (ii) ~~thirteen and ninety-four hundredths~~  
47 percent (13.94%) ~~fifteen and seventy hundredths percent (15.70%)~~ – State Law Enforcement  
48 Officers; (iii) twelve and twenty-six hundredths percent (12.26%) – University Employees'  
49 Optional Retirement System; (iv) twelve and twenty-six hundredths percent (12.26%) –  
50  
51

1 Community College Optional Retirement Program; (v) ~~eighteen and eleven hundredths percent~~  
 2 ~~(18.11%)~~ twenty and one hundredths percent (20.01%) – Consolidated Judicial Retirement  
 3 System; and (vi) four and ninety hundredths percent (4.90%) – Legislative Retirement System.  
 4 Each of the foregoing contribution rates includes four and ninety hundredths percent (4.90%)  
 5 for hospital and medical benefits. The rate for Teachers and State Employees, State Law  
 6 Enforcement Officers, Community College Optional Retirement Program, and for the  
 7 University Employees' Optional Retirement Program includes fifty-two hundredths percent  
 8 (0.52%) for the Disability Income Plan. The rates for Teachers and State Employees and State  
 9 Law Enforcement Officers include sixteen-hundredths percent (0.16%) for the Death Benefits  
 10 Plan. The rate for State Law Enforcement Officers includes five percent (5%) for Supplemental  
 11 Retirement Income."  
 12

### 13 **BONUS FOR CERTIFIED PERSONNEL AT THE TOP OF THEIR SALARY** 14 **SCHEDULES**

15 **SECTION 22.6.** Effective July 1, 2010, any permanent personnel employed on  
 16 July 1, 2010, and paid at the top of the teacher salary schedule shall receive a onetime bonus  
 17 equivalent to one and seventy-eight hundredths percent (1.78%). Any permanent personnel  
 18 employed on July 1, 2010, and paid at the top of the principal and assistant principal salary  
 19 schedule shall receive a onetime bonus equivalent to two percent (2%).  
 20

### 21 **STATE AGENCY TEACHERS' COMPENSATION**

22 **SECTION 22.7.** Funds in the Reserve for Compensation Increases shall be used  
 23 for experience step increases for employees of schools operated by the Department of Health  
 24 and Human Services, the Department of Correction, the Department of Juvenile Justice and  
 25 Delinquency Prevention, or the North Carolina School of Science and Mathematics who are  
 26 paid on the Teacher Salary Schedule or the School-Based Administrator Salary Schedule.  
 27

## 28 **PART XXIII. CAPITAL APPROPRIATIONS**

### 29 **CAPITAL APPROPRIATIONS/GENERAL FUND**

30 **SECTION 23.1.** There is appropriated from the General Fund for the 2010-2011  
 31 fiscal year the following amount for capital improvements:  
 32

33	34 <b>Capital Improvements – General Fund</b>	35 <b>2010-2011</b>
36	Department of Environment and Natural Resources	
37	Water Resources Development Projects	11,172,072
38		
39	<b>TOTAL CAPITAL IMPROVEMENTS – GENERAL FUND</b>	<b>\$11,172,072</b>

### 40 **WATER RESOURCES DEVELOPMENT PROJECT FUNDS**

41 **SECTION 23.2.(a)** The Department of Environment and Natural Resources shall  
 42 allocate the funds appropriated in this act for water resources development projects to the  
 43 following projects whose costs are as indicated:  
 44

45	<b>Name of Project</b>	<b>2010-2011</b>
46	(1) Wilmington Harbor Deepening	2,000,000
47	(2) Wilmington Harbor Maintenance	100,000
48	(3) Morehead City Harbor Maintenance	200,000
49	(4) B. Everett Jordan Lake Water Supply Storage	1,250,000
50	(5) Dredging Contingency Fund	1,000,000
51	(6) AIWW Dredging	5,000



1	(7)	Bogue Banks Shore Protection Study	50,000
2	(8)	John H. Kerr Dam and Reservoir Sec. 216	-
3	(9)	Neuse River Basin PED	200,000
4	(10)	Princetonville Flood Damage Reduction	50,000
5	(11)	Currituck Sound Environmental Restoration Study	350,000
6	(12)	Belhaven Harbor – CAP – Sec 1135	0
7	(13)	Surf City / North Topsail Beach Protection Study-PED	50,000
8	(14)	West Onslow Beach(Topsail Beach)-PED	800,000
9	(15)	Silver Lake Harbor Disposal Area Maintenance	25,000
10	(16)	Manteo Old House Channel – CAP – Sec 204	-
11	(17)	Concord Streams Restoration – CAP – Sec 206	-
12	(18)	North Carolina International Terminal	-
13	(19)	Planning Assistance to Communities	2,000,000
14	(20)	State – Local projects	350,000
15	(21)	Aquatic Plant Control, Statewide and Lake Gaston	266,000
16	(22)	Aquatic Weed Storage Facility	210,000
17	(23)	Lake Junaluska Dredging	150,000
18	(24)	Cape Fear River Basin Model Update	37,500
19	(25)	Catawba Water Management Study	425,000
20	(26)	Little Fork Creek Restoration (Rendezvous SF)	303,572
21	(27)	Emerald Isle Boat Launch Facility	450,000
22	(28)	Southern Shores Canal Dredging	900,000
23			
24		<b>TOTALS</b>	<b>\$11,172,072</b>
25			

