

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011**

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**D**

**HOUSE DRH30189-LE-97\* (01/24)**

Short Title: Governor's Budget.

(Public)

Sponsors: Representatives Gillespie, Barnhart, Brubaker, and Johnson (Primary Sponsors).

Referred to:

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

5  
6 The General Assembly of North Carolina enacts:

7  
8 **PART I. INTRODUCTION AND TITLE OF ACT**

9  
10 **INTRODUCTION**

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

16  
17 **TITLE OF ACT**

18 **SECTION 1.2.** This act shall be known as "The Current Operations and Capital  
19 Improvements Appropriations Act of 2011."

20  
21 **PART II. CURRENT OPERATIONS AND EXPANSION/GENERAL FUND**

22  
23 **CURRENT OPERATIONS AND EXPANSION/GENERAL FUND**

24 **SECTION 2.1.** Appropriations from the General Fund of the State for the  
25 maintenance of the State's departments, institutions, and agencies and for other purposes as  
26 enumerated are made for the biennium ending June 30, 2013, according to the following  
27 schedule:

28			
29	<b>State Agency or Division</b>	<b>FY 2011-2012</b>	<b>FY 2012-2013</b>
30			
31	<b>HEALTH AND HUMAN SERVICES</b>		
32	Central Administration	\$ 69,184,819	\$ 65,987,717
33	Aging	36,859,667	36,859,667
34	Child Development	236,503,341	236,503,341
35	Public Health	147,901,363	147,901,363



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1	Social Services	188,616,402	188,351,712
2	Medical Assistance	3,180,907,603	3,399,767,507
3	NC Health Choice	79,452,317	85,947,512
4	Services for the Blind	8,198,149	8,181,925
5	Mental Health/DD/SAS	714,335,617	714,335,617
6	Health Service Regulation	16,133,031	16,133,031
7	Vocational Rehabilitation	37,125,788	37,528,128
8	<b>Total Health and Human Services</b>	<b>\$ 4,715,218,097</b>	<b>\$ 4,937,497,520</b>
9			
10	<b>NATURAL AND ECONOMIC RESOURCES</b>		
11	Agriculture & Consumer Services	\$ 44,179,728	\$ 43,843,840
12	Commerce	52,484,135	32,525,214
13	Commerce – State Aid to Non-State Entities	66,320,803	66,320,803
14	Environment and Natural Resources	179,139,906	178,312,648
15	Clean Water Management Trust Fund	50,000,000	50,000,000
16	Labor	15,021,945	14,911,032
17	<b>Total Natural and Economic Resources</b>	<b>\$ 407,146,517</b>	<b>\$ 385,913,537</b>
18			
19	<b>JUSTICE AND PUBLIC SAFETY</b>		
20	Correction	\$ 1,366,710,846	\$ 1,373,058,448
21	Crime Control & Public Safety	32,327,610	32,178,336
22	Judicial	461,053,029	458,309,107
23	Judicial – Indigent Defense	122,610,185	122,371,148
24	Justice	83,907,465	83,046,671
25	Juvenile Justice	140,316,196	139,736,263
26	<b>Total Justice and Public Safety</b>	<b>\$ 2,206,925,331</b>	<b>\$ 2,208,699,973</b>
27			
28	<b>GENERAL GOVERNMENT</b>		
29	Administration	\$ 64,889,461	\$ 64,660,496
30	State Auditor	12,223,324	12,138,927
31	Cultural Resources	65,699,482	65,444,723
32	Cultural Resources – Roanoke Island	2,166,308	2,166,308
33	General Assembly	52,232,589	52,021,352
34	Governor's Office	5,733,189	5,698,802
35	Insurance	27,742,189	27,561,310
36	Insurance – Worker's Compensation Fund	4,500,000	4,500,000
37	Lieutenant Governor	916,193	910,094
38	Office of Administrative Hearings	4,010,594	3,987,879
39	Revenue	86,577,664	83,140,490
40	NC Housing Finance	11,796,296	11,796,296
41	Secretary of State	10,535,221	10,472,870
42	State Board of Elections	6,170,404	6,142,617
43	State Budget and Management (OSBM)	6,441,031	6,400,664
44	OSBM – Special Appropriations	13,934,311	21,434,311
45	Office of State Controller	30,500,768	30,403,273
46	State Treasurer	6,662,835	6,627,554
47	State Treasurer – Retirement/Benefits	17,812,114	17,812,114
48	<b>Total General Government</b>	<b>\$ 430,543,973</b>	<b>\$ 433,320,080</b>
49			
50	<b>EDUCATION</b>		
51	Public Schools	\$ 7,572,712,912	\$ 7,598,568,534

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1	Community Colleges	1,016,629,522	1,022,312,530
2	University of North Carolina		
3	Appalachian State University	143,375,481	142,441,181
4	East Carolina University		
5	Academic Affairs	244,474,547	242,766,341
6	Health Affairs	64,962,961	64,614,282
7	Elizabeth City State University	38,234,494	38,167,339
8	Fayetteville State University	56,712,349	56,330,556
9	North Carolina Agricultural and		
10	Technical State University	104,855,408	104,461,051
11	North Carolina Central University	93,833,335	93,203,178
12	North Carolina State University		
13	Academic Affairs	426,919,760	424,098,695
14	Agricultural Extension	58,997,068	58,635,077
15	Agricultural Research	43,331,680	43,021,156
16	University of North Carolina at Asheville	41,436,789	41,165,653
17	University of North Carolina at Chapel Hill		
18	Academic Affairs	303,131,658	304,081,302
19	Health Affairs	218,646,107	220,424,150
20	Area Health Education Centers	49,592,674	49,360,931
21	University of North Carolina at Charlotte	212,974,195	212,574,456
22	University of North Carolina at Greensboro	172,567,412	171,327,135
23	University of North Carolina at Pembroke	60,608,173	60,983,655
24	University of North Carolina at Wilmington	103,761,740	104,141,841
25	University of North Carolina School of the Arts	27,522,571	27,340,970
26	Western Carolina University	89,173,604	89,094,627
27	Winston-Salem State University	74,887,743	74,418,599
28	General Administration	39,525,152	39,373,634
29	University Institutional Programs	(207,390,096)	(186,417,963)
30	Related Educational Programs (Financial Aid)	44,993,219	44,231,141
31	Aid to Private Colleges	98,974,947	98,974,947
32	North Carolina School of Science and Mathematics	18,723,953	18,632,539
33	UNC Hospitals at Chapel Hill	33,008,911	33,008,911
34	Total University of North Carolina	2,657,835,835	2,670,455,384
35	<b>Total Education</b>	<b>\$ 11,247,178,269</b>	<b>\$ 11,291,336,448</b>
36			
37	<b>Total Budget</b>	<b>\$ 19,007,012,187</b>	<b>\$ 19,256,767,558</b>
38			
39	<b>DEBT SERVICE</b>		
40	General Debt Service	\$ 696,337,188	\$ 782,758,881
41	Federal Reimbursement	1,616,380	1,616,380
42	<b>Total Debt Service</b>	<b>\$ 697,953,568</b>	<b>\$ 784,375,261</b>
43			
44	<b>RESERVES &amp; ADJUSTMENTS</b>		
45	Contingency and Emergency Reserve	\$ 5,000,000	\$ 5,000,000
46	Severance Reserve	30,000,000	0
47	Job Development Investment Grants	20,400,000	27,400,000
48	Mgmt. Flexibility Reserve for Moving ESC to Commerce	(251,400)	(377,100)
49	Mgmt. Flexibility Reserve for Dept. of Mgmt. & Admin.	(1,087,300)	(1,598,600)
50	Mgmt. Flexibility Reserve for Dept. of Public Safety	(2,705,100)	(4,057,600)
51	Centralized Grant System	0	(700,000)

**General Assembly of North Carolina**

**Session 2011**

1	Procurement Reform	0	(30,000,000)
2	Health Plan Reserve (Benefit Changes/Keep Plan Solvent)	28,000,000	113,000,000
3	IT Initiative	4,458,142	6,158,142
4	Retirement Rate Adjustment Reserve	115,000,000	230,000,000
5	Reserve for Dept. of Public Safety to Reflect Efficiencies	(3,000,000)	(3,000,000)
6	Reserve for Centralized Human Resources Functions	(2,767,000)	(4,150,400)
7	<b>Total Reserves &amp; Adjustments</b>	<b>\$ 193,047,342</b>	<b>\$ 337,674,442</b>

**CAPITAL**

10	Capital Improvements	\$ 4,535,000	\$ 0
11	<b>Total Capital</b>	<b>\$ 4,535,000</b>	<b>\$ 0</b>

**Total General Fund Budget** **\$ 19,902,548,097** **\$ 20,378,817,261**

**GENERAL FUND AVAILABILITY STATEMENT**

**SECTION 2.2.** The General Fund availability used in developing the 2011-2013 biennial budget is shown below:

	<b>FY 2011-2012</b>	<b>FY 2012-2013</b>
<b>Beginning Availability</b>		
Unappropriated Balance from Prior Fiscal Year	\$ 111,000,000	\$ 0
Credit Balance FY 2008-2009		
(Reversions & Over-collections)	562,318,097	0
Credit to Savings Reserve Account	(150,000,000)	0
Credit to Repairs and Renovations Reserve Account	(75,000,000)	0
Rebuild Mental Health Trust Fund	(75,000,000)	0
Establish Consolidation and Efficiency Incentive Fund	(25,000,000)	0
Invest in Community Colleges Equipment for Worker Training Efforts	(25,000,000)	0
<b>Beginning Unreserved Credit Balance</b>	<b>\$ 323,318,097</b>	<b>\$ 0</b>

**Revenues**

Tax:		
Individual Income Tax	\$ 9,920,500,000	\$ 10,561,000,000
Corporate Income Tax	987,700,000	1,045,500,000
Sales and Use	5,270,100,000	5,510,400,000
Other Tax	1,951,500,000	2,065,000,000
<b>Total Tax</b>	<b>18,129,800,000</b>	<b>19,181,900,000</b>
Nontax/Transfers	692,830,000	702,180,000
<b>Total Revenue</b>	<b>\$ 18,822,630,000</b>	<b>\$ 19,884,080,000</b>

**Revenue Changes**

Continue 0.75% Sales Tax		
(reduces current rate by 0.25%)	\$ 826,600,000	\$ 863,800,000
Small Business Tax Relief (effective 1-1-11)	(65,000,000)	0
Reduce Corporate Income Tax to 4.9%		
(effective 1-1-12)	(115,000,000)	(303,000,000)
Raise Cap on Qualified Business Venture Credit	(2,000,000)	(2,000,000)
Energy Efficiency Tax Credit	0	(3,300,000)
Repeal Corporate Tax Transfer Permanently	72,000,000	75,000,000
Department of Revenue –		
Accounts Receivable Program	25,000,000	25,000,000

1	Disproportionate Share Receipts	15,000,000	15,000,000
2	<b>Subtotal Revenue Changes</b>	<b>\$ 756,600,000</b>	<b>\$ 670,500,000</b>
3			
4	<b>Total Availability</b>	<b>\$ 19,902,548,097</b>	<b>\$ 20,554,580,000</b>
5			
6	<b>Less: Total General Fund Appropriations</b>	<b>\$ 19,902,548,097</b>	<b>\$ 20,378,817,261</b>
7			
8	<b>Unappropriated Balance Remaining</b>	<b>\$ 0</b>	<b>\$ 175,762,739</b>
9			

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

**SECTION 3.1.** Appropriations from the Highway Fund of the State for the maintenance and operation of the Department of Transportation, and for other purposes as enumerated, are made for the biennium ending June 30, 2013, according to the following schedule:

18	<b>Current Operations – Highway Fund</b>	<b>FY 2011-2012</b>	<b>FY 2012-2013</b>
19	<b>Department of Transportation</b>		
20	General Administration	\$ 89,163,247	\$ 89,200,408
21	Division of Highways		
22	Administration	34,772,064	34,823,123
23	State Match for Federal Aid-Planning and Research	4,055,402	4,055,402
24	Construction Program		
25	State Secondary System	\$ 89,373,921	\$ 90,187,224
26	Division Small Urban Construction	6,619,460	6,619,460
27	Discretionary Funds	11,347,646	11,347,646
28	Spot Safety Improvements	9,100,000	9,100,000
29	Access and Public Services Roads	1,758,885	1,758,885
30	Total Construction Program	\$ 118,199,912	\$ 119,013,215
31	Maintenance Program		
32	Primary System	\$ 221,152,559	\$ 225,430,157
33	Secondary System	314,050,163	318,327,761
34	System Preservation	95,282,473	99,560,071
35	Contract Resurfacing	291,219,065	295,496,663
36	General Maintenance Reserve	54,493,713	58,771,311
37	Total Maintenance Program	\$ 976,197,973	\$ 997,585,963
38	Ferry Operations	\$ 41,566,268	\$ 69,616,268
39	State Aid to Municipalities	89,373,921	90,187,224
40	State Aid to Railroads	20,101,153	24,101,153
41	State Aid for Public Transportation	92,719,929	92,719,929
42	Airports	20,454,763	24,364,381
43	OSHA	372,792	372,792
44	Governor's Highway Safety Program	278,135	278,605
45	Division of Motor Vehicles	97,468,510	97,577,075
46	<b>Total Department of Transportation</b>	<b>\$ 1,584,724,069</b>	<b>\$ 1,643,895,538</b>
47			
48	<b>Appropriations to Other State Agencies</b>		
49	Agriculture	\$ 5,118,694	\$ 5,118,694
50	Revenue	6,381,663	6,381,663
51	State Treasurer	20,235,353	24,080,070

1	Office of State Controller-BEST Shared Services	461,041	461,041
2	Public Instruction – Civil Penalties	22,000,000	22,000,000
3	Public Instruction – Driver Education	31,888,496	32,216,379
4	CCPS – Highway Patrol	206,437,159	206,437,159
5	DENR – LUST Trust Fund	3,001,898	3,201,898
6	DHHS – Chemical Test	577,341	577,341
7	<b>Total – Other State Agencies</b>	<b>\$ 296,101,645</b>	<b>\$ 300,474,245</b>
8			
9	<b>Reserves and Transfers</b>		
10	Minority Contractor Development	\$ 150,000	\$ 150,000
11	State Fire Protection Grant	150,000	150,000
12	Storm Water Management	500,000	500,000
13	Reserve for Visitor's Centers	400,000	400,000
14	Global TransPark	1,280,000	1,280,000
15	Reserve for Administrative Reduction	(2,479,149)	(2,479,149)
16	Reserve for Program Consolidations/Eliminations	(1,071,606)	(1,071,606)
17	Reserve for Retirement Incentive Program	(2,977,459)	(7,424,028)
18	Reserve for Health Insurance Adjustment	1,300,000	5,300,000
19	Employer's Contribution to Retirement	5,662,500	11,325,000
20	<b>Total Reserves and Transfers</b>	<b>\$ 2,914,286</b>	<b>\$ 8,130,217</b>
21			
22	<b>Total Current Operations</b>	<b>\$ 1,883,740,000</b>	<b>\$ 1,952,500,000</b>
23			
24	<b>Capital Improvements</b>	<b>\$ 15,000,000</b>	<b>\$ 15,000,000</b>
25			
26	<b>Total Highway Fund Appropriation</b>	<b>\$ 1,898,740,000</b>	<b>\$ 1,967,500,000</b>
27			

**HIGHWAY FUND AVAILABILITY STATEMENT**

SECTION 3.2. The Highway Fund availability used in developing the 2011-2013 biennial budget is shown below:

Highway Fund Availability Statement	FY 2011-2012	FY 2012-2013
Beginning Credit Balance	\$ 0	\$ 0
Estimated Revenue	1,898,740,000	1,967,500,000
Estimated Reversions	0	0
<b>Total Highway Fund Availability</b>	<b>\$ 1,898,740,000</b>	<b>\$ 1,967,500,000</b>

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

SECTION 4.1. Appropriations from the Highway Trust Fund are made for the biennium ending June 30, 2013, according to the following schedule:

Highway Trust Fund	FY 2011-2012	FY 2012-2013
Department of Transportation:		
Maximum Allowance for Administration	\$ 47,820,480	\$ 49,408,320
Construction Allocation:		
Intrastate System	435,942,824	454,712,566

1	Urban Loop System	146,599,440	152,352,807
2	Secondary Roads	67,562,782	70,185,956
3	State Aid to Municipalities	48,605,470	50,602,947
4	Bonds:		
5	Bond Redemption	56,568,732	61,646,984
6	Bond Interest	22,662,996	19,834,559
7	NC Turnpike Authority	99,000,000	99,000,000
8	NC Mobility Fund	31,000,000	45,000,000
9	Transfer to the General Fund	41,497,276	27,595,861
10			
11	<b>Total Highway Trust Fund Appropriations</b>	<b>\$ 997,260,000</b>	<b>\$ 1,030,340,000</b>

**HIGHWAY TRUST FUND AVAILABILITY STATEMENT**

**SECTION 4.2.** The Highway Trust Fund availability used in developing the 2011-2013 biennial budget is shown below:

17	<b>Highway Trust Fund Availability Statement</b>	<b>FY 2011-2012</b>	<b>FY 2012-2013</b>
18			
19	Beginning Credit Balance	-	-
20	Estimated Revenue	\$ 997,260,000	\$ 1,030,340,000
21	Estimated Reversions	-	-
22			
23	<b>Total Highway Trust Fund Availability</b>	<b>\$ 997,260,000</b>	<b>\$ 1,030,340,000</b>

**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 twenty-four million nine hundred seventy-three thousand six hundred thirty dollars (\$424,973,630) for the 2011-2012 fiscal year.