**SECTION 23.2.(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.
- (4) Funds not expended or encumbered for these purposes shall revert to the General Fund at the end of the 2010-2011 fiscal year.

**SECTION 23.2.(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 23.3.(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:

Name of Project	Amount of Non-General Fund Funding Authorized for FY 2010-2011
Department of Agriculture and Consumer Services	
Upgrade Steam Generation Capability at Food and Drug Facility	18,000
Western NC Agricultural Center – Storage Shed	23,000
Western NC Agricultural Center – Entertainment Stage	35,000
Western NC Agricultural Center – Youth Building Roof Replacement	3,000
Western NC Agricultural Center – RV Site Improvements	20,000
Western NC Agricultural Center – C&D Barn Access Road	125,000
Western NC Agricultural Center – Handicap Platform	8,000
Western NC Agricultural Center – Exhibits/Cashier Office	70,000
Western NC Agricultural Center – Retention Pond Parking	225,000
Constable Lab Standby Generator/Rollins Lab Security	363,245
Southeastern Agricultural Center – Multipurpose Pavilion	1,290,000
Southeastern Agricultural Center – Horse Stalls	700,000
Research Stations Irrigation Renovations	200,000
Piedmont Research Station – Grain Storage Renovation	400,000
Department of Correction	
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
Department of Cultural Resources	
USS NC Battleship Repairs, Dredging, Construction	1,700,000
Commission Battleship Fund	
Department of Environment and Natural Resources	
Forest Resources – Bladen Lakes Ranger Residence	399,000
Department of Justice	
NC Justice Academy Live Fire Shoot House	282,000
Wildlife Resources Commission	
Pisgah Education Center Repairs and 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
<b>TOTAL AMOUNT OF NON-GENERAL FUND CAPITAL PROJECTS AUTHORIZED</b>	<b>\$13,708,245</b>

1  
2           **SECTION 23.3.(b)** From funds deposited with the State Treasurer in a capital  
3 improvement account to the credit of the Department of Agriculture and Consumer Services  
4 pursuant to G.S. 146-30, the sum of thirty thousand dollars (\$30,000) for the 2010-2011 fiscal  
5 year shall be transferred to the Department of Agriculture and Consumer Services to be used,  
6 notwithstanding G.S. 146-30, by the Department for its plant conservation program under  
7 Article 19B of Chapter 106 of the General Statutes for costs incidental to the acquisition of  
8 land, such as land appraisals, land surveys, title searches, environmental studies, and for the  
9 management of the plant conservation program preserves owned by the Department.

10  
11 **AMEND 2009 WILDLIFE RESOURCES COMMISSION NON-GENERAL FUND**  
12 **CAPITAL IMPROVEMENT AUTHORIZATIONS**

13           **SECTION 23.4.** Section 27.4(a) of S.L. 2009-451 reads as rewritten:

14           **"SECTION 27.4.(a)** The General Assembly authorizes the following capital projects to be  
15 funded with receipts or from other non-General Fund sources available to the appropriate  
16 department:

17 18 <b>Name of Project</b>	19 20 <b>Amount of Non-General Fund Funding Authorized for FY 2009-2010</b>
21 Department of Crime Control and Public Safety	
22       Additions and Renovations to Armories	\$ 9,303,442
23       Camp Butner Cantonment – Phase 1 Design	1,367,000
24       Family Assistance Centers	2,000,000
25       Gastonia Armory Renovation and Expansion	1,100,000
26       Tactical Unmanned Aerial Systems Facility	6,746,000
27	
28 Department of Cultural Resources	
29       Aycock Birthplace Picnic Shelter	86,100
30       Maritime Museum – Floating Dock	130,000
31       Museum of History Chronology Exhibit – Phase 2B (1900-1960)	1,200,000
32	
33 Department of Environment and Natural Resources	
34       Zoo – Elephant Exhibit New Restrooms	300,000
35	
36 Wildlife Resources Commission	
37       Armstrong Hatchery Lower Raceway Replacement	1,725,000
38       Centennial Campus Education Center Exhibit Completion	180,000
39       Chinquapin Equipment Storage Pole Shed	60,000
40       Chowan Bridge Fishing Pier and Edenton Boating Access	450,000
41       Emerald Isle New Boating Access Area	600,000
42       Falls Lake Office Building	550,000
43       Hampstead Land Acquisition	10,000,000
44       Land Acquisitions – State Gamelands	<del>59,135,000</del> 20,000,000
45       Lewelyn Branch New Boating Access Area	150,000
46       Manns Harbor Bridge Marina Acquisition	5,750,000
47       Marion Depot Drainage Repairs	200,000
48       McKinney Lake Hatchery Kettles Replacement	1,700,000
49       Minor Boating Access Area Renovations – Various Locations	150,000
50 <del>New Coldwater Fish Hatchery Construction</del>	<del>7,900,000</del>
51 <u>Marion Hatchery and Depot Renovation</u>	<u>4,000,000</u>

1	<u>Statewide Emergency Repair &amp; Renovation</u>	3,500,000
2	Ocean Isle Boating Access Area Renovations	150,000
3	Outer Banks Education Center Teaching Facility Repairs	245,000
4	Pechmann Fishing Education Center Pond Restoration	160,000
5	Pechmann Fishing Education Center Storage Building	220,000
6	Pisgah Education Center Gift Shop Renovation and Expansion	200,000
7	Pisgah Education Center Outdoor Exhibit Renovation	450,000
8	Pisgah Education Center Repairs	155,000
9	Pisgah Hatchery Water System Renovation	100,000
10	Rhodes Pond Dam Repairs	500,000
11	Sneads Ferry Land Acquisition	6,500,000
12	Sunset Harbor Land Acquisition	925,000
13	Swan Quarter Land Acquisition	1,700,000
14	Sykes Depot Pond, Office, Storage Construction	350,000
15	Table Rock Hatchery Office and Workshop Replacement	345,000
16		
17	<b>TOTAL AMOUNT OF NON-GENERAL FUND CAPITAL</b>	
18	<b>PROJECTS AUTHORIZED</b>	<b><u>\$122,782,542</u>\$83,247,542</b>
19		

Wildlife Resources Commission must receive approval from the Office of State Budget and Management before expending funds from the Statewide Emergency Repair & Renovation project."

#### **AMEND DEBT SERVICE FOR GREEN SQUARE COMPLEX PARKING CONSTRUCTION**

**SECTION 23.6.** 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."

#### **PART XXIV. REVENUE LAW CHANGES**

##### **RENEW SMALL BUSINESS HEALTH INSURANCE CREDIT**

**SECTION 24.1.(a)** G.S. 105-129.16E reads as rewritten:

**"§ 105-129.16E. (Effective for taxable years beginning on or after January 1, 2007, and expires for taxable years beginning on or after January 1, 2010) Credit for small business employee health benefits.**

(a) Credit. – A small business that provides health benefits for all of its eligible employees during the taxable year is allowed a credit to offset its costs in providing health benefits for its eligible employees. For the purposes of this subsection, a taxpayer provides health benefits if it pays at least fifty percent (50%) of the premiums for health care coverage that equals or exceeds the minimum provisions of the basic health care plan of coverage recommended by the Small Employer Carrier Committee pursuant to G.S. 58-50-125 or if its employees have qualifying existing coverage.

The credit is equal to a dollar amount per eligible employee whose total wages or salary received from the business does not exceed forty thousand dollars (\$40,000) on an annual basis. The dollar amount is two hundred fifty dollars (\$250.00), not to exceed the taxpayer's costs of providing health benefits for the employee during the taxable year.

(b) Allocation. – If the taxpayer is an individual who is a nonresident or a part-year resident, the taxpayer must reduce the amount of the credit by multiplying it by the fraction

1 calculated under G.S. 105-134.5(b) or (c), as appropriate. If the taxpayer is not an individual  
2 and is required to apportion its multistate business income to this State, the taxpayer must  
3 reduce the amount of the credit by multiplying it by the apportionment fraction used to  
4 apportion its apportionable income to this State.

5 (c) Definitions. – The following definitions apply in this section:

6 (1) Eligible employee. – Defined in G.S. 58-50-110.

7 (2) Qualifying existing coverage. – Defined in G.S. 58-50-130(a)(4a).

8 (3) Small business. – A taxpayer that employs no more than 25 eligible  
9 employees throughout the taxable year.