**SECTION 5.1.(b)** Notwithstanding G.S. 18C-164 and G.S. 18C-162(c)(2), the appropriations made from the Education Lottery Fund pursuant to G.S. 18C-164(d) for the 2011-2012 fiscal year are as follows:

35	(1) Class Size Reduction	\$ 220,643,188
36	(2) Prekindergarten Program	79,635,709
37	(3) Public School Building Capital Fund	55,238,170
38	(4) Scholarships for Needy Students	69,456,563
39	Total	\$ 424,973,630

**SECTION 5.1.(c)** Notwithstanding G.S. 18C-164, the North Carolina State Lottery Commission shall not transfer funds to the Education Lottery Reserve Fund for the 2011-2012 fiscal year or the 2012-2013 fiscal year.

**SECTION 5.1.(d)** Notwithstanding G.S. 18C-164(c), G.S. 115C-546.2(d), or any other provision of law, funds appropriated in this section to the Public School Building Capital Fund for the 2011-2012 fiscal year shall be allocated to counties on the basis of average daily membership (ADM). Counties may authorize local school administrative units to use funds received from the Public School Building Capital Fund pursuant to subsection (f) of this section for one or more of the following purposes only: (i) for school construction projects in accordance with G.S. 115C-546.2(d), (ii) to retire indebtedness incurred on or after January 1, 2003, in accordance with G.S. 115C-546.2(d), for school construction projects, and (iii) for classroom teachers. A county may authorize the use of these funds for classroom teachers only

1 upon the request of the local board of education. Funds used for classroom teachers shall  
2 supplement and not supplant existing local current expense funding for the public schools.  
3 These funds shall not be included in the computation of "average per pupil allocation for  
4 average daily membership" or "per pupil local current expense appropriation" under  
5 G.S. 115C-238.29H.

6 **SECTION 5.1.(e)** Notwithstanding G.S. 18C-164(c), Article 35A of Chapter 115C  
7 of the General Statutes, or any other provision of law, of the funds appropriated in this section  
8 for Scholarships for Needy Students, the sum of thirty-four million eight hundred fifty-six  
9 thousand five hundred sixty-three dollars (\$34,856,563) shall be administered in accordance  
10 with the policy adopted by the Board of Governors of The University of North Carolina.

11 **SECTION 5.1.(f)** Notwithstanding G.S. 18C-164(f), if the actual net lottery  
12 revenues for the 2011-2012 fiscal year exceed the amounts appropriated in subsection (b) of  
13 this section, the excess net revenues shall be allocated for school capital on the basis of average  
14 daily membership.

#### 15 16 **OTHER RECEIPTS FROM PENDING GRANT AWARDS**

17 **SECTION 5.2.** Notwithstanding G.S. 143C-6-4, State agencies may, with approval  
18 of the Director of the Budget, spend funds received from grants awarded subsequent to the  
19 enactment of this act. The Office of State Budget and Management shall work with the  
20 recipient State agencies to budget grant awards according to the annual program needs and  
21 within the parameters of the respective granting entities. Depending on the nature of the award,  
22 additional State personnel may be employed on a temporary or permanent time-limited basis or  
23 on a permanent full-time basis if the grant is intended to be recurring. The Office of State  
24 Budget and Management shall report to the Joint Legislative Commission on Governmental  
25 Operations prior to expending any funds received from grant awards. Funds received from such  
26 grants are hereby appropriated and shall be incorporated into the authorized budget of the  
27 recipient State agency.

#### 28 29 **AMERICAN RECOVERY AND REINVESTMENT ACT FUNDS APPROPRIATED**

30 **SECTION 5.3.(a)** Funds received from American Recovery and Reinvestment Act  
31 (ARRA) grants and receipts not specified in this act are hereby appropriated in the amounts  
32 provided in the notification of award from the federal government or any entity acting on  
33 behalf of the federal government to administer federal ARRA funds. OSBM and affected State  
34 agencies shall report to the Joint Legislative Commission on Governmental Operations on  
35 ARRA grants received that are not expressly delineated in this act.

36 **SECTION 5.3.(b)** The Office of State Budget and Management shall work with  
37 the recipient State agencies to budget federal receipts awarded according to the annual program  
38 needs and within the parameters of the respective granting entities and to incorporate federal  
39 funds into the authorized budgets of the recipient State agency. State agencies shall not use  
40 federal ARRA funds for recurring purposes unless provided for in this act. However, depending  
41 on the nature of the award, additional State personnel may be employed on a temporary or  
42 time-limited basis. Nothing in this subsection shall be construed to prohibit the use of federal  
43 ARRA funds to employ teachers and other school personnel for the 2011-2012 school year.

#### 44 45 **ESTABLISH SEVERANCE EXPENDITURE RESERVE**

46 **SECTION 5.4.(a)** There is established in the Office of State Budget and  
47 Management a General Fund reserve budget code for the purpose of funding severance-related  
48 obligations to State employees subject to the State Personnel Act and employees exempt from  
49 the State Personnel Act who are separated from service due to a reduction-in-force action.  
50 Severance-related expenditures from this reserve shall include obligations to fund (i) a State  
51 employee's severance salary continuation with an age adjustment factor as authorized by



1 G.S. 126-8.5, including employer-related contributions for social security and (ii)  
 2 noncontributory health premiums for up to 12 months as authorized by G.S. 135-45.2(a)(8) for  
 3 employees of employing units as defined by G.S. 135-45.1(12).

4 **SECTION 5.4.(b)** The Director of the Budget shall allocate funds appropriated in  
 5 Section 2.1 of this act to the Severance Expenditure Reserve to public agencies to fund  
 6 severance-related obligations incurred by the agencies as a result of reduction-in-force actions  
 7 that cause State-supported public employees to be terminated from public employment. Funds  
 8 appropriated to the Severance Expenditure Reserve shall be expended in their entirety before  
 9 funds appropriated to a public agency for State-supported personal services expenditures may  
 10 be used to fund any severance-related obligations. For the purposes of this subsection, the term  
 11 'public employee' means an employee of a State agency, department, or institution; The  
 12 University of North Carolina; the North Carolina Community College System Office; or a local  
 13 school administrative unit.

14  
 15 **MANAGEMENT FLEXIBILITY RESERVES**

16 **SECTION 5.5.** The position eliminations associated with the management  
 17 flexibility reductions included in the Governor's Recommended Budget are estimates based in  
 18 part on historical turnover rates and current vacancies and are not targeted at specific job  
 19 classifications or position numbers. To provide the heads of the departments with the leeway  
 20 necessary to ensure that mission critical activities are not crippled, the department heads may  
 21 achieve the savings from position eliminations by reducing a lesser number of positions than  
 22 described in the Governor's Recommended Budget for the 2011-2013 fiscal biennium.

23  
 24 **CIVIL FORFEITURE FUNDS**

25 **SECTION 5.6.** Appropriations. – Appropriations are made from the Civil Penalty  
 26 and Forfeiture Fund for the fiscal biennium ending June 30, 2013, as follows:

	<b>FY 2011-2012</b>	<b>FY 2012-2013</b>
29 School Technology Fund	\$ 18,000,000	\$ 18,000,000
30 State Public School Fund	120,362,790	120,362,790
31 <b>Total Appropriation</b>	<b>\$ 138,362,790</b>	<b>\$ 138,362,790</b>

32  
 33 **STATEWIDE GRANTS OVERSIGHT**

34 **SECTION 5.7.** G.S. 143C-6-23 is amended by adding a new subsection to read:

35 "(j) Withholding From Certain Grants to Cover Statewide Oversight Cost. – The Office  
 36 of State Budget and Management may direct any agency to withhold up to one-fourth of one  
 37 percent (0.25%) of the amount of any grant awarded to a non-State entity each fiscal year to  
 38 cover statewide grant oversight costs pursuant to this section. The funds shall be transferred to  
 39 the Office of State Budget and Management at the time the grant funds are disbursed. For  
 40 purposes of this provision, "grant" is defined by this section.

41 Funds shall not be withheld for the purpose of covering oversight costs if the grant is a  
 42 pass-through of funds granted by an agency of the United States and the terms of the federal  
 43 grant prohibit the withholding of funds described by this provision."

44  
 45 **GRANT COORDINATION**

46 **SECTION 5.8.** The Office of State Budget and Management shall use resources  
 47 made available from G.S. 143C-6-23(j) for two positions to coordinate and advance State  
 48 efforts to obtain financial assistance from federal and private sources.

49  
 50 **PART VI. GENERAL PROVISIONS**

**1 APPROPRIATION OF CASH BALANCES AND RECEIPTS**

2       **SECTION 6.1.** Expenditures of cash balances, federal funds, departmental  
3 receipts, grants, and gifts from the various General Fund, Special Revenue Fund, Enterprise  
4 Fund, Internal Service Fund, and Trust and Agency Fund budget codes are appropriated and  
5 authorized for the 2011-2013 fiscal biennium as follows:

- 6       (1) For all budget codes listed in "The State of North Carolina, Governor's  
7 Recommended Budget, 2011-2013," cash balances and receipts are  
8 appropriated up to the amounts specified in the recommended budget, as  
9 adjusted by the General Assembly, for the 2011-2012 fiscal year and the  
10 2012-2013 fiscal year. Funds may be expended only for the programs,  
11 purposes, objects, and line items specified in the recommended budget or  
12 otherwise authorized by the General Assembly.
- 13       (2) For all budget codes that are not listed in "The State of North Carolina,  
14 Governor's Recommended Budget, 2011-2013," cash balances and receipts  
15 are appropriated for each year of the 2011-2013 fiscal biennium up to the  
16 level of actual expenditures for the 2010-2011 fiscal year, unless otherwise  
17 provided by law. Funds may be expended only for the programs, purposes,  
18 objects, and line items authorized for the 2010-2011 fiscal year.
- 19       (3) Notwithstanding subdivisions (1) and (2) of this subsection, any receipts that  
20 are required to be used to pay debt service requirements for various  
21 outstanding bond issues and certificates of participation are appropriated up  
22 to the actual amounts received for the 2011-2012 fiscal year and the  
23 2012-2013 fiscal year and shall be used only to pay debt service  
24 requirements.
- 25       (4) Notwithstanding subdivisions (1) and (2) of this subsection, cash balances  
26 and receipts of funds that meet the definition issued by the Governmental  
27 Accounting Standards Board of a trust or agency fund are appropriated for  
28 and in the amounts required to meet the legal requirements of the trust  
29 agreement for the 2011-2012 fiscal year and the 2012-2013 fiscal year.

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

**33 EXPENDITURES OF FUNDS IN RESERVES LIMITED**

34       **SECTION 6.2.** All funds appropriated by this act into reserves may be expended  
35 only for the purposes for which the reserves were established.  
36  
37

**38 BUDGET CODE CONSOLIDATIONS**

39       **SECTION 6.3.** Notwithstanding G.S. 143C-6-4, the Office of State Budget and  
40 Management may adjust the enacted budget by making transfers among purposes or programs  
41 for the purpose of consolidating budget and fund codes or eliminating inactive budget and fund  
42 codes. The Office of State Budget and Management shall change the authorized budget to  
43 reflect these adjustments.  
44

**45 BUDGET REALIGNMENT**

46       **SECTION 6.4.** Notwithstanding G.S. 143C-6-4(b), the Office of State Budget and  
47 Management may adjust the enacted budget by making transfers among purposes or programs  
48 for the sole purpose of correctly aligning authorized positions and associated operating costs  
49 with the appropriate purposes or programs as defined in G.S. 143C-1-1(d)(23). The Office of  
50 State Budget and Management shall change the authorized budget to reflect these adjustments  
51 only after reporting the proposed adjustments to the Joint Legislative Commission on

1 Governmental Operations and the Fiscal Research Division. Under no circumstances shall total  
2 General Fund expenditures for a State department exceed the amount appropriated to that  
3 department from the General Fund for the fiscal year.

#### 4 5 **LOCAL GOVERNMENT UNIT POSITIONS**

6 **SECTION 6.6.** G.S. 105-501(b) reads as rewritten:

7 "(b) Deductions. – The costs incurred by the State to provide the functions listed in this  
8 subsection that support local governments are deductible from the collections to be allocated  
9 each month for distribution.

10 (1) The Department's cost of the following for the preceding month must be  
11 deducted and credited to the Department:

- 12 a. Performing the duties imposed by Article 15 of this Chapter.  
13 b. The Property Tax Commission.  
14 c. Additional positions that comprise the Local Government Unit within  
15 the Department besides those performing the duties imposed by  
16 Article 15 of this Chapter.

17 (2) One-twelfth of the costs of the following for the preceding fiscal year must  
18 be deducted and credited to the General Fund:

- 19 a. The School of Government at the University of North Carolina at  
20 Chapel Hill in operating a training program in property tax appraisal  
21 and assessment.  
22 b. The personnel and operations provided by the Department of State  
23 Treasurer for the Local Government Commission.  
24 c. Seventy percent (70%) of the expenses of the Department of  
25 Revenue in performing the duties imposed by Article 2D of this  
26 Chapter."  
27

#### 28 **TAX INFORMATION MANAGEMENT**

29 **SECTION 6.7.** Section 6.20(a) of S.L. 2009-451, as rewritten by Section 6.13 of  
30 S.L. 2010-31 and Section 2.3 of S.L. 2010-123, reads as rewritten:

31 **"SECTION 6.20.(a)** To speed the implementation of the Tax Information Management  
32 System (TIMS) and the additional components of the Planning and Design Project (PDP)  
33 through June 30, 2015, the Secretary of the Department of Revenue may enter into  
34 public-private arrangements where (i) the funding of projects under the arrangement comes  
35 from revenue generated by the project and (ii) the project is related to the implementation of  
36 TIMS and additional components of the PDP. As used in this section, the "additional  
37 components of the PDP" are Enterprise Data Warehouse, Management Reporting and Decision  
38 Analytics, Customer Relationship Management, Enterprise Case Management, and E-Services.  
39 All such arrangements shall terminate June 30, 2015.