10 (d) Sunset. – This section expires for taxable years beginning on or after January 1,  
11 ~~2010-2012.~~"

12 **SECTION 24.1.(b)** This act is effective when it becomes law.

### 13 **SMALL BUSINESS START-UP TAX RELIEF**

14 **SECTION 24.2.(a)** G.S. 105-130.5(b) is amended by adding a new subdivision to  
15 read:

16 "(b) The following deductions from federal taxable income shall be made in determining  
17 State net income:

18 ...

19 (26) The amount of any exclusion of gain for qualified businesses allowed under  
20 Part 5 of this Article, to the extent included in federal taxable income, less  
21 the amount of the credits recaptured pursuant to G.S. 105-163.021; provided,  
22 however, that a taxpayer is not required to claim this exclusion."

23 **SECTION 24.2.(b)** G.S. 105-134.6(b) is amended by adding a new subdivision to  
24 read:

25 "(b) Deductions. – The following deductions from taxable income shall be made in  
26 calculating North Carolina taxable income, to the extent each item is included in taxable  
27 income:

28 ...

29 (21) The amount of the exclusion of gain for qualified businesses allowed under  
30 Part 5 of this Article, less the amount of the credits recaptured pursuant to  
31 G.S. 105-163.021; provided, however, that a taxpayer is not required to  
32 claim this exclusion."

33 **SECTION 24.2.(c)** Part 5 of Article 4 of Chapter 105 of the General Statutes is  
34 amended by adding the following new section to read:

#### 35 **"§ 105-163.020. Exclusion of gain allowed.**

36 (a) Election. – A taxpayer may elect to exclude from the taxpayer's income taxable  
37 under this Article any gain or other taxable income recognized for federal income tax purposes  
38 from the sale or exchange of qualified securities.

39 (b) Pass-Through Entity. – Except as provided in subsection (c) of this section, a  
40 taxpayer that is an owner of a pass-through entity may exclude from the taxpayer's income  
41 taxable under this Article an amount equal to the taxpayer's allocated share of the exclusion for  
42 which the pass-through entity is eligible under subsection (a) of this section.

43 (c) Qualified Grantee Pass-Through Entity. – If a taxpayer is an owner of a  
44 pass-through entity that was a qualified grantee business at the time of the taxpayer's  
45 investment in the pass-through entity, the taxpayer may exclude from the taxpayer's income  
46 taxable under this Article an amount equal to the gain or other taxable income recognized as a  
47 result of the taxpayer's ownership in the pass-through entity, multiplied by a fraction, the  
48 numerator of which is the total amount invested by the pass-through entity in qualified  
49 businesses and the denominator of which is the total amount invested by the pass-through  
50 entity. For purposes of this subsection, the amounts invested by a pass-through entity shall be  
51

1 the amounts invested immediately before the pass-through entity's sale or exchange producing  
2 the gain or taxable income excluded under this subsection.

3 **"§ 105-163.021. Recapture of credit.**

4 If a taxpayer claims an exclusion of gain from income pursuant to G.S. 105-163.020, the  
5 income tax of the taxpayer for the tax year for which the exclusion is claimed shall be increased  
6 by the amount of all credits previously claimed by the taxpayer pursuant to G.S. 105-163.011  
7 with respect to qualified securities that (i) have been sold or exchanged and (ii) the gain from  
8 which has been excluded pursuant to G.S. 105-163-020.

9 **"§ 105-163.022. Qualified securities.**

10 (a) **Qualified Security.** – Except as otherwise provided in this section, any equity  
11 security or subordinated debt instrument issued by a qualified business is a qualified security if  
12 it satisfies all of the following conditions:

- 13 (1) It is originally issued by the business on or after January 1, 2011.
- 14 (2) As of the date of issuance, the issuing business is a qualified business.
- 15 (3) The security or instrument is acquired by the taxpayer at its original issue in  
16 exchange for any tangible or intangible property or benefit to the business,  
17 including cash, promissory notes, services performed, contracts for services  
18 to be performed, or other equity securities of the business.
- 19 (4) It is held by the taxpayer for a continuous period of more than one year.
- 20 (5) No broker's fee or commission or other similar remuneration is paid or given  
21 directly or indirectly for soliciting the purchase.
- 22 (6) If the security or instrument was purchased by a pass-through entity, the  
23 entity met the requirements of G.S. 105-163.011(b1) at the time of purchase.

24 (b) **Registration.** – Securities of a qualified business acquired before the effective date  
25 of its registration are not qualified securities. Revocation of the registration of a qualified  
26 business pursuant to G.S. 105-163.013 does not affect the exclusion of gain from qualified  
27 securities acquired while the registration was in effect if all conditions for registration are  
28 satisfied.