40 Work under a public-private arrangement may be contracted by requests for proposals,  
41 modifications to existing contracts, and purchases using existing contract vehicles.

42 The Secretary of Revenue shall establish a measurement process to determine the increased  
43 revenue attributable to the public-private arrangements. To accomplish this, the Secretary shall  
44 consult subject matter experts outside the Department of Revenue, both within State  
45 government and from private industry. The measurement process shall include:

- 46 (1) Calculation of a revenue baseline against which the increased revenue  
47 attributable to the project is measured;  
48 (2) Periodic evaluation to determine if the baseline needs to be modified based  
49 on significant measurable changes in the economic environment; and  
50 (3) Monthly calculation of increased revenue attributable to contracts executed  
51 under this program.

1 Of funds generated from collections above the baseline established by subdivision (1) of  
 2 this subsection, in ~~both the General and General Fund~~, Highway Funds, and State portion of the  
 3 Unauthorized Substance Tax collections of the Special Revenue Fund, up to ~~forty-one million~~  
 4 ~~dollars (\$41,000,000)~~ forty-four million dollars (\$44,000,000) may be authorized by the Office  
 5 of State Budget and Management in fiscal year 2011-2012 (i) for the purchases related to the  
 6 implementation of TIMS and the additional components of the PDP, including payment for  
 7 services from non-State entities. Any internal costs must be appropriated by the General  
 8 Assembly. The total of any funds expended during the ~~2009-2011 biennium~~ 2011-2012 fiscal  
 9 year for implementation of TIMS and the additional PDP components shall not exceed the sum  
 10 of ~~forty-one million dollars (\$41,000,000)~~ forty-four million dollars (\$44,000,000). The total  
 11 of any funds expended during the 2012-2013 fiscal year implementation of TIMS and the  
 12 additional PDP components shall not exceed the sum of ~~forty-one million dollars~~  
 13 ~~(\$41,000,000)~~.

14 If the Department of Revenue finds that it cannot generate additional benefits totaling  
 15 ~~forty-one million dollars (\$41,000,000) through June 30, 2015,~~ forty-four million dollars  
 16 (\$44,000,000) in fiscal year 2011-2012 and forty-one million dollars (\$41,000,000) in fiscal  
 17 year 2012-2013, or that total costs exceed the total available appropriations and earned benefits,  
 18 then the Department shall do all of the following: (i) immediately notify the Chairs of the  
 19 House of Representatives and Senate Appropriations Committees and Fiscal Research  
 20 Division, (ii) identify any obligations to vendors, (iii) identify options for meeting obligations  
 21 to vendors, and (iv) provide costs associated with each option. The Department shall ensure  
 22 that this notification is made in sufficient time to allow the General Assembly to properly  
 23 evaluate the options presented."  
 24

## 25 PART VI-A. INFORMATION TECHNOLOGY

### 26 INFORMATION TECHNOLOGY FUND APPROPRIATION

27 **SECTION 6A.1.** Appropriations are made from the Information Technology Fund  
 28 for the 2011-2013 fiscal biennium as follows:  
 29

30	31	32	33
	2011-2012	2012-2013	
34			<b>Office of Information Technology Services</b>
35			Information Technology Operations
36			Center for Geographic Information
37	\$ 643,800	\$ 643,800	Enterprise Security and Risk Management
38	936,102	936,102	Enterprise Project Management Office
39	1,525,750	1,525,750	Architecture & Engineering
40	550,800	550,800	Subtotal Information Technology Operations
41	3,656,452	3,656,452	Information Technology Projects
42			Statewide IT Procurement
43	550,000	550,000	State Portal
44	500,000	0	IT Consolidation
45	779,157	779,157	SAS Enterprise License Agreement
46	200,000	2,400,000	Subtotal Information Technology Projects
47	2,029,157	3,729,157	<b>Total</b>
48	\$ 5,685,609	\$ 7,385,609	

## 49 PART VII. PUBLIC SCHOOLS

### 50 CHILDREN WITH DISABILITIES

51 **SECTION 7.1.** The State Board of Education shall allocate funds for children with  
 disabilities on the basis of three thousand five hundred ninety-eight dollars and fifty-five cents

1 (\$3,598.55) per child for a maximum of 167,595 children for the 2011-2012 school year. Each  
2 local school administrative unit shall receive funds for the lesser of (i) all children who are  
3 identified as children with disabilities or (ii) twelve and five-tenths percent (12.5%) of the  
4 2011-2012 allocated average daily membership in the local school administrative unit. The  
5 dollar amounts allocated under this section for children with disabilities shall also adjust in  
6 accordance with legislative salary increments, retirement rate adjustments, and health benefit  
7 adjustments for personnel who serve children with disabilities.

## 9 FUNDS FOR ACADEMICALLY GIFTED CHILDREN

10 **SECTION 7.2.** The State Board of Education shall allocate funds for academically  
11 or intellectually gifted children on the basis of one thousand one hundred ninety-two dollars  
12 and ninety cents (\$1,192.90) per child. A local school administrative unit shall receive funds  
13 for a maximum of four percent (4%) of its 2011-2012 allocated average daily membership,  
14 regardless of the number of children identified as academically or intellectually gifted in the  
15 unit. The State Board shall allocate funds for no more than 59,240 children for the 2011-2012  
16 school year.

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

## 22 USE OF SUPPLEMENTAL FUNDING IN LOW-WEALTH COUNTIES

23 **SECTION 7.3.(a)** Use of Funds for Supplemental Funding. – All funds received  
24 pursuant to this section shall be used only (i) to provide instructional positions, instructional  
25 support positions, teacher assistant positions, clerical positions, school computer technicians,  
26 instructional supplies and equipment, staff development, and textbooks and (ii) for salary  
27 supplements for instructional personnel and instructional support personnel. Local boards of  
28 education are encouraged to use at least twenty-five percent (25%) of the funds received  
29 pursuant to this section to improve the academic performance of children who are performing  
30 at Level I or II on either reading or mathematics end-of-grade tests in grades 3-8 and children  
31 who are performing at Level I or II in grades 4 and 7.

32 **SECTION 7.3.(b)** Definitions. – As used in this section the following definitions  
33 apply:

- 34 (1) "Anticipated county property tax revenue availability" means the  
35 county-adjusted property tax base multiplied by the effective State average  
36 tax rate.
- 37 (2) "Anticipated total county revenue availability" means the sum of the  
38 following:
  - 39 a. Anticipated county property tax revenue availability.
  - 40 b. Local sales and use taxes received by the county that are levied under  
41 Chapter 1096 of the 1967 Session Laws or under Subchapter VIII of  
42 Chapter 105 of the General Statutes.
  - 43 c. Sales tax hold harmless reimbursement received by the county under  
44 G.S. 105-521.
  - 45 d. Fines and forfeitures deposited in the county school fund for the most  
46 recent year for which data are available.
- 47 (3) "Anticipated total county revenue availability per student" means the  
48 anticipated total county revenue availability for the county divided by the  
49 average daily membership of the county.

- 1 (4) "Anticipated State average revenue availability per student" means the sum  
2 of all anticipated total county revenue availability divided by the average  
3 daily membership for the State.
- 4 (5) "Average daily membership" means average daily membership as defined in  
5 the North Carolina Public Schools Allotment Policy Manual, adopted by the  
6 State Board of Education. If a county contains only part of a local school  
7 administrative unit, the average daily membership of that county includes all  
8 students who reside within the county and attend that local school  
9 administrative unit.
- 10 (6) "County-adjusted property tax base" shall be computed as follows:  
11 a. Subtract the present-use value of agricultural land, horticultural land,  
12 and forestland in the county, as defined in G.S. 105-277.2, from the  
13 total assessed real property valuation of the county.  
14 b. Adjust the resulting amount by multiplying by a weighted average of  
15 the three most recent annual sales assessment ratio studies.  
16 c. Add to the resulting amount the following:  
17 1. Present-use value of agricultural land, horticultural land, and  
18 forestland, as defined in G.S. 105-277.2.  
19 2. Value of property of public service companies, determined in  
20 accordance with Article 23 of Chapter 105 of the General  
21 Statutes.  
22 3. Personal property value for the county.
- 23 (7) "County-adjusted property tax base per square mile" means the  
24 county-adjusted property tax base divided by the number of square miles of  
25 land area in the county.
- 26 (8) "County wealth as a percentage of State average wealth" shall be computed  
27 as follows:  
28 a. Compute the percentage that the county per capita income is of the  
29 State per capita income and weight the resulting percentage by a  
30 factor of five-tenths.  
31 b. Compute the percentage that the anticipated total county revenue  
32 availability per student is of the anticipated State average revenue  
33 availability per student and weight the resulting percentage by a  
34 factor of four-tenths.  
35 c. Compute the percentage that the county-adjusted property tax base  
36 per square mile is of the State-adjusted property tax base per square  
37 mile and weight the resulting percentage by a factor of one-tenth.  
38 d. Add the three weighted percentages to derive the county wealth as a  
39 percentage of the State average wealth.
- 40 (9) "Effective county tax rate" means the actual county tax rate multiplied by a  
41 weighted average of the three most recent annual sales assessment ratio  
42 studies.
- 43 (10) "Effective State average tax rate" means the average of effective county tax  
44 rates for all counties.
- 45 (11) "Local current expense funds" means the most recent county current expense  
46 appropriations to public schools, as reported by local boards of education in  
47 the audit report filed with the Secretary of the Local Government  
48 Commission pursuant to G.S. 115C-447.
- 49 (12) "Per capita income" means the average for the most recent three years for  
50 which data are available of the per capita income according to the most  
51 recent report of the United States Department of Commerce, Bureau of

1 Economic Analysis, including any reported modifications for prior years as  
2 outlined in the most recent report.

3 (13) "Sales assessment ratio studies" means sales assessment ratio studies  
4 performed by the Department of Revenue under G.S. 105-289(h).

5 (14) "State average current expense appropriations per student" means the most  
6 recent State total of county current expense appropriations to public schools,  
7 as reported by local boards of education in the audit report filed with the  
8 Secretary of the Local Government Commission pursuant to G.S. 115C-447.

9 (15) "State average adjusted property tax base per square mile" means the sum of  
10 the county-adjusted property tax bases for all counties divided by the  
11 number of square miles of land area in the State.

12 (16) "Supplant" means to decrease local per student current expense  
13 appropriations from one fiscal year to the next fiscal year.

14 (17) "Weighted average of the three most recent annual sales assessment ratio  
15 studies" means the weighted average of the three most recent annual sales  
16 assessment ratio studies in the most recent years for which county current  
17 expense appropriations and adjusted property tax valuations are available. If  
18 real property in a county has been revalued one year prior to the most recent  
19 sales assessment ratio study, a weighted average of the two most recent sales  
20 assessment ratios shall be used. If property has been revalued the year of the  
21 most recent sales assessment ratio study, the sales assessment ratio for the  
22 year of revaluation shall be used.

23 **SECTION 7.3.(c) Eligibility for Funds.** – Except as provided in subsection (g) of  
24 this section, the State Board of Education shall allocate these funds to local school  
25 administrative units located in whole or in part in counties in which the county wealth as a  
26 percentage of the State average wealth is less than one hundred percent (100%).

27 **SECTION 7.3.(d) Allocation of Funds.** – Except as provided in subsection (f) of  
28 this section, the amount received per average daily membership for a county shall be the  
29 difference between the State average current expense appropriations per student and the current  
30 expense appropriations per student that the county could provide given the county's wealth and  
31 an average effort to fund public schools. (To derive the current expense appropriations per  
32 student that the county could be able to provide given the county's wealth and an average effort  
33 to fund public schools, multiply the county's wealth as a percentage of State average wealth by  
34 the State average current expense appropriations per student.) The funds for the local school  
35 administrative units located in whole or in part in the county shall be allocated to each local  
36 school administrative unit located in whole or in part in the county based on the average daily  
37 membership of the county's students in the school units. If the funds appropriated for  
38 supplemental funding are not adequate to fund the formula fully, each local school  
39 administrative unit shall receive a pro rata share of the funds appropriated for supplemental  
40 funding.

41 **SECTION 7.3.(e) Formula for Distribution of Supplemental Funding Pursuant to**  
42 **This Section Only.** – The formula in this section is solely a basis for distribution of  
43 supplemental funding for low-wealth counties and is not intended to reflect any measure of the  
44 adequacy of the educational program or funding for public schools. The formula is also not  
45 intended to reflect any commitment by the General Assembly to appropriate any additional  
46 supplemental funds for low-wealth counties.

47 **SECTION 7.3.(f) Minimum Effort Required.** – Counties that had effective tax  
48 rates in the 1996-1997 fiscal year that were above the State average effective tax rate but that  
49 had effective rates below the State average in the 1997-1998 fiscal year or thereafter shall  
50 receive reduced funding under this section. This reduction in funding shall be determined by  
51 subtracting the amount that the county would have received pursuant to Section 17.1(g) of

Chapter 507 of the 1995 Session Laws from the amount that the county would have received if qualified for full funding and multiplying the difference by ten percent (10%). This method of calculating reduced funding shall apply one time only. This method of calculating reduced funding shall not apply in cases in which the effective tax rate fell below the statewide average effective tax rate as a result of a reduction in the actual property tax rate. In these cases, the minimum effort required shall be calculated in accordance with Section 17.1(g) of Chapter 507 of the 1995 Session Laws. If the county documents that it has increased the per student appropriation to the school current expense fund in the current fiscal year, the State Board of Education shall include this additional per pupil appropriation when calculating minimum effort pursuant to Section 17.1(g) of Chapter 507 of the 1995 Session Laws.

**SECTION 7.3.(g) Nonsupplant Requirement.** – A county in which a local school administrative unit receives funds under this section shall use the funds to supplement local current expense funds and shall not supplant local current expense funds. For the 2011-2013 fiscal biennium, the State Board of Education shall not allocate funds under this section to a county found to have used these funds to supplant local per student current expense funds. The State Board of Education shall make a finding that a county has used these funds to supplant local current expense funds in the prior year, or the year for which the most recent data are available, if the following apply:

- (1) The current expense appropriation per student of the county for the current year is less than ninety-five percent (95%) of the average of the local current expense appropriations per student for the three prior fiscal years; and
- (2) The county cannot show (i) that it has remedied the deficiency in funding or (ii) that extraordinary circumstances caused the county to supplant local current expense funds with funds allocated under this section. The State Board of Education shall adopt rules to implement this section.

**SECTION 7.3.(h) Reports.** – The State Board of Education shall report to the Joint Legislative Education Oversight Committee prior to May 1, 2012, if it determines that counties have supplanted funds.

**SECTION 7.3.(i) Department of Revenue Reports.** – The Department of Revenue shall provide to the Department of Public Instruction a preliminary report for the current fiscal year of the assessed value of the property tax base for each county prior to March 1 of each year and a final report prior to May 1 of each year. The reports shall include for each county the annual sales assessment ratio and the taxable values of (i) total real property, (ii) the portion of total real property represented by the present-use value of agricultural land, horticultural land, and forestland, as defined in G.S. 105-277.2, (iii) property of public service companies determined in accordance with Article 23 of Chapter 105 of the General Statutes, and (iv) personal property.

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

**SECTION 7.4.(a) Funds for Small School Systems.** – Except as provided in subsection (b) of this section, the State Board of Education shall allocate funds appropriated for small school system supplemental funding (i) to each county school administrative unit with an average daily membership of fewer than 3,175 students and (ii) to each county school administrative unit with an average daily membership from 3,175 to 4,000 students if the county in which the local school administrative unit is located has a county-adjusted property tax base per student that is below the State-adjusted property tax base per student and if the total average daily membership of all local school administrative units located within the county is from 3,175 to 4,000 students. The allocation formula shall do all of the following:

- (1) Round all fractions of positions to the next whole position.
- (2) Provide five and one-half additional regular classroom teachers in counties in which the average daily membership per square mile is greater than four



1 and seven additional regular classroom teachers in counties in which the  
2 average daily membership per square mile is four or fewer.

- 3 (3) Provide additional program enhancement teachers adequate to offer the  
4 standard course of study.
- 5 (4) Change the duty-free period allocation to one teacher assistant per 400  
6 average daily membership.
- 7 (5) Provide a base for the consolidated funds allotment of at least seven hundred  
8 seventeen thousand three hundred sixty dollars (\$717,360), excluding  
9 textbooks, for the 2011-2012 fiscal year and a base of seven hundred  
10 seventeen thousand three hundred sixty dollars (\$717,360) for the 2012-2013  
11 fiscal year.
- 12 (6) Allot vocational education funds for grade 6 as well as for grades 7-12. If  
13 funds appropriated for each fiscal year for small school system supplemental  
14 funding are not adequate to fully fund the program, the State Board of  
15 Education shall reduce the amount allocated to each county school  
16 administrative unit on a pro rata basis. This formula is solely a basis for  
17 distribution of supplemental funding for certain county school administrative  
18 units and is not intended to reflect any measure of the adequacy of the  
19 educational program or funding for public schools. The formula also is not  
20 intended to reflect any commitment by the General Assembly to appropriate  
21 any additional supplemental funds for such county administrative units.

22 **SECTION 7.4.(b) Nonsupplant Requirement.** – A county in which a local school  
23 administrative unit receives funds under this section shall use the funds to supplement local  
24 current expense funds and shall not supplant local current expense funds. For the 2011-2013  
25 fiscal biennium, the State Board of Education shall not allocate funds under this section to a  
26 county found to have used these funds to supplant local per student current expense funds. The  
27 State Board of Education shall make a finding that a county has used these funds to supplant  
28 local current expense funds in the prior year, or the year for which the most recent data are  
29 available, if the following apply:

- 30 (1) The current expense appropriation per student of the county for the current  
31 year is less than ninety-five percent (95%) of the average of the local current  
32 expense appropriations per student for the three prior fiscal years; and
- 33 (2) The county cannot show (i) that it has remedied the deficiency in funding or  
34 (ii) that extraordinary circumstances caused the county to supplant local  
35 current expense funds with funds allocated under this section. The State  
36 Board of Education shall adopt rules to implement this section.

37 **SECTION 7.4.(c) Phase-Out Provisions.** – If a local school administrative unit  
38 becomes ineligible for funding under this formula because of (i) an increase in the population  
39 of the county in which the local school administrative unit is located or (ii) an increase in the  
40 county-adjusted property tax base per student of the county in which the local school  
41 administrative unit is located, funding for that unit shall be continued for seven years after the  
42 unit becomes ineligible.

43 **SECTION 7.4.(d) Definitions.** – As used in this section, the following definitions  
44 apply:

- 45 (1) "Average daily membership" means within two percent (2%) of the average  
46 daily membership as defined in the North Carolina Public Schools Allotment  
47 Policy Manual adopted by the State Board of Education.
- 48 (2) "County-adjusted property tax base per student" means the total assessed  
49 property valuation for each county, adjusted using a weighted average of the  
50 three most recent annual sales assessment ratio studies, divided by the total

1 number of students in average daily membership who reside within the  
2 county.

3 (3) "Local current expense funds" means the most recent county current expense  
4 appropriations to public schools, as reported by local boards of education in  
5 the audit report filed with the Secretary of the Local Government  
6 Commission pursuant to G.S. 115C-447.

7 (4) "Sales assessment ratio studies" means sales assessment ratio studies  
8 performed by the Department of Revenue under G.S. 105-289(h).

9 (5) "State-adjusted property tax base per student" means the sum of all  
10 county-adjusted property tax bases divided by the total number of students in  
11 average daily membership who reside within the State.

12 (6) "Supplant" means to decrease local per student current expense  
13 appropriations from one fiscal year to the next fiscal year.

14 (7) "Weighted average of the three most recent annual sales assessment ratio  
15 studies" means the weighted average of the three most recent annual sales  
16 assessment ratio studies in the most recent years for which county current  
17 expense appropriations and adjusted property tax valuations are available. If  
18 real property in a county has been revalued one year prior to the most recent  
19 sales assessment ratio study, a weighted average of the two most recent sales  
20 assessment ratios shall be used. If property has been revalued during the year  
21 of the most recent sales assessment ratio study, the sales assessment ratio for  
22 the year of revaluation shall be used.

23 **SECTION 7.4.(e) Reports.** – The State Board of Education shall report to the Joint  
24 Legislative Education Oversight Committee prior to May 1, 2012, if it determines that counties  
25 have supplanted funds.

26 **SECTION 7.4.(f) Use of Funds.** – Local boards of education are encouraged to use  
27 at least twenty percent (20%) of the funds they receive pursuant to this section to improve the  
28 academic performance of children who are performing at Level I or II on either reading or  
29 mathematics end-of-grade tests in grades 3-8.

### 30 **DISCREPANCIES BETWEEN ANTICIPATED AND ACTUAL ADM**

31 **SECTION 7.5.(a)** If the State Board of Education does not have sufficient  
32 resources in the ADM Contingency Reserve line item to make allotment adjustments in  
33 accordance with the Allotment Adjustments for ADM Growth provisions of the North Carolina  
34 Public Schools Allotment Policy Manual, the State Board of Education may use funds  
35 appropriated to State Aid for Public Schools for this purpose.

36 **SECTION 7.5.(b)** If the higher of the first or second month average daily  
37 membership in a local school administrative unit is at least two percent (2%) or 100 students  
38 lower than the anticipated average daily membership used for allotments for the unit, the State  
39 Board of Education shall reduce allotments for the unit. The reduced allotments shall be based  
40 on the higher of the first or second month average daily membership plus one-half of the  
41 number of students overestimated in the anticipated average daily membership.

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

### 45 **LITIGATION RESERVE FUNDS**

46 **SECTION 7.6.** The State Board of Education may expend up to five hundred  
47 thousand dollars (\$500,000) each year for the 2011-2012 and 2012-2013 fiscal years from  
48 unexpended funds for certified employees' salaries to pay expenses related to litigation.  
49  
50  
51

**1 ABCS OF PUBLIC EDUCATION**

2           **SECTION 7.7.** Notwithstanding G.S. 115C-105.36, the State Board of Education  
3 shall place a moratorium on financial awards paid to school personnel in the 2011-2012 and  
4 2012-2013 fiscal years based on 2010-2011 student academic performance.

**6 MORE AT FOUR PROGRAM**

7           **SECTION 7.8.(a)** The Department of Public Instruction shall continue the  
8 implementation of the "More at Four" prekindergarten program for four-year-olds who are at  
9 risk for school failure in all counties. The State prekindergarten program shall serve children  
10 who reach the age of four on or before August 31 of that school year and who meet eligibility  
11 criteria that indicate a child's risk for school failure. Prekindergarten classrooms shall be  
12 operated in public schools, Head Start programs, and licensed child care facilities that choose to  
13 participate under procedures defined by the Office of Early Learning within the Department of  
14 Public Instruction. All such classrooms shall be subject to the supervision of the Office of Early  
15 Learning and shall be operated in accordance with standards adopted by the State Board of  
16 Education.

17           **SECTION 7.8.(b)** The Office of Early Learning shall specify program standards  
18 and requirements addressing the following:

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

27           **SECTION 7.8.(c)** The State Board of Education shall submit an annual report no  
28 later than March 15 of each year to the Joint Legislative Commission on Governmental  
29 Operations, the Joint Legislative Education Oversight Committee, the Senate Appropriations  
30 Committee on Education, the House of Representatives Appropriations Subcommittee on  
31 Education, the Office of State Budget and Management, and the Fiscal Research Division. The  
32 report shall include the following:

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

41           **SECTION 7.8.(d)** The Office of Early Learning shall establish income eligibility  
42 requirements for the program not to exceed seventy-five percent (75%) of the State median  
43 income. Up to twenty percent (20%) of children enrolled may have family incomes in excess of  
44 seventy-five percent (75%) of median income if they have other designated risk factors.  
45 Furthermore, any age-eligible child of (i) an active duty member of the Armed Forces of the  
46 United States, including the North Carolina National Guard, State military forces, or a reserve  
47 component of the Armed Forces, who is ordered to active duty by the proper authority within  
48 the last 18 months or expected to be ordered within the next 18 months or (ii) a member of the  
49 Armed Forces of the United States, including the North Carolina National Guard, State military  
50 forces, or a reserve component of the Armed Forces, who was injured or killed while serving  
51 on active duty, shall be eligible for the program.

1           **SECTION 7.8.(e)** The "More at Four" program funding shall not supplant any  
2 funding for classrooms serving four-year-olds as of the 2005-2006 fiscal year. Support of  
3 existing four-year-old classrooms with "More at Four" program funding shall be permitted  
4 when current funding is eliminated, reduced, or redirected as required to meet other specified  
5 federal or State mandates.

6  
7 **UNIFORM EDUCATION REPORTING SYSTEM (UERS) FUNDS**

8           **SECTION 7.9.(a)** Funds appropriated for the Uniform Education Reporting  
9 System shall not revert at the end of the 2010-2011 fiscal year.

10           **SECTION 7.9.(b)** This section becomes effective June 30, 2011.

11  
12 **FOCUSED EDUCATION REFORM PROGRAM FUNDS DO NOT REVERT**

13           **SECTION 7.10.(a)** Funds appropriated for the Focused Education Reform Pilot  
14 Program that are unexpended and unencumbered at the end of the 2010-2011 fiscal year shall  
15 not revert but shall remain available for expenditure for that purpose through the 2011-2012  
16 fiscal year.

17           **SECTION 7.10.(b)** This section becomes effective June 30, 2011.

18  
19 **PROTECTION OF THE CLASSROOM WHILE MAXIMIZING FLEXIBILITY**

20           **SECTION 7.11.(a)** For fiscal years 2011-2012 and 2012-2013, local school  
21 administrative units shall make every effort to reduce spending whenever and wherever such  
22 budget reductions are appropriate with the goal of protecting direct classroom services.

23           **SECTION 7.11.(b)** The State Board of Education is authorized to adopt emergency  
24 rules in accordance with G.S. 150B-21.1A to grant maximum flexibility to local school  
25 administrative units regarding the expenditure of State funds. These rules shall not be subject to  
26 the limitations on transfers of funds between funding allotment categories set out in  
27 G.S. 115C-105.25. These rules shall not permit either of the following:

28           (1) The transfer of classroom teacher or teacher assistant allotments to other  
29 allotments.

30           (2) The transfer of funds from school-based positions to the central office.

31           **SECTION 7.11.(c)** Within 14 days of the date this act becomes law, the State  
32 Board of Education shall notify each local school administrative unit and charter school of the  
33 amount the unit must reduce from the State General Fund appropriations. The State Board shall  
34 determine the amount of the reduction for each unit on the basis of average daily membership.

35           **SECTION 7.11.(d)** Nothing in this section shall be construed to prohibit any  
36 changes, reductions, or transfers made pursuant to Section 7.8 of S.L. 2009-451 or Section 7.13  
37 of S.L. 2010-31.

38  
39 **NORTH CAROLINA VIRTUAL PUBLIC SCHOOLS**

40           **SECTION 7.12.(a)** The North Carolina Virtual Public School (NCVPS) program  
41 shall report to the State Board of Education and shall maintain an administrative office at the  
42 Department of Public Instruction.

43           **SECTION 7.12.(b)** Subsequent to course consolidation, the Director shall  
44 prioritize e-learning course offerings for students residing in rural and low-wealth county local  
45 school administrative units in order to expand available instructional opportunities. First  
46 available e-learning instructional opportunities should include courses required as part of the  
47 standard course of study for high school graduation and AP offerings not otherwise available.

48           **SECTION 7.12.(c)** Section 7.4 of S.L. 2010-31 is repealed.

49           **SECTION 7.12.(d)** The State Board of Education shall implement an allotment  
50 formula for the North Carolina Virtual Public Schools (NCVPS) beginning in the 2011-2012  
51 school year.

1           **SECTION 7.12.(e)** The funds provided through the North Carolina Virtual Public  
2 Schools Allotment Formula shall be the only source of State funds available to the State Board  
3 of Education for the purposes of funding NCVPS instructional costs.

4           **SECTION 7.12.(f)** Beginning with the 2011-2012 school year, the State Board of  
5 Education shall take the following steps to implement the North Carolina Virtual Public  
6 Schools Allotment Formula:

- 7           (1) Project NCVPS student enrollment by semester and year-long course types  
8 for each local school administrative unit and charter school.
- 9           (2) Establish a per course teacher payment structure for the instructional costs of  
10 NCVPS. In establishing this payment structure, the Board shall consider the  
11 following:
  - 12           a. The payment structure is based on a total compensation analysis to  
13 ensure NCVPS teacher pay has parity with similar programs. The  
14 total compensation analysis shall take into account salaries, benefits,  
15 and work effort to ensure valid comparisons between occupations.
  - 16           b. The effects any change in NCVPS teacher payments may have on the  
17 attraction and retention of NCVPS teachers.
- 18           (3) Based on the per course teacher pay structure, the Board shall develop a per  
19 student fee structure for in-State students. The fee structure shall ensure that  
20 the projected cost for local school administrative units and charter schools  
21 equals the projected instructional cost for NCVPS courses. Projected  
22 enrollment by course type shall be multiplied by the per course fees to  
23 determine the total instructional cost for each local school administrative  
24 unit and charter school. The Board shall establish a separate per student fee  
25 structure for out-of-state students, which shall be adjusted upward from the  
26 in-State student fee structure by an amount determined appropriate by the  
27 Board.
- 28           (4) Transfer a dollar amount equal to seventy-five percent (75%) of the unit's  
29 projected instructional cost from the classroom teacher allotment to NCVPS.
- 30           (5) No later than February 21 of each year, calculate the actual instructional cost  
31 for each local school administrative unit based upon actual NCVPS  
32 enrollment as of that date. Subtract the amount transferred pursuant to  
33 subdivision (4) of this subsection from the actual instructional cost for each  
34 unit and transfer from the teacher allotment the remaining dollar amount  
35 owed, up to a maximum of one hundred percent (100%) of the projected  
36 cost. The State Board shall develop a policy regarding returning funds to  
37 local school administrative units and charter schools in cases where the  
38 amount transferred pursuant to subdivision (4) of this subsection exceeds the  
39 actual instructional costs.

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

- 44           (6) In establishing the fee structure and payment structure for NCVPS, the  
45 Board shall consider recommendations from the eLearning Commission and  
46 the NCVPS Advisory Board. The Board shall oversee all revenue generation  
47 from the sale of NCVPS courses to out-of-state educational entities and the  
48 use of NCVPS courses by home-schooled and private school students. The  
49 Board shall direct NCVPS to develop a revenue-generating plan for the sale  
50 of courses to out-of-state educational entities. Revenue from these sales shall  
51 be used to offset instructional costs to local school administrative units and

1 charter schools. NCVPS shall submit its plan to the Board by September 1,  
2 2011.