29 (c) **Effect of Redemptions and Other Distributions.** – An equity security or subordinated  
30 debt instrument is not a qualified security to the extent the taxpayer purchased it with the  
31 proceeds of a redemption, dividend, or distribution made by the business that issued the  
32 security or instrument. For the purpose of this subsection, when a business makes a redemption,  
33 dividend, or distribution during the four-year period beginning two years before the issuance of  
34 securities or instruments to a taxpayer, the taxpayer is considered to have used the proceeds of  
35 the redemption, dividend, or distribution toward the purchase of the securities or instruments. A  
36 redemption, dividend, or distribution occurs when the business issuing the security or  
37 instrument does either of the following:

- 38 (1) Purchases, directly or indirectly, any of its outstanding equity securities or  
39 subordinated debt, other than qualified securities, from the taxpayer or a  
40 related person.
- 41 (2) Declares a dividend or makes a distribution with respect to any of its  
42 outstanding equity securities or subordinated debt, other than qualified  
43 securities, to the taxpayer or a related person. This subdivision does not  
44 apply, however, to a distribution in connection with one of the following:
  - 45 a. The reimbursement to the taxpayer of the reasonable costs of  
46 forming, syndicating, managing, and operating the business.
  - 47 b. An increase in the taxpayer's taxes, penalties, or interest to the extent  
48 the increase is caused by the allocation to the taxpayer of income of  
49 the business.

50 The repayment of principal on subordinated debt is a purchase of the debt except to the  
51 extent the repayment is repayment of principal due on the subordinated debt at its maturity

1 pursuant to the terms of the subordinated debt instrument. If a transaction is treated under  
2 section 304(a) of the Code as a distribution in redemption of the equity securities of a business,  
3 that business has, for the purpose of this subsection, purchased an amount of its equity  
4 securities equal to the amount treated as such a distribution under section 304(a) of the Code.

5 (d) Exception for Certain Transactions. – The following transactions are not treated as a  
6 redemption or distribution for the purposes of subsection (c) of this section:

7 (1) Any deemed liquidation of a business pursuant to section 708(b)(1)(A) of  
8 the Code by reason of the business becoming a disregarded entity for federal  
9 tax purposes, to the extent there is not actual distribution of money or other  
10 property to the taxpayer of a related person.

11 (2) Any deemed distribution or redemption by reason of a technical termination  
12 of a business pursuant to section 708(b)(1)(B) of the Code to the extent there  
13 is no actual distribution of money or other property to the taxpayer or a  
14 related person.

15 (e) Conversion of Other Securities. – Any equity security or subordinated debt  
16 instrument issued by a business and acquired by the taxpayer solely through the conversion of  
17 another equity security or subordinated debt instrument that was issued by the business and was  
18 a qualified security in the hands of the taxpayer is considered, for the purpose of this section, a  
19 qualified security in the hands of the taxpayer and acquired by the taxpayer on the date the  
20 taxpayer acquired the converted qualified security.

21 (f) Transfers. – In the case of a transfer by gift, by death, or from a pass-through entity  
22 to one of its owners, the transferee is considered, for the purpose of this section, to have  
23 acquired the qualified security in the same manner as the transferor and to have held it during  
24 any continuous period immediately preceding the transfer during which it was held or treated as  
25 held by the transferor.

26 In the case of a transaction described in section 351 or 721 of the Code or a reorganization  
27 described in section 368 of the Code, if qualified securities are exchanged for other securities,  
28 the other securities are considered, for the purpose of this section, qualified securities acquired  
29 on the date the exchanged qualified securities were acquired. In the case of a transaction  
30 described in section 351 or 721 of the Code, the newly acquired securities are considered  
31 qualified securities, however, only if, immediately after the transaction, the business issuing the  
32 securities owns, directly or indirectly, securities representing control, within the meaning of  
33 section 368(c) of the Code, of the business whose securities were exchanged.

34 **"§ 105-163.023. Limitations.**

35 (a) Contributions and Exchanges of Property. – In the case of a transaction described in  
36 section 351 or 721 of the Code or a reorganization described in section 368 of the Code, if a  
37 taxpayer contributes property to or exchanges property with a qualified business, the following  
38 rules apply:

39 (1) Qualified securities exchanged for property. – Except as otherwise provided  
40 in subdivision (3) of this subsection, a taxpayer who transfers property to a  
41 business in exchange for qualified securities in the business must, for  
42 purposes of determining North Carolina taxable income, recognize gain  
43 equal to the amount by which the fair market value of the property exceeded  
44 the taxpayer's basis in the property on the date the property was exchanged  
45 for the qualified securities. This gain must be recognized for the years for  
46 which the taxpayer claims an exclusion of gain under this Part with respect  
47 to the disposition of qualified securities received in exchange for the  
48 property.

49 (2) Contributions to capital. – Except as otherwise provided in subdivision (3) of  
50 this subsection, if the adjusted basis of a qualified security is adjusted due to  
51 a contribution to capital after the date the qualified security was issued

1 originally, for purposes of determining North Carolina taxable income, the  
2 taxpayer must recognize gain equal to the amount by which the fair market  
3 value of the contributed property exceeded the taxpayer's basis in the  
4 property on the date the property was contributed. This gain must be  
5 recognized for the years for which the taxpayer claims an exclusion of gain  
6 under this Part with respect to the disposition of the qualified securities.

- 7 (3) Disposition of contributed property. – If a qualified business disposes of  
8 property contributed to it, the disposition occurs before the taxpayer who  
9 contributed the property claims an exclusion of gain pursuant to this Part  
10 with respect to qualified securities affected by the contribution, and the  
11 taxpayer recognizes gain from the disposition, then for purposes of  
12 subdivisions (1) and (2) of this subsection, the taxpayer's basis in the  
13 contributed property is increased by any gain the taxpayer recognized from  
14 the disposition.

15 (b) Transactions That Substantially Reduce the Risk of Loss. – If a taxpayer has entered  
16 into any transaction that substantially reduces the risk of loss from holding the qualified  
17 securities, there is no exclusion of gain under this Part from the sale or exchange of the  
18 qualified securities unless the taxpayer entered into the transaction on or after January 1, 2011,  
19 and elects to recognize gain as if the qualified securities were sold at fair market value on the  
20 date the taxpayer first entered into that transaction. The following are examples of a transaction  
21 that substantially reduces the risk of loss from holding the qualified securities:

- 22 (1) The taxpayer or a related person has made a short sale of substantially  
23 identical property.  
24 (2) The taxpayer or a related person has acquired an option to sell substantially  
25 identical property at a fixed price."  
26

## 27 **EXTEND QUALIFIED BUSINESS VENTURE CREDIT AND RAISE CAP**

28 **SECTION 24.3.(a)** G.S. 105-163.012(b) reads as rewritten:

29 "(b) The total amount of all tax credits allowed to taxpayers under G.S. 105-163.011 for  
30 investments made in a calendar year may not exceed ~~seven million five hundred thousand~~  
31 ~~dollars (\$7,500,000)~~ eight million dollars (\$8,000,000). The Secretary of Revenue shall  
32 calculate the total amount of tax credits claimed from the applications filed pursuant to  
33 G.S. 105-163.011(c). If the total amount of tax credits claimed for investments made in a  
34 calendar year exceeds this maximum amount, the Secretary shall allow a portion of the credits  
35 claimed by allocating the maximum amount in tax credits in proportion to the size of the credit  
36 claimed by each taxpayer."

37 **SECTION 24.3.(b)** G.S. 105-163.015 reads as rewritten:

38 "**§ 105-163.015. Sunset.**

39 This Part is repealed effective for investments made on or after January 1, ~~2011~~ 2013."  
40

## 41 **EXTEND REFUND FOR MOTORSPORTS AVIATION**

42 **SECTION 24.4.** G.S. 105-164.14(l) reads as rewritten:

43 "(l) Aviation Fuel for Motorsports Events. – A professional motorsports racing team or  
44 a motorsports sanctioning body is allowed a refund of the sales and use tax paid by it in this  
45 State on aviation fuel that is used to travel to or from a motorsports event in this State, to travel  
46 to a motorsports event in another state from a location in this State, or to travel to this State  
47 from a motorsports event in another state. For the purposes of this subsection, a "motorsports  
48 event" includes a motorsports race, a motorsports sponsor event, and motor sports testing. A  
49 request for a refund must be in writing and must include any information and documentation  
50 the Secretary requires. A request for a refund is due within six months after the end of the



1 State's fiscal year. Refunds applied for after the due date are barred. This subsection is repealed  
 2 for purchases made on or after January 1, ~~2011~~, 2013."

3  
 4 **CONFORM TO FEDERAL HIRE ACT**

5 **SECTION 24.5.(a)** G.S. 105-228.90(b)(1b) reads as rewritten:

6 "(b) Definitions. – The following definitions apply in this Article:

7 ...

8 (1b) Code. – The Internal Revenue Code as enacted as of ~~May 1, 2009~~, May 1,  
 9 2010, including any provisions enacted as of that date which become  
 10 effective either before or after that date."