3 **SECTION 7.12.(g)** Beginning in calendar year 2011, the Director of NCVPS shall  
4 submit an annual report on NCVPS to the State Board of Education no later than December 1.  
5 The report shall use data from the previous fiscal year and shall include statistics on actual vs.  
6 projected costs to local administrative units and charter schools, student enrollment, virtual  
7 teacher salaries, and measures of academic achievement.

8 The Director of NCVPS shall continue to ensure the following:

9 (1) Course quality standards are established and met.

10 (2) All e-learning opportunities offered by State-funded entities to public school  
11 students are consolidated under the NCVPS program, eliminating course  
12 duplication.

13 (3) All courses offered through NCVPS are aligned to the North Carolina  
14 Standard Course of Study.

15 **SECTION 7.12.(h)** NCVPS is authorized to charge an access fee based upon the  
16 percentage of ADM for each local school administrative unit or charter school with ADM in  
17 any grade from six to twelve. The total fee shall generate eight hundred thirty-six thousand  
18 dollars (\$836,000) and shall be used for NCVPS operating costs. The total fee shall be adjusted  
19 annually based upon the percentage growth in NCVPS enrollment, ensuring the expansion of  
20 services due to increased virtual student enrollment.

21 **SECTION 7.12.(i)** Funds shall be appropriated from Learn and Earn Online and  
22 transferred to an NCVPS reserve. Two million thirty thousand nine hundred twenty-three  
23 dollars (\$2,030,923) shall be appropriated for NCVPS administrative salaries and benefits and  
24 the remainder shall provide an NCVPS enrollment reserve, ensuring that all North Carolina  
25 students have access to NCVPS courses. The State Board of Education shall set guidelines for  
26 the use of the enrollment reserve.

27 **SECTION 7.12.(j)** The State Board of Education shall report to the Office of the  
28 Governor, Office of State Budget and Management, Joint Legislative Education Oversight  
29 Committee, and the Fiscal Research Division by December 15, 2011, on its implementation of  
30 this section.

## 31 32 **SCHOOL BUS PURCHASES**

33 **SECTION 7.13.(a)** G.S. 115C-249 reads as rewritten:

34 **"§ 115C-249. Purchase and maintenance of school buses, materials and supplies.**

35 (a) To the extent that the funds shall be made available to it for such purpose, a local  
36 board of education is authorized to purchase from time to time such additional school buses and  
37 service vehicles or replacements for school buses and service vehicles, as may be deemed by  
38 such board to be necessary for the safe and efficient transportation of pupils enrolled in the  
39 schools within such local school administrative unit. Any school bus so purchased shall be  
40 constructed and equipped as prescribed by the provisions of this Article and by the regulations  
41 of the State Board of Education issued pursuant thereto. Any school bus so purchased that is  
42 capable of operating on diesel fuel shall be capable of operating on diesel fuel with a minimum  
43 biodiesel concentration of B-20, as defined in G.S. 143-58.4. At least two percent (2%) of the  
44 total volume of fuel purchased annually by local school districts statewide for use in school bus  
45 diesel engine motor vehicles shall be biodiesel fuel of a minimum blend of B-20, to the extent  
46 that biodiesel blend is available and compatible with the technology of the vehicles or  
47 equipment used.

48 (b) The tax-levying authorities of any county are hereby authorized to make provision  
49 from time to time in the capital outlay budget of the county for the purchase of such school  
50 buses or service vehicles.

1 (c) Any funds appropriated from time to time by the General Assembly for the purchase  
2 of school buses or service vehicles shall be allocated by the State Board of Education to the  
3 respective local boards of education in accordance with the requirements of such boards as  
4 determined by the State Board of Education, and thereupon shall be paid over to the respective  
5 local boards of education in accordance with such allocation.

6 (d) The title to any ~~additional or replacement~~ school bus or service vehicle purchased  
7 pursuant to the provisions of this section, shall be taken in the name of the board of education  
8 of such local school administrative unit, and such bus shall in all respects be maintained and  
9 operated pursuant to the provisions of this Article ~~in the same manner as any other public~~  
10 ~~school bus.~~ Article.

11 (e) It shall be the duty of the county board of education to provide adequate buildings  
12 and equipment for the storage and maintenance of all school buses and service vehicles owned  
13 or operated by the board of education of any local school administrative unit in such county. It  
14 shall be the duty of the tax-levying authorities of such county to provide in its capital outlay  
15 budget for the construction or acquisition of such buildings and equipment as may be required  
16 for this purpose.

17 (f) ~~In the event of the damage or destruction of any school bus or service vehicle by~~  
18 ~~fire, collision, or otherwise, the board of education of the local school administrative unit which~~  
19 ~~shall own or operate such bus or service vehicle may apply to the State Board of Education for~~  
20 ~~funds with which to replace it. If the State Board of Education finds that such bus or service~~  
21 ~~vehicle has been destroyed or damaged to the extent that it cannot be made suitable for further~~  
22 ~~use, and if the State Board of Education finds that the replacement of such bus or service~~  
23 ~~vehicle is necessary in order to enable such local school administrative unit to operate properly~~  
24 ~~its school bus transportation system, the State Board of Education shall allot to the board of~~  
25 ~~education of such local school administrative unit from the funds now held by the State Board~~  
26 ~~of Education for the replacement of school buses or service vehicles, or from funds hereafter~~  
27 ~~appropriated by the General Assembly for that purpose, a sum sufficient to purchase a new~~  
28 ~~school bus or service vehicle to be used as a replacement for such damaged or destroyed bus or~~  
29 ~~service vehicle and upon such allocation such sum shall be paid over to or for the account of~~  
30 ~~the board of education of such local school administrative unit for such purpose.~~

31 (g) Repealed by Session Laws 2003-147, s. 3, effective for a local school administrative  
32 unit when the unit is certified as being E-Procurement compliant, or April 1, 2004, whichever  
33 occurs first.

34 (h) ~~Appropriations by the General Assembly for the purchase of public school buses~~  
35 ~~shall not revert to the General Fund. Any unexpended portion of those appropriations shall at~~  
36 ~~the end of each fiscal year be transferred to a reserve account and be held, together with any~~  
37 ~~other funds appropriated for the purpose, for the purchase of public school buses."~~

38 **SECTION 7.13.(b)** G.S. 115C-426(f) reads as rewritten:

39 "(f) The capital outlay fund shall include appropriations for:

- 40 (1) The acquisition of real property for school purposes, including but not  
41 limited to school sites, playgrounds, athletic fields, administrative  
42 headquarters, and garages.
- 43 (2) The acquisition, construction, reconstruction, enlargement, renovation, or  
44 replacement of buildings and other structures, including but not limited to  
45 buildings for classrooms and laboratories, physical and vocational  
46 educational purposes, libraries, auditoriums, gymnasiums, administrative  
47 offices, storage, and vehicle maintenance.
- 48 (3) The acquisition or replacement of furniture and furnishings, instructional  
49 apparatus, data-processing equipment, business machines, and similar items  
50 of furnishings and equipment.
- 51 (4) The acquisition of school buses as additions to the fleet. buses.

1 (5) The acquisition of activity buses and other motor vehicles.

2 (6) Such other objects of expenditure as may be assigned to the capital outlay  
3 fund by the uniform budget format.

4 The cost of acquiring or constructing a new building, or reconstructing, enlarging, or  
5 renovating an existing building, shall include the cost of all real property and interests in real  
6 property, and all plants, works, appurtenances, structures, facilities, furnishings, machinery, and  
7 equipment necessary or useful in connection therewith; financing charges; the cost of plans,  
8 specifications, studies, reports, and surveys; legal expenses; and all other costs necessary or  
9 incidental to the construction, reconstruction, enlargement, or renovation.

10 No contract for the purchase of a site shall be executed nor any funds expended therefor  
11 without the approval of the board of county commissioners as to the amount to be spent for the  
12 site; and in case of a disagreement between a board of education and a board of county  
13 commissioners as to the amount to be spent for the site, the procedure provided in  
14 G.S. 115C-431 shall, insofar as the same may be applicable, be used to settle the disagreement.

15 Appropriations in the capital outlay fund shall be funded by revenues made available for  
16 capital outlay purposes by the State Board of Education and the board of county  
17 commissioners, supplemental taxes levied by or on behalf of the local school administrative  
18 unit pursuant to a local act or G.S. 115C-501 to 115C-511, the proceeds of the sale of capital  
19 assets, the proceeds of claims against fire and casualty insurance policies, and other sources."  
20

## 21 COSTS OF WORKERS' COMPENSATION

22 SECTION 7.15.(a) G.S. 115C-337 reads as rewritten:

### 23 "§ 115C-337. Workers' compensation for school employees.

24 (a) ~~Workers' Compensation Act Applicable to School Employees. – The provisions of~~  
25 ~~the Workers' Compensation Act shall be applicable to all school employees, and the State~~  
26 ~~Board of Education shall make arrangements necessary to carry out the provisions of the~~  
27 ~~Workers' Compensation Act applicable to these employees paid from State school funds.~~  
28 ~~Liability of the State for compensation shall be confined to school employees paid by the State~~  
29 ~~from State school funds for injuries or death caused by accident arising out of and in the course~~  
30 ~~of their employment in connection with the state-operated school term. The State shall be liable~~  
31 ~~for this compensation on the basis of the average weekly wage of the employees as defined in~~  
32 ~~the Workers' Compensation Act, to the extent of the proportionate part of each employee's~~  
33 ~~salary that is paid from State funds. The State shall also be liable for workers' compensation for~~  
34 ~~all school employees employed in connection with the teaching of vocational agriculture, home~~  
35 ~~economics, trades and industries, and other vocational subjects, supported in part by State and~~  
36 ~~federal funds, which liability shall cover the entire period of service of these employees, to the~~  
37 ~~extent of the proportionate part of each employee's salary that is paid from State funds.~~ apply to  
38 all employees of local school administrative units. ~~The local school administrative units shall~~  
39 ~~be liable for workers' compensation for school employees, including lunchroom employees,~~  
40 ~~whose salaries or wages are paid by the local units from local or special funds.~~ their employees.  
41 The local units may provide insurance to cover this compensation liability and ~~to include the~~  
42 cost of this insurance in their annual budgets.

43 The provisions of this subsection shall not apply to any person, firm, or corporation making  
44 voluntary contributions to schools for any purpose, and the person, firm, or corporation shall  
45 not be liable for the payment of any sum of money under this Chapter.

46 (b) ~~Payment of Awards to School Bus Drivers Pursuant to the Workers' Compensation~~  
47 ~~Act. – In the event that the Industrial Commission shall make an award pursuant to the~~  
48 ~~Workers' Compensation Act against any local board of education on account of injuries to or~~  
49 ~~the death of a school bus driver arising out of and in the course of his employment as such~~  
50 ~~driver, the local board of education shall draw a requisition upon the State Board of Education~~  
51 ~~for the amount required to pay such award. The State Board of Education shall honor such~~



1 ~~requisition to the extent that it shall have in its hands, or subject to its control, available funds~~  
2 ~~which have been or shall thereafter be appropriated by the General Assembly for the support of~~  
3 ~~the school term. It shall be the duty of the local board of education to apply all funds received~~  
4 ~~by it from the State Board of Education pursuant to such requisition to the payment of such~~  
5 ~~award. Neither the State nor the State Board of Education shall be deemed the employer of~~  
6 ~~such school bus driver, nor shall the State or the State Board of Education be liable to any~~  
7 ~~school bus driver or any other person for the payment of any claim, award, or judgment under~~  
8 ~~the provisions of the Workers' Compensation Act or of any other law of this State for any~~  
9 ~~injury or death arising out of or in the course of the operation by such driver of a public school~~  
10 ~~bus. Neither the local board of education, the local school administrative unit, nor the tax~~  
11 ~~levying authorities for the local school administrative unit shall be liable for the payment of any~~  
12 ~~award made pursuant to the provisions of this subsection in excess of the amount paid upon~~  
13 ~~such requisition by the State Board of Education, nor shall the local school board of education,~~  
14 ~~the local school administrative unit, nor the said tax levying authorities be required to provide~~  
15 ~~or carry workers' compensation insurance for such purpose."~~

16 **SECTION 7.15.(b)** G.S. 115C-256 reads as rewritten:

17 **"§ 115C-256. School bus drivers under Workers' Compensation Act.**

18 Awards to school bus drivers under the Workers' Compensation Act shall be made pursuant  
19 to the provisions of ~~G.S. 115C-337(b).~~G.S. 115C-337."  
20

21 **CAREER AND COLLEGE PROMISE**

22 **SECTION 7.16.(a)** The State Board of Education and the North Carolina  
23 Community College System shall establish "Career and College Promise" to achieve the goal  
24 that every child shall graduate ready for a career, two- or four-year college, or technical  
25 training. The purpose of Career and College Promise is to offer structured opportunities for  
26 qualified high school students to dually enroll in community college courses that provide  
27 pathways consistent with subsection (b) of this section that lead to a certificate, diploma, or  
28 degree as well as provide entry-level jobs skills. Academic credits earned through Career and  
29 College Promise shall enable students who continue into postsecondary education after  
30 graduating from high school to complete a postsecondary credential in less time than would  
31 normally be required. All existing high school transition programs, including Huskins,  
32 Concurrent Enrollment, Cooperative and Innovative High Schools, Learn and Earn, and Learn  
33 and Earn Online, shall be consolidated and replaced by Career and College Promise.

34 **SECTION 7.16.(b)** North Carolina community colleges, subject to approval by the  
35 State Board of Community Colleges, may offer the following Career and College pathways  
36 aligned with the K-12 curriculum and career- and college-ready standards adopted by the State  
37 Board of Education:

- 38 (1) Career Technical Education Pathway (CTE), which leads to a certificate or  
39 diploma that is aligned with one or more high school Tech Prep Career  
40 Clusters.
- 41 (2) College Transfer Pathway, which leads to a college transfer certificate that  
42 requires the successful completion of eight college transfer courses,  
43 including English and mathematics.
- 44 (3) Cooperative Innovative High Schools Programs approved under Article 16,  
45 Part 9 of Chapter 115C of the General Statutes.

46 **SECTION 7.16.(c)** Program Accountability. – The State Board of Education and  
47 the North Carolina Community College System shall jointly develop and implement a program  
48 accountability plan to evaluate short-term and long-term outcomes for Career and College  
49 Promise. Outcomes to be measured shall include the following:

- 50 (1) The impact of dual enrollment on high school completion.

- 1 (2) The academic achievement and performance of dually enrolled high school  
2 students.
- 3 (3) The number of students who successfully complete college certificates while  
4 dually enrolled.
- 5 (4) The impact of dual enrollment and certificate completion on enrollment in  
6 college.
- 7 (5) The persistence and completion rates of students who continue into college  
8 programs after high school graduation.
- 9 (6) The academic achievement and performance of students who continue into  
10 college programs after high school graduation.

11 **SECTION 7.16.(d)** Community colleges shall generate budget FTE for instruction  
12 provided through Career and College Promise.