11 **SECTION 24.5.(b)** This act is effective when it becomes law.

12  
 13 **HIGH UNEMPLOYMENT HIRING INCENTIVE**

14 **SECTION 24.6.** G.S. 105-129.81 reads as rewritten:

15 "**§ 105-129.81. Definitions.**

16 The following definitions apply in this Article:

17 ...

18 (11a) High unemployment county. – [For the tax years ending on December 31,  
 19 2011 and December 31, 2012,] a county that has an unemployment rate  
 20 equal or greater than 125% of the State average unemployment rate, as  
 21 determined by the Secretary of Commerce annually in the development tier  
 22 ranking published pursuant to G.S. 143B-437.08.

23 ...."

24 **SECTION 24.6A.** G.S. 105-129.87(a) reads as rewritten:

25 "(a) Credit. – A taxpayer that meets the eligibility requirements set out in  
 26 G.S. 105-129.83 and satisfies the threshold requirement for new job creation in this State under  
 27 subsection (b) of this section during the taxable year is allowed a credit for creating jobs. The  
 28 amount of the credit for each new job created is set out in the table below and is based on the  
 29 development tier designation of the county in which the job is located. If the job is located in an  
 30 urban progress zone or an agrarian growth zone, the amount of the credit is increased by one  
 31 thousand dollars (\$1,000) per job. In addition, if a job located in an urban progress zone or an  
 32 agrarian growth zone is filled by a resident of that zone or by a long-term unemployed worker,  
 33 or if a job is located in a high unemployment county, the amount of the credit is increased by an  
 34 additional two thousand dollars (\$2,000) per job.

Area Development Tier	Amount of Credit
Tier One	\$12,500
Tier Two	5,000
Tier Three	750"

39  
 40 **BACK TO WORK INCENTIVE FUND**

41 **SECTION 24.7.(a)** From the funds appropriated in statewide reserve for the Back  
 42 To Work Incentive Fund, the Department of Revenue, in consultation with the Office of the  
 43 North Carolina Small Business Commissioner in the North Carolina Department of Commerce,  
 44 shall implement a Back to Work Incentive program to ensure payments are made to eligible  
 45 small businesses for hiring and retaining eligible new workers who were previously  
 46 unemployed.

47 **SECTION 24.7.(b)** Business Eligibility. – A business that satisfies all of the  
 48 following conditions is eligible for a payment under this section:

49 (1) The business must have claimed and be eligible for the federal payroll tax  
 50 deduction under the federal HIRE Act [26 U.S.C. § 3111(d)].

- 1 (2) The business must have claimed Form 941, Employers Quarterly Federal  
2 Tax Return, for consecutive quarters beginning with the third quarter of  
3 2010.
- 4 (3) The business must employ 25 or fewer employees. A business that employs  
5 25 or fewer employees is not rendered ineligible for payments under the  
6 program by hiring new eligible employees that bring the total number of  
7 employees in the business to a number in excess of 25.
- 8 (4) The business must have a North Carolina state withholding responsibility  
9 under G.S. 105-163.2.
- 10 (5) The business must be compliant with North Carolina tax laws. The business  
11 is not eligible for a payment under this section if, at the time the business  
12 applies for the payment, the business has received a notice of an overdue tax  
13 debt and that overdue tax debt has not been satisfied or otherwise resolved.
- 14 (6) An eligible business does not include the United States, any state, or any  
15 political subdivision thereof, or any instrumentality of the foregoing.

16 **SECTION 24.7.(c)** Individual Eligibility. – An individual who satisfies all of the  
17 following conditions is an eligible new worker under this section:

- 18 (1) An individual must complete and sign Form W-11 or similar statement  
19 under penalties of perjury that he or she has not been employed for more  
20 than 40 hours during the 60-day period ending on the date the employee  
21 begins employment.
- 22 (2) An individual must begin employment after July 1, 2010, and before January  
23 1, 2011, in a full-time position. A full-time position requires at least 1,600  
24 hours of work per year and is intended to be held by one employee during  
25 the entire year.
- 26 (3) An individual must work in North Carolina and have a valid North Carolina  
27 drivers license or North Carolina ID card.
- 28 (4) An individual cannot be employed to replace another employee unless the  
29 other employee separated from employment voluntarily or for cause.
- 30 (5) An individual cannot be related to the employer. An employee is related to  
31 the employer if he or she is the employer's child or a descendent of the  
32 employer's child, employer's sibling or stepsibling, employer's parent or an  
33 ancestor of the employer's parent, employer's stepparent, employer's niece or  
34 nephew, employer's aunt or uncle, or employer's in-law. An employee also is  
35 related to an employer if he or she is related to anyone who owns more than  
36 fifty percent (50%) of the employer's outstanding stock or capital and profits  
37 interest or is the employer's dependent or a dependent of anyone who owns  
38 more than fifty percent (50%) of the employer's outstanding stock or capital  
39 and profits interest.