13 **SECTION 7.16.(e)** G.S. 115D-1.1 reads as rewritten:

14 "**§ 115D-1.1. Discretion in admissions.**

15 (a) Notwithstanding G.S. 115D-1, a student under the age of 16 may enroll in a  
16 community college if the following conditions are met:

- 17 ~~(1) The president of the community college or the president's designee finds,~~  
18 ~~based on criteria established by the State Board of Community Colleges, that~~  
19 ~~the student is intellectually gifted and that the student has the maturity to~~  
20 ~~justify admission to the community college; and~~
- 21 (1) The high school student is a junior or senior enrolled in a Career and College  
22 Promise pathway or a Cooperative Innovative High School Program as  
23 established in G.S. 115C-238.50; and
- 24 (2) One of the following persons approves the student's enrollment in a  
25 community college:
- 26 a. The local board of education, or the board's designee, for the local  
27 school administrative unit in which the student is domiciled or is  
28 enrolled.
- 29 b. The administrator, or the administrator's designee, of the nonpublic  
30 school in which the student is enrolled.
- 31 c. The person who provides the academic instruction in the home  
32 school in which the student is enrolled.
- 33 d. The designee of the board of directors of the charter school in which  
34 the student is enrolled.
- 35 e. The administrator of the college or university where the student is  
36 enrolled.

37 (b) The State Board of Community Colleges, in consultation with the Department of  
38 Public Instruction, shall adopt rules to implement this section."

39 **SECTION 7.16.(f)** G.S. 115D-1.2 is repealed.

40 **SECTION 7.16.(g)** G.S. 115D-20(4) reads as rewritten:

- 41 "(4) To apply the standards and requirements for admission and graduation of  
42 students and other standards established by the State Board of Community  
43 Colleges. Provided, notwithstanding any law or administrative rule to the  
44 contrary, ~~local administrative boards and local school boards may establish~~  
45 ~~cooperative programs in the areas they serve to provide for college courses~~  
46 ~~to be offered to qualified high school students with college credits to be~~  
47 ~~awarded to those high school students upon the successful completion of the~~  
48 ~~courses.~~ local community colleges, subject to the approval of the State Board  
49 of Community Colleges, are permitted to collaborate with local school  
50 administrative units in the establishment of cooperative innovative high  
51 school programs, as provided by Part 9 of Article 16 of Chapter 115C of the

1 General Statutes, as well as academic transition pathways for qualified high  
2 school students that lead to a career technical education credential or a  
3 college transfer certificate. The State Board of Education and the State  
4 Board of Community Colleges shall jointly determine the eligibility  
5 standards high school students must meet to qualify for these programs.  
6 College credits shall be awarded to those high school students upon the  
7 successful completion of the course(s). Provided, further, that during the  
8 summer quarter, persons less than 16 years old may be permitted to take  
9 noncredit courses on a self-supporting basis, subject to rules of the State  
10 Board of Community Colleges. Provided, further, that high school students  
11 may be permitted to take noncredit courses in safe driving on a  
12 self-supporting basis during the academic year or the summer."

13 **SECTION 7.16.(h)** The North Carolina Community College System, The  
14 University of North Carolina General Administration, and the North Carolina Independent  
15 Colleges and Universities shall develop a plan for articulation of a college transfer certificate to  
16 all UNC institutions and participating independent colleges and universities.  
17

#### 18 **TEACHING FELLOWS GRADUATE PLACEMENT**

19 **SECTION 7.17.** The Public School Forum will report on the placement of  
20 Teaching Fellows graduates in the public schools. The report, due November 15, 2011, to the  
21 Office of the Governor and the Office of State Budget and Management, will provide Teaching  
22 Fellows placement data disaggregated based upon ABCs and AYP school performance.  
23

#### 24 **PART VIII. COMMUNITY COLLEGES**

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

26 **SECTION 8.1.(a)** Funds appropriated in this act to the Community Colleges System  
27 Office for the College Information System shall not revert at the end of the 2010-2011 fiscal  
28 year but shall remain available until expended. These funds may be used only to purchase  
29 periodic system upgrades.  
30

31 **SECTION 8.1.(b)** Subsection (a) of this section becomes effective June 30, 2011.  
32

##### 33 **ESTABLISH GED TESTING FEES**

34 **SECTION 8.2.(a)** The State Board of Community Colleges shall assess an initial fee  
35 of fifteen dollars (\$15.00) to students taking the General Education Development (GED) test.  
36 This subsection becomes effective August 15, 2011.

37 **SECTION 8.2.(b)** Effective July 1, 2012, G.S. 115D-5(s) reads as rewritten:

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

43 **SECTION 8.2.(c)** The State Board of Community Colleges shall adopt rules  
44 implementing subsection (b) of this section. Such rules shall be in place before fees are  
45 increased by the Board.  
46

##### 47 **USE OF CREDIT BALANCE FUNDS FOR EQUIPMENT**

48 **SECTION 8.3.(a)** Of the credit balance remaining to the State of North Carolina at the  
49 close of fiscal year 2010-2011, twenty-five million dollars (\$25,000,000) shall be appropriated  
50 to the State Board of Community Colleges to be allocated to community colleges to assist in  
51 the purchasing of instructional equipment. This equipment shall be used to retrain displaced

1 workers and spur economic development in such areas as health care, science, engineering, and  
2 technical education.

3 **SECTION 8.3.(b)** This section becomes effective June 30, 2011.  
4

#### 5 **USE OF OVERREALIZED RECEIPTS TO SUPPORT ENROLLMENT GROWTH** 6 **RESERVE RATHER THAN EQUIPMENT RESERVE**

7 **SECTION 8.4.** G.S. 115D-31(e) reads as rewritten:

8 "(e) If receipts for community college tuition and fees exceed the amount certified in  
9 General Fund Codes at the end of a fiscal year, the State Board of Community Colleges ~~shall~~  
10 shall, subject to cash availability, transfer the amount of receipts and fees above those budgeted  
11 to the ~~Equipment Reserve Fund~~ Enrollment Growth Reserve. Funds in the Enrollment Growth  
12 Reserve shall not revert to the General Fund and shall remain available to the State Board until  
13 expended. The State Board may allocate funds in this reserve to colleges experiencing an  
14 enrollment increase greater than five percent (5%) of budgeted enrollment levels."  
15

#### 16 **WORKERS' COMPENSATION TO BE PAID FROM LOCAL FUNDS**

17 **SECTION 8.5.** G.S. 115D-32(a)(2)b.1. reads as rewritten:

18 "b. Support services:

- 19 1. Cost of insurance for buildings, contents, motor vehicles,  
20 workers' compensation, compensation ~~for institutional~~  
21 ~~employees paid from local funds,~~ and other necessary  
22 insurance."  
23

#### 24 **IMPLEMENT ALTERNATIVE FORMULA MODEL**

25 **SECTION 8.6.(a)** To reflect the different costs of academic programs, the State Board  
26 of Community Colleges shall allocate formula funds appropriated to support curriculum and  
27 continuing education (occupational extension only) through a formula that provides an  
28 instructional base allocation to all colleges and allocates remaining funds on a weighted FTE  
29 basis.

30 **SECTION 8.6.(b)** In determining the appropriate weighting, the State Board of  
31 Community Colleges shall weigh curriculum courses in high cost areas such as health care,  
32 technical education, and lab-based science courses more heavily than other curriculum courses.  
33 The State Board shall also weigh continuing education courses that lead to a third-party  
34 credential or certification and courses providing an industry-designed curriculum more heavily  
35 than other continuing education (occupational extension) courses.

36 **SECTION 8.6.(c)** The State Board of Community Colleges shall consolidate the  
37 Health Sciences Programs and Technical Education allotments into the alternative formula  
38 model.

39 **SECTION 8.6.(d)** This formula restructuring shall be completed and approved before  
40 the State Board of Community Colleges allocates funds to the community colleges for the  
41 2011-2012 fiscal year.  
42

#### 43 **FUTURE NCCCS ENROLLMENT REQUESTS**

44 **SECTION 8.7.(a)** Beginning with any adjustments to the 2011-2012 fiscal year  
45 budget, and annually thereafter, the State Board of Community Colleges' requests for funding  
46 enrollment growth shall provide a detailed description of the costs of educating community  
47 college students. This request shall be based on the current year's enrollment, listed by college  
48 and aggregated for the System as a whole.

49 **SECTION 8.7.(b)** Enrollment requests shall include the following information for  
50 each community college:

- 1 (1) The budgeted enrollment for the current year, divided between the categories
- 2 of instruction: curriculum, continuing education, and Basic Skills.
- 3 (2) The budgeted enrollment for the current year, divided between tiers of
- 4 instruction, as set forth in Section 8.6 of this act.
- 5 (3) The actual enrollment for the two years prior to the current year.
- 6 (4) A 5-year enrollment projection at each community college by category and
- 7 tier of instruction.
- 8 (5) The projected requirements and anticipated tuition receipts for the growth in
- 9 regular-term enrollment.
- 10 (6) The costs per FTE in each category and tier of instruction, to include the
- 11 following component parts:
- 12 a. Instructional costs, including faculty salaries and other costs.
- 13 b. Student support services and other college administrative costs.
- 14

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

16 **SECTION 8.8.** The management flexibility reduction for the North Carolina  
17 Community College System shall be allocated by the State Board of Community Colleges in a  
18 manner that accounts for the unique needs of each college and provides for the equitable  
19 distribution of funds to the institutions consistent with G.S. 115D-5(a). The State Board of  
20 Community Colleges may recommend adjustments to funding for basic skills, curriculum, and  
21 continuing education. Before taking reductions to instructional budgets, the community  
22 colleges shall consider reducing budgets for senior and middle management personnel and for  
23 programs that have both low enrollment and low postgraduate success. Colleges shall minimize  
24 the impact on student support services and on the retraining of dislocated workers. Colleges  
25 shall not reduce funding for financial aid, equipment, or the Small Business Centers. The  
26 community colleges shall also review their institutional funds to determine whether there are  
27 monies available in those funds that can be used to assist with operating costs before taking  
28 reductions in instructional budgets.

### 30 **REORGANIZATION OF THE COMMUNITY COLLEGES SYSTEM OFFICE**

31 **SECTION 8.9.(a)** Notwithstanding any other provision of law, and consistent with the  
32 authority established in G.S. 115D-3, the President of the North Carolina Community College  
33 System may reorganize the Community Colleges System Office in accordance with  
34 recommendations and plans submitted to and approved by the State Board of Community  
35 Colleges.

36 **SECTION 8.9.(b)** This section expires June 30, 2012.

### 38 **REPEAL UNUSED REPORTS**

39 **SECTION 8.10.(a)** G.S. 115D-4.1(e) reads as rewritten:

40 "(e) The State Board of Community Colleges shall develop appropriate criteria and  
41 standards to regulate the operation of college transfer programs. The criteria and standards shall  
42 require all college transfer programs to continue to meet the accreditation standards of the  
43 Southern Association of Colleges and Schools.

44 ~~The State Board of Community Colleges shall report annually to the General Assembly on~~  
45 ~~compliance of the community colleges with these criteria and standards."~~

46 **SECTION 8.10.(b)** G.S. 115D-5(j) reads as rewritten:

47 "(j) The State Board of Community Colleges shall use its Board Reserve Fund for  
48 feasibility studies, pilot projects, start-up of new programs, and innovative ideas. ~~The State~~  
49 ~~Board shall report to the Joint Legislative Education Oversight Committee on expenditures~~  
50 ~~from the State Board Reserve Fund on January 15 and June 15 each year."~~

**EXTEND SMALL BUSINESS INCUBATOR SERVICES**

**SECTION 8.11.** G.S. 66-58(3a) reads as rewritten:

"(3a) The use of community college personnel or facilities, with the consent of the trustees of that college, in support of or by a private business enterprise located on a community college campus or in the service area of a community college for one or more of the following specific services in support of economic development:

- a. Small business incubators. – As used in this sub-subdivision, the term "small business incubators" means sites for new business ventures in the service area of the community college that are in need of the support and assistance provided by the college; and, without which, the likelihood of success of the business would be greatly diminished. The services of the small business incubator shall not extend to any such new business venture for a period of more than ~~24 months~~ 48 months, subject to the approval of a community college's local board of trustees.
- b. Product testing services.
- c. Videoconferencing services provided to the public for occasional use."

**BASIC SKILLS PLUS**

**SECTION 8.12.(a)** Notwithstanding any other provision of law, the State Board may authorize a local community college to use up to twenty percent (20%) of the State Literacy Funds allocated to it to provide employability skills, job-specific occupational and technical skills, and developmental education instruction to students concurrently enrolled in a community college course leading to a high school diploma or equivalent certificate.

**SECTION 8.12.(b)** Notwithstanding any other provision of law, if a community college is authorized by the State Board to provide employability skills, job-specific occupational or technical skills, or developmental education instruction to students concurrently enrolled in a community college course leading to a high school diploma or equivalent certificate, the college may waive the tuition and registration fees associated with this instruction.

**CLARIFICATION REGARDING EQUIPMENT TITLED TO STATE BOARD**

**SECTION 8.13.** G.S. 115D-15 reads as rewritten:

**"§ 115D-15. Sale, exchange or lease of property; use of proceeds from donated property.**

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

Article 12 of Chapter 160A of the General Statutes shall apply to the disposal or sale of any real or personal property under this subsection. Personal property also may be disposed of under procedures adopted by the North Carolina Department of Administration. The proceeds

1 of any sale or lease shall be used for capital outlay purposes, except as provided in subsection  
2 (b) of this section.

3 ...."  
4

#### 5 **CARRYFORWARD FUNDS TO SUPPORT P-20 DATA SYSTEM DEVELOPMENT**

6 **SECTION 8.14.(a)** Of the funds appropriated to support State Aid allocations to  
7 community colleges in FY 2010-2011, the State Board of Community Colleges may carry  
8 forward up to three million dollars (\$3,000,000) to be used to develop the P-20 Data System to  
9 track the academic achievement and progression of students from prekindergarten programs  
10 through graduate school. The North Carolina Community College System may use these funds  
11 to support software licensing, programming, and other capacity enhancements associated with  
12 the development of the P-20 Data System.

13 **SECTION 8.14.(b)** This section becomes effective June 30, 2011.  
14

### 15 **PART IX. UNIVERSITIES**

#### 16 **USE OF ESCHEATS FUND FOR NEED-BASED FINANCIAL AID PROGRAMS**

17 **SECTION 9.1.(a)** There is appropriated from the Escheat Fund income to the  
18 Board of Governors of The University of North Carolina the sum of one hundred twenty-three  
19 million six hundred forty-one thousand forty dollars (\$123,641,040) for fiscal years 2011-2012  
20 and 2012-2013, to the State Board of Community Colleges the sum of thirteen million nine  
21 hundred eighty-one thousand two hundred two dollars (\$13,981,202) for fiscal years 2011-2012  
22 and 2012-2013, and to the Department of Administration, Division of Veterans Affairs, the sum  
23 of six million five hundred twenty thousand nine hundred sixty-four dollars (\$6,520,964) for  
24 fiscal years 2011-2012 and 2012-2013. These funds shall be allocated by the State Educational  
25 Assistance Authority for need-based student financial aid in accordance with G.S. 116B-7.

26 If the interest income generated from the Escheat Fund is less than the amounts  
27 referenced in this section, the difference may be taken from the Escheat Fund principal to reach  
28 the appropriations referenced in this section; however, under no circumstances shall the  
29 Escheat Fund principal be reduced below the sum of two hundred million dollars  
30 (\$200,000,000).  
31

32 **SECTION 9.1.(b)** The North Carolina State Education Assistance Authority  
33 (SEAA) shall perform all of the administrative functions necessary to implement this program  
34 of financial aid. The SEAA shall conduct an evaluation of expenditures of the scholarship  
35 programs and implement efficiencies such as, but not limited to, a higher student self-help  
36 component, a family income cap, standardized award amounts, adoption of College Board  
37 guidelines for assessment rates on available income, and consideration of campus-based  
38 financial aid. SEAA may make recommendations for redistribution of funds to The University  
39 of North Carolina, Department of Administration, and/or the President of the Community  
40 College System regarding their respective scholarship programs, who then may authorize  
41 redistribution of unutilized funds for a particular fiscal year, to the extent needed to meet  
42 minimal requirements of the respective programs. Program savings resulting from the  
43 implementation of efficiencies shall revert to the Escheat Fund.

44 **SECTION 9.1.(c)** All obligations to students for uses of the funds set out in  
45 sections that were made prior to the effective date of Section 9.1(a) of this act shall be fulfilled  
46 as to students who remain eligible under the provisions of the respective programs.  
47

#### 48 **MILLENNIUM TEACHER SCHOLARSHIP LOAN**

49 **SECTION 9.2.** The State Education Assistance Authority shall continue to  
50 administer the Millennium Teacher Scholarship Program, established by Session Law

1 2004-124, s. 9.2(c). The program shall be funded in fiscal years 2011-2012 and 2012-2013  
2 from the existing trust fund balance.

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

5 **SECTION 9.3.** The management flexibility reduction for The University of North  
6 Carolina shall be allocated by the Board of Governors to the constituent institutions and  
7 affiliated entities in a manner that recognizes the importance of the academic mission and  
8 differences among The University of North Carolina entities. The Board of Governors and the  
9 campuses of the constituent institutions shall consider faculty workload adjustments,  
10 restructuring of research activities, implementation of span of control measures, reduction of  
11 the number of senior and middle management positions, elimination of low-performing or  
12 redundant programs, use of alternative funding sources, and other efficiencies. When  
13 implementing personnel reductions, the Board of Governors and the campuses shall make  
14 every effort to abolish nonessential positions first. The Board of Governors and the campuses  
15 of the constituent institutions also shall review the institutional trust funds and the special funds  
16 held by or on behalf of The University of North Carolina and its constituent institutions to  
17 determine whether there are monies available in those funds that can be used to assist with  
18 operating costs before taking reductions in instructional budgets. In addition, the campuses of  
19 the constituent institutions also shall require their faculty to have a teaching workload at least  
20 equal to the national average in their Carnegie classification. Budget reductions shall not be  
21 considered in funding available for need-based financial aid.

#### 23 **DOCUMENTATION AND ACCOUNTABILITY FOR ENROLLMENT GROWTH** 24 **FUNDING MODEL**

25 **SECTION 9.4.(a)** In order to improve the accuracy and effectiveness of enrollment  
26 growth funding, the General Administration of The University of North Carolina shall modify  
27 the existing student credit hour enrollment (SCH) change funding model. Modifications shall  
28 include, but are not limited to, the following:

- 29 (1) Simplification of the enrollment projection process through use of weighted  
30 cost factors applied to projected total growth in SCH by campus.
- 31 (2) Justification and adjustment, if necessary, of funding factors for libraries and  
32 general institutional support.
- 33 (3) A performance-based funding component that will do the following:
  - 34 a. Incorporate key performance indicators including, but not limited to,  
35 retention and graduation rates.
  - 36 b. Establish minimum outcomes necessary to receive enrollment growth  
37 funding.
  - 38 c. Provide incentive funding for campuses that exceed target outcomes.
- 39 (4) Methodology to account for prior years' projection errors and adjust funding  
40 accordingly.

41 **SECTION 9.4.(b)** General Administration shall provide the revised enrollment  
42 projection process, revised cost factors, and resulting weighted cost per SCH to the Joint  
43 Legislative Education Oversight Committee, the Office of State Budget and Management, and  
44 the Fiscal Research Division by February 1, 2012.

45 **SECTION 9.4.(c)** The Board of Governors of The University of North Carolina,  
46 with the assistance of General Administration, shall develop written policies for enrollment  
47 change funding decisions. The written policies shall address (i) procedures for developing  
48 campus enrollment projections, calculating tuition offset, and calculating funding formula  
49 elements and cost factors and (ii) criteria for granting hold harmless status. Policies and  
50 procedures shall be made available to constituent institutions, the Office of State Budget and  
51 Management, and the Fiscal Research Division by February 15, 2012.



1           **SECTION 9.4.(d)** In order to demonstrate transparency and ensure accountability  
2 in the enrollment growth funding process, the Board of Governors shall report on the accuracy  
3 of enrollment growth projections and establish key performance indicators meaningful to  
4 enrollment growth planning. The Board of Governors shall publish this report on its Web site  
5 by March 15 each year and shall make printed copies available upon request. The report shall  
6 include the following:

- 7           (1) Key performance indicators, including retention and graduation rates and  
8 other pertinent measures such as faculty productivity, student learning  
9 outcomes, or employee diversity.
- 10          (2) Trends in student credit hours, number of students served, number of new  
11 faculty and staff positions by area of responsibility, and other relevant data.
- 12          (3) Analysis of variance between actual fall SCH growth and anticipated SCH  
13 growth inputs to the enrollment growth planning model used to project  
14 enrollment growth requirements.
- 15          (4) Analysis of variance, by category, between actual fall student full-time  
16 equivalency (FTE) growth and anticipated student FTE growth used in the  
17 enrollment growth planning model to project changes in tuition receipts  
18 attributed to enrollment growth.
- 19          (5) Analysis of variance between actual fall student FTE growth and anticipated  
20 student FTE growth used in the FTE funding formulas to project enrollment  
21 growth requirements and tuition receipts for specialized campuses and  
22 professional schools.
- 23          (6) Planned follow-up actions where variances of greater than five percent (5%)  
24 exist between actual and projected student credit hours or student FTE.  
25

## 26 **FISCAL ACCOUNTABILITY AND FLEXIBILITY**

27           **SECTION 9.5.** G.S. 116-30.2(a) reads as rewritten:

28           "(a) All General Fund appropriations made by the General Assembly for continuing  
29 operations of a special responsibility constituent institution of The University of North Carolina  
30 shall be made in the form of a single sum to each budget code of the institution for each year of  
31 the fiscal period for which the appropriations are being made. Notwithstanding G.S. 143C-6-4  
32 and G.S.120-76(8), each special responsibility constituent institution may expend monies from  
33 the overhead receipts special fund budget code and the General Fund monies so appropriated to  
34 it in the manner deemed by the Chancellor to be calculated to maintain and advance the  
35 programs and services of the institutions, consistent with the directives and policies of the  
36 Board of Governors. Special A special responsibility constituent institutions institution may  
37 transfer appropriations between budget ~~codes.~~ codes for the purpose of administering  
38 interinstitutional programs. These transfers shall be considered certified even if as a result of  
39 agreements between special responsibility constituent institutions. Special responsibility  
40 constituent institutions may not make intrainstitutional transfers between its General Fund  
41 budget codes, unless directed by the General Assembly. The preparation, presentation, and  
42 review of General Fund budget requests of special responsibility constituent institutions shall  
43 be conducted in the same manner as are requests of other constituent institutions. The quarterly  
44 allotment procedure established pursuant to G.S. 143C-6-3 shall apply to the General Fund  
45 appropriations made for the current operations of each special responsibility constituent  
46 institution. All General Fund monies so appropriated to each special responsibility constituent  
47 institution shall be recorded, reported, and audited in the same manner as are General Fund  
48 appropriations to other constituent institutions."  
49

## 50 **REPORTING ON UNIVERSITY CANCER RESEARCH FUND (UCRF)**

1           **SECTION 9.6.** By November 1 of each year, the UCRF of The University of North  
2 Carolina shall provide to the Joint Education Legislative Oversight Committee and to the  
3 Office of State Budget and Management an annual financial report of the State funds  
4 appropriated for the purpose of cancer research under UNC Hospitals, the Lineberger  
5 Comprehensive Cancer Center, or both. The report shall include the following components:

- 6           (1)     Accounting of expenditures of State funds related to strategic initiatives,  
7                    development of infrastructure, and ongoing administrative functions.
- 8           (2)     Additional funding acquired from extramural sources.
- 9           (3)     Measures of impact to the State's economy in the creation of jobs,  
10                   intellectual property, and start-up companies.
- 11           (4)     Other performance measures directly related to the investment of State  
12                   funds.

#### 13 14     **UNC BOARD OF GOVERNORS REVIEW OF FACULTY RECRUITMENT AND** 15     **RETENTION**

16           **SECTION 9.7.** The Board of Governors of The University of North Carolina shall  
17 review its current policies regarding financial incentives to retain faculty. The review shall  
18 focus on the prioritization of Recruitment and Retention dollars and identification of key  
19 metrics to measure overall program effectiveness. The Board of Governors shall report its  
20 findings and recommendations for changes to the policies, if any, to the Joint Legislative  
21 Education Oversight Committee, the Office of State Budget and Management, and the Fiscal  
22 Research Division by April 1, 2012.

#### 23 24     **NORTH CAROLINA ADVISORY COMMISSION ON MILITARY AFFAIRS**

25           **SECTION 9.8.** G.S. 127C-2(c) reads as rewritten:

26           "(c)    The following members, or their designee, shall serve ex officio:

- 27           (1)     The Lieutenant Governor.
- 28           (1a)    Secretary of Crime Control and Public Safety.
- 29           (2)     Secretary of Commerce.
- 30           (2a)    The Secretary of Transportation.
- 31           (2b)    The Secretary of the Department of Environment and Natural Resources.
- 32           (3)     Commanding General 18th Airborne Corps, Fort Bragg.
- 33           (4)     Commanding General Marine Corps Base, Camp Lejeune.
- 34           (5)     Commanding General Marine Corps Air Station, Cherry Point.
- 35           (6)     Commander 4th FW, Seymour Johnson Air Force Base.
- 36           (7)     Commander 43rd Airlift Wing, Pope Air Force Base.
- 37           (8)     Commander of the U.S. Coast Guard Support Center, Elizabeth City.
- 38           (9)     Adjutant General of the North Carolina National Guard.
- 39           (10)    The Executive Director of the North Carolina League of Municipalities.
- 40           (11)    The Executive Director of the North Carolina Association of County  
41                   Commissioners.
- 42           (12)    The Assistant Secretary for Veterans Affairs, Department of Administration.
- 43           (13)    The President of The University of North Carolina.
- 44           (14)    The President of the Community College System."

#### 45 46     **PART X. DEPARTMENT OF HEALTH AND HUMAN SERVICES**

##### 47 48     **CHILD CARE SUBSIDY RATES**

49           **SECTION 10.1.(a)** The maximum gross annual income for initial eligibility,  
50 adjusted biennially, for subsidized child care services shall be seventy-five percent (75%) of the  
51 State median income, adjusted for family size.

1           **SECTION 10.1.(b)** Fees for families who are required to share in the cost of care  
2 shall be established based on a percent of gross family income and adjusted for family size.  
3 Fees shall be determined as follows:

FAMILY SIZE	PERCENT OF GROSS FAMILY INCOME
1-3	10%
4-5	9%
6 or more	8%.

8           **SECTION 10.1.(c)** Payments for the purchase of child care services for  
9 low-income children shall be in accordance with the following requirements:

- 10           (1) Religious-sponsored child care facilities operating pursuant to G.S. 110-106  
11 and licensed child care centers and homes that meet the minimum licensing  
12 standards that are participating in the subsidized child care program shall be  
13 paid the one-star county market rate or the rate they charge privately paying  
14 parents, whichever is lower.
- 15           (2) Licensed child care centers and homes with two or more stars shall receive  
16 the market rate for that rated license level for that age group or the rate they  
17 charge privately paying parents, whichever is lower.
- 18           (3) Nonlicensed homes shall receive fifty percent (50%) of the county market  
19 rate or the rate they charge privately paying parents, whichever is lower.
- 20           (4) No payment shall be made for transportation services.
- 21           (5) No payment shall be made for registration fees charged by child care  
22 facilities.
- 23           (6) Payments for subsidized child care services for postsecondary education  
24 shall be limited to a maximum of 20 months of enrollment.

25           The Department of Health and Human Services shall implement necessary rule  
26 changes in order to restructure services, including, but not limited to, targeting benefits to  
27 employment opportunities.

28           **SECTION 10.1.(d)** Provisions of payment rates for child care providers in counties  
29 that do not have at least 50 children in each age group for center-based and home-based care  
30 are as follows:

- 31           (1) Except as applicable in subdivision (2) of this subsection, payment rates  
32 shall be set at the statewide or regional market rate for licensed child care  
33 centers and homes.
- 34           (2) If it can be demonstrated that the application of the statewide or regional  
35 market rate to a county with fewer than 50 children in each age group is  
36 lower than the county market rate and would inhibit the ability of the county  
37 to purchase child care for low-income children, then the county market rate  
38 may be applied.

39           **SECTION 10.1.(e)** A market rate shall be calculated for child care centers and  
40 homes at each rated license level for each county and for each age group or age category of  
41 enrollees and shall be representative of fees charged to parents for each age group of enrollees  
42 within the county. The Division of Child Development shall also calculate a statewide rate and  
43 regional market rates for each rated license level for each age category.

44           **SECTION 10.1.(f)** Facilities licensed pursuant to Article 7 of Chapter 110 of the  
45 General Statutes and facilities operated pursuant to G.S. 110-106 may participate in the  
46 program that provides for the purchase of care in child care facilities for minor children of  
47 needy families. No separate licensing requirements shall be used to select facilities to  
48 participate. In addition, child care facilities shall be required to meet any additional applicable  
49 requirements of federal law or regulations. Child care arrangements exempt from State  
50 regulation pursuant to Article 7 of Chapter 110 of the General Statutes shall meet the  
51 requirements established by State law and by the Social Services Commission.

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

4 **SECTION 10.1.(g)** Payment for subsidized child care services provided with Work  
5 First Block Grant funds shall comply with all regulations and policies issued by the Division of  
6 Child Development for the subsidized child care program.

7 **SECTION 10.1.(h)** Noncitizen families who reside in this State legally shall be  
8 eligible for child care subsidies if all other conditions of eligibility are met. If all other  
9 conditions of eligibility are met, noncitizen families who reside in this State illegally shall be  
10 eligible for child care subsidies only if at least one of the following conditions is met:

- 11 (1) The child for whom a child care subsidy is sought is receiving child  
12 protective services or foster care services.
- 13 (2) The child for whom a child care subsidy is sought is developmentally  
14 delayed or at risk of being developmentally delayed.
- 15 (3) The child for whom a child care subsidy is sought is a citizen of the United  
16 States.

### 17 18 **CHILD CARE ALLOCATION FORMULA**

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

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

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

35 **SECTION 10.2.(c)** Notwithstanding subsection (a) of this section, the Department  
36 of Health and Human Services shall allocate up to twenty million dollars (\$20,000,000) in  
37 federal block grant funds and State funds appropriated for the 2011-2012 and 2012-2013 fiscal  
38 years for child care services. These funds shall be allocated to prevent termination of child care  
39 services. Funds appropriated for specific purposes, including targeted market rate adjustments  
40 given in the past, may also be allocated by the Department separately from the allocation  
41 formula described in subsection (a) of this section.