40 **SECTION 24.7.(d)** Payment. – A business that meets the eligibility requirements  
41 in subsection (b) of this section and hires an eligible new worker under subsection (c) of this  
42 section may receive a payment of one thousand dollars (\$1,000) per new worker.

43 **SECTION 24.7.(e)** Cap. – The payments allowed under this section may not  
44 exceed six thousand dollars (\$6,000) per individual employer.

45 **SECTION 24.7.(f)** Total Amount. – The total amount of all payments made under  
46 this section to eligible businesses that hire eligible new workers shall not exceed fifteen million  
47 dollars (\$15,000,000). If the applications received under subsection (g) exceed this maximum  
48 amount, payments shall be distributed on a first come, first served basis until all funds are  
49 exhausted.

50 **SECTION 24.7.(g)** Application. – The Secretary of Revenue is directed to develop  
51 an application process and timetable that enables payments to be made to eligible businesses

1 after proof that the businesses have hired and retained eligible new employees for a period of at  
2 least three months. The funds allocated under this provision must be allocated to eligible  
3 businesses no later than June 30, 2011. The Secretary shall set a deadline for receipt of  
4 applications that is no later than May 15, 2011. The application must include the following  
5 information:

- 6 (1) Completed and signed Form W-11 or similar statement under penalties of  
7 perjury that he or she has not been employed for more than 40 hours during  
8 the 60-day period ending on the date the employee begins employment.
- 9 (2) Completed and signed Form 941, Employers Quarterly Federal Tax Return,  
10 for consecutive quarters beginning with the third quarter of 2010.
- 11 (3) Any additional supporting documentation required by the Secretary.

12 **SECTION 24.7.(h)** No more than three percent (3%) of the funds appropriated to  
13 the reserve may be used by the Secretary or Revenue and Secretary of Commerce to administer  
14 the Back to Work Incentive program.

15 **SECTION 24.7.(i)** G.S. 105-259.16E(b) is amended by adding a new subdivision  
16 to read:

17 "(40) To provide information to the Office of the Small Business Commissioner in  
18 the North Carolina Department of Commerce to assist in administering and  
19 processing payments to businesses eligible for a Back to Work payment as  
20 authorized in the Appropriations Act of 2010."

## 21 **PART XXV. MISCELLANEOUS PROVISIONS**

### 22 **STATE BUDGET ACT APPLIES**

23  
24 **SECTION 25.1.** The provisions of the State Budget Act, Chapter 143C of the  
25 General Statutes, are reenacted and shall remain in full force and effect and are incorporated in  
26 this act by reference.  
27

### 28 **MOST TEXT APPLIES ONLY TO THE 2010-2011 FISCAL YEAR**

29 **SECTION 25.2.** Except for statutory changes or other provisions that clearly  
30 indicate an intention to have effects beyond the 2010-2011 fiscal year, the textual provisions of  
31 this act apply only to funds appropriated for, and activities occurring during, the 2010-2011  
32 fiscal year.  
33

### 34 **EFFECT OF HEADINGS**

35 **SECTION 25.3.** The headings to the parts and sections of this act are a  
36 convenience to the reader and are for reference only. The headings do not expand, limit, or  
37 define the text of this act, except for effective dates referring to a Part.  
38

### 39 **APPROPRIATIONS LIMITATIONS AND DIRECTIONS APPLY**

40 **SECTION 25.4.(a)** Except where expressly repealed or amended by this act, the  
41 provisions of S.L. 2009-451 and S.L. 2009-575 remain in effect.

42 **SECTION 25.4.(b)** Notwithstanding any modifications by this act in the amounts  
43 appropriated, except where expressly repealed or amended, the limitations and directions for  
44 the 2010-2011 fiscal year in S.L. 2009-451 and S.L. 2009-575 that applied to appropriations to  
45 particular agencies or for particular purposes apply to the newly enacted appropriations and  
46 budget reductions of this act for those same particular purposes.  
47

### 48 **SEVERABILITY CLAUSE**

49

1           **SECTION 25.5.** If any section or provision of this act is declared unconstitutional  
2 or invalid by the courts, it does not affect the validity of this act as a whole or any part other  
3 than the part so declared to be unconstitutional or invalid.  
4

5 **EFFECTIVE DATE**

6           **SECTION 25.6.** Except as otherwise provided, this act becomes effective July 1,  
7 2010.