### 42 43 **CHILD CARE FUNDS MATCHING REQUIREMENT**

44 **SECTION 10.3.** No local matching funds may be required by the Department of  
45 Health and Human Services as a condition of any locality's receiving its initial allocation of  
46 child care funds appropriated by this act unless federal law requires a match. If the Department  
47 reallocates additional funds above twenty-five thousand dollars (\$25,000) to local purchasing  
48 agencies beyond their initial allocation, local purchasing agencies must provide a twenty  
49 percent (20%) local match to receive the reallocated funds. Matching requirements shall not  
50 apply when funds are allocated because of a disaster as defined in G.S. 166A-4(1).  
51

**CHILD CARE REVOLVING LOAN FUND**

**SECTION 10.4.** Notwithstanding any law to the contrary, funds budgeted for the Child Care Revolving Loan Fund may be transferred to and invested by the financial institution contracted to operate the Fund. The principal and any income to the Fund may be used to make loans, reduce loan interest to borrowers, serve as collateral for borrowers, pay the contractor's cost of operating the Fund, or pay the Department's cost of administering the program.

**EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES ENHANCEMENTS**

**SECTION 10.5.(a)** Administrative costs shall be equivalent to, on an average statewide basis for all local partnerships, not more than eight percent (8%) of the total statewide allocation to all local partnerships. For purposes of this subsection, administrative costs shall include costs associated with partnership oversight, business and financial management, general accounting, human resources, budgeting, purchasing, contracting, and information systems management.

**SECTION 10.5.(b)** The North Carolina Partnership for Children, Inc., and all local partnerships shall use competitive bidding practices in contracting for goods and services on contract amounts as follows:

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

**SECTION 10.5.(c)** The North Carolina Partnership for Children, Inc., and all local partnerships shall, in the aggregate, be required to match no less than fifty percent (50%) of the total amount budgeted for the program in each fiscal year of the biennium as follows: contributions of cash equal to at least fifteen percent (15%) and in-kind donated resources equal to no more than five percent (5%) for a total match requirement of twenty percent (20%) for each fiscal year. The North Carolina Partnership for Children, Inc., may carry forward any amount in excess of the required match for a fiscal year in order to meet the match requirement of the succeeding fiscal year. Only in-kind contributions that are quantifiable shall be applied to the in-kind match requirement. Volunteer services may be treated as an in-kind contribution for the purpose of the match requirement of this subsection. Volunteer services that qualify as professional services shall be valued at the fair market value of those services. All other volunteer service hours shall be valued at the statewide average wage rate as calculated from data compiled by the Employment Security Commission in the Employment and Wages in North Carolina Annual Report for the most recent period for which data are available. Expenses, including both those paid by cash and in-kind contributions, incurred by other participating non-State entities contracting with the North Carolina Partnership for Children, Inc., or the local partnerships, also may be considered resources available to meet the required private match. In order to qualify to meet the required private match, the expenses shall meet the following requirements:

- (1) Be verifiable from the contractor's records.
- (2) If in-kind, other than volunteer services, be quantifiable in accordance with generally accepted accounting principles for nonprofit organizations.
- (3) Not include expenses funded by State funds.

- 1 (4) Be supplemental to and not supplant preexisting resources for related  
2 program activities.
- 3 (5) Be incurred as a direct result of the Early Childhood Initiatives Program and  
4 be necessary and reasonable for the proper and efficient accomplishment of  
5 the Program's objectives.
- 6 (6) Be otherwise allowable under federal or State law.
- 7 (7) Be required and described in the contractual agreements approved by the  
8 North Carolina Partnership for Children, Inc., or the local partnership.
- 9 (8) Be reported to the North Carolina Partnership for Children, Inc., or the local  
10 partnership by the contractor in the same manner as reimbursable expenses.

11 Failure to obtain a twenty percent (20%) match by June 30 of each fiscal year shall  
12 result in a dollar-for-dollar reduction in the appropriation for the Program for a subsequent  
13 fiscal year. The North Carolina Partnership for Children, Inc., shall be responsible for  
14 compiling information on the private cash and in-kind contributions into a report that is  
15 submitted to the Joint Legislative Commission on Governmental Operations in a format that  
16 allows verification by the Department of Revenue. The same match requirements shall apply to  
17 any expansion funds appropriated by the General Assembly.

18 **SECTION 10.5.(d)** The Department of Health and Human Services shall continue  
19 to implement the performance-based evaluation system.

20 **SECTION 10.5.(e)** The Department of Health and Human Services and the North  
21 Carolina Partnership for Children, Inc., shall ensure that the allocation of funds for Early  
22 Childhood Education and Development Initiatives for State fiscal years 2011-2012 and  
23 2012-2013 shall be administered and distributed in the following manner:

- 24 (1) Capital expenditures are prohibited for fiscal years 2011-2012 and  
25 2012-2013. For the purposes of this section, "capital expenditures" means  
26 expenditures for capital improvements as defined in G.S. 143C-1-1(d)(5).
- 27 (2) Expenditures of State funds for advertising and promotional activities are  
28 prohibited for fiscal years 2011-2012 and 2012-2013.

29 **SECTION 10.5.(f)** A county may use the county's allocation of State and federal  
30 child care funds to subsidize child care according to the county's Early Childhood Education  
31 and Development Initiatives Plan as approved by the North Carolina Partnership for Children,  
32 Inc. The use of federal funds shall be consistent with the appropriate federal regulations. Child  
33 care providers shall, at a minimum, comply with the applicable requirements for State licensure  
34 pursuant to Article 7 of Chapter 110 of the General Statutes.

35 **SECTION 10.5.(g)** For fiscal years 2011-2012 and 2012-2013, the local  
36 partnerships shall spend an amount for child care subsidies that provides at least fifty-two  
37 million dollars (\$52,000,000) for the TANF maintenance of effort requirement and the Child  
38 Care Development Fund and Block Grant match requirement. The Department of Health and  
39 Human Services shall determine the level of funds that need to be expended in order to draw  
40 down all federal recovery funds and shall direct the local partnerships to spend at least at the  
41 determined level. The local partnerships shall not spend at a level less than that directed by the  
42 Department.

#### 43 44 **ADMINISTRATIVE ALLOWANCE FOR COUNTY DEPARTMENTS OF SOCIAL** 45 **SERVICES**

46 **SECTION 10.6.** Section 10.10 of S.L. 2009-451 reads as rewritten:

47 "**SECTION 10.10.** The Division of Child Development of the Department of Health and  
48 Human Services shall ~~increase fund~~ the allowance that county departments of social services  
49 may use for administrative costs ~~from four percent (4%) to five percent (5%)~~ at three percent  
50 (3%) of the county's total child care subsidy funds allocated in the Child Care Development

1 Fund Block Grant plan. ~~The increase shall be effective for the 2009-2010 fiscal year.~~The  
2 percentage of allowable use for administrative costs becomes effective July 1, 2011."

3  
4 **COST-SHARING FOR SERVICES IN EARLY CHILDHOOD INTERVENTION**  
5 **PROGRAMS**

6 **SECTION 10.7.** The Department of Health and Human Services shall bill  
7 third-party payers, including public and private insurers, for services provided by the First  
8 Family Infant and Preschool Program (FIPP). In order to ensure maximum realization of  
9 receipts from third-party payers for services provided, the Department shall take whatever  
10 administrative and billing actions are necessary to coordinate FIPP with the Children's  
11 Developmental Services Agency (CDSA), taking into account the age range of children served  
12 by CDSA and FIPP. In addition, the Department shall pursue all available cost-sharing for  
13 services, including grants, development of a sliding fee scale for individual payers, and  
14 accessing available child care subsidies for eligible families. Receipts from billings shall be  
15 used to offset State general funds.

16  
17 **CHANGES TO COMMUNITY-FOCUSED ELIMINATING HEALTH DISPARITIES**  
18 **INITIATIVE**

19 **SECTION 10.8.(a)** Funds appropriated in this act from the General Fund to the  
20 Department of Health and Human Services for the Community-Focused Eliminating Health  
21 Disparities Initiative (CFEHDI) shall be used to provide grants-in-aid to local public health  
22 departments, American Indian tribes, and faith-based and community-based organizations to  
23 close the gap in the health status of African-Americans, Hispanics/Latinos, and American  
24 Indians as compared to the health status of white persons. These grants shall focus on the use of  
25 preventive measures to support healthy lifestyles. The areas of focus on health status shall be  
26 infant mortality, HIV-AIDS and sexually transmitted infections, cancer, diabetes, homicides,  
27 and motor vehicle deaths.

28 **SECTION 10.8.(b)** Funds appropriated in this act to the Department of Health and  
29 Human Services, Division of Public Health, for the CFEHDI shall be awarded as a grant-in-aid  
30 to honor the memory of the following recently deceased members of the General Assembly:  
31 Bernard Allen, John Hall, Robert Holloman, Howard Hunter, Jeanne Lucas, Vernon Malone,  
32 and William Martin. These funds shall be used for concerted efforts to address large gaps in  
33 health status among North Carolinians who are African-American, as well as disparities among  
34 other minority populations in North Carolina.

35 **SECTION 10.8.(c)** The Department of Health and Human Services shall report on  
36 the following with respect to funds appropriated to the CFEHDI for the 2011-2012 fiscal year.  
37 The report shall address the following:

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

48 The report shall also include specific activities undertaken pursuant to subsection (a)  
49 of this section to address large gaps in health status among North Carolinians who are  
50 African-American and other minority populations in this State. The Department shall submit  
51 the report not later than March 15, 2012, to the House of Representatives Appropriations

1 Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health  
2 and Human Services, and the Fiscal Research Division.

#### 3 4 **FUNDS FOR SCHOOL NURSES**

5 **SECTION 10.9.(a)** All funds appropriated for the school nurse initiative shall be  
6 used to supplement and not supplant other State, local, or federal funds appropriated or  
7 allocated for this purpose. Communities shall maintain their current level of effort and funding  
8 for school nurses. These funds shall not be used for funding nurses for State agencies. All  
9 funds shall be used for direct services.

10 **SECTION 10.9.(b)** All school nurses funded with State funds shall participate, as  
11 needed, in child and family teams.

#### 12 13 **ADAP**

14 **SECTION 10.10.** The Department of Health and Human Services (DHHS) shall  
15 work with the Department of Correction (DOC) to use DOC funds to purchase pharmaceuticals  
16 for the treatment of DOC inmates with HIV/AIDS in a manner that allows these funds to be  
17 accounted for as State matching funds in DHHS's drawdown of federal Ryan White funds.

#### 18 19 **MENTAL HEALTH CHANGES**

20 **SECTION 10.11.(a)** For the purpose of mitigating cash flow problems that many  
21 non-single stream local management entities (LMEs) experience at the beginning of each fiscal  
22 year, the Department of Health and Human Services, Division of Mental Health,  
23 Developmental Disabilities, and Substance Abuse Services, shall adjust the timing and method  
24 by which allocations of service dollars are distributed to each non-single stream LME. To this  
25 end, the allocations shall be adjusted such that at the beginning of the fiscal year the  
26 Department shall distribute not less than one-twelfth of the LME's continuation allocation and  
27 subtract the amount of the adjusted distribution from the LME's total reimbursements for the  
28 fiscal year.

29 **SECTION 10.11.(b)** Of the funds appropriated in this act to the Department of  
30 Health and Human Services, Division of Mental Health, Developmental Disabilities, and  
31 Substance Abuse Services, the sum of twenty-nine million one hundred twenty-one thousand  
32 six hundred forty-four dollars (\$29,121,644) for the 2011-2012 fiscal year and the sum of  
33 twenty-nine million one hundred twenty-one thousand six hundred forty-four dollars  
34 (\$29,121,644) for the 2012-2013 fiscal year shall be allocated for the purchase of local  
35 inpatient psychiatric beds or bed days. At the discretion of the Secretary of the Department of  
36 Health and Human Services, existing mental health/developmental disabilities/substance abuse  
37 services funds allocated to the LMEs for these community services may be used to purchase  
38 additional local inpatient psychiatric beds or bed days. These beds or bed days shall be  
39 distributed across the State in LME catchment areas and according to need as determined by  
40 the Department. The Department shall enter into contracts with the LMEs and community  
41 hospitals for the management of these beds or bed days. Local inpatient psychiatric beds or  
42 bed days shall be managed and controlled by the LME, including the determination of which  
43 local or State hospital the individual should be admitted to pursuant to an involuntary  
44 commitment order. Funds shall not be allocated to LMEs but shall be held in a statewide  
45 reserve at the Division of Mental Health, Developmental Disabilities, and Substance Abuse  
46 Services to pay for services authorized by the LMEs and billed by the hospitals through the  
47 LMEs. LMEs shall remit claims for payment to the Division within 15 working days of receipt  
48 of a clean claim from the hospital and shall pay the hospital within 30 working days of receipt  
49 of payment from the Division. If the Department determines (i) that an LME is not effectively  
50 managing the beds or bed days for which it has responsibility, as evidenced by beds or bed days  
51 in the local hospital not being utilized while demand for services at the State psychiatric



1 hospitals has not reduced, or (ii) the LME has failed to comply with the prompt payment  
2 provisions of this subsection, the Department may contract with another LME to manage the  
3 beds or bed days, or, notwithstanding any other provision of law to the contrary, may pay the  
4 hospital directly.

5 **SECTION 10.11.(c)** Section 10.12(f) of S.L. 2009-451 reads as rewritten:

6 **"SECTION 10.12.(f)**

7 (1) The Department of Health and Human Services, Division of Mental Health,  
8 Developmental Disabilities, and Substance Abuse Services, shall continue  
9 implementation of the current Supports Intensity Scale (SIS) assessment ~~tool~~  
10 ~~pilot project if the pilot tool.~~ The project has demonstrated that the SIS tool:

- 11 a. Is effective in identifying the appropriate array and intensity of  
12 services, including residential supports or placement, for individuals  
13 assessed.  
14 b. Is valid for determining intensity of support related to resource  
15 allocation for CAP-MR/DD, public and private ICF-MR facilities,  
16 developmental disability group homes, and other State- or federally  
17 funded services.  
18 c. Is used by an assessor that does not have a pecuniary interest in the  
19 determinations resulting from the assessment.  
20 d. Determines the level of intensity and type of services needed from  
21 developmental disability service providers.

22 ~~(2) The Department shall report on the progress of the pilot project by May 1,~~  
23 ~~2010. The Department shall submit the report to the Joint Legislative~~  
24 ~~Oversight Committee on Mental Health, Developmental Disabilities, and~~  
25 ~~Substance Abuse Services, the House of Representatives Appropriations~~  
26 ~~Subcommittee on Health and Human Services, the Senate Appropriations~~  
27 ~~Committee on Health and Human Services, and the Fiscal Research~~  
28 ~~Division. The report shall include the following:~~

- 29 ~~a. The infrastructure that will be needed to assure that the~~  
30 ~~administration of the assessment tool is independent from service~~  
31 ~~delivery, the qualifications of assessors, training and management of~~  
32 ~~data, and test-retest accountability.~~  
33 ~~b. The cost to (i) purchase the tool, (ii) implement the tool, (iii) provide~~  
34 ~~training, and (iv) provide for future expansion of the tool statewide.~~

35 (2) The Department of Health and Human Services, Division of Mental Health,  
36 Developmental Disabilities, and Substance Abuse Services, shall require a  
37 SIS assessment to be administered to all clients with developmental  
38 disabilities no later than June 30, 2012. DHHS shall use the results of the  
39 SIS assessment to determine the level of supports needed and allocation of  
40 resources within the CAP-MR/DD Waiver and other needed services,  
41 according to their relative intensity of need."  
42

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

44 **SECTION 10.12.** Except as otherwise provided in this section for former Thomas  
45 S. recipients, CAP-MR/DD recipients are not eligible for any State-funded services except for  
46 those services for which there is not a comparable service in the CAP-MR/DD Waiver. The  
47 excepted services are limited to guardianship, room and board, and time-limited supplemental  
48 staffing to stabilize residential placement. Former Thomas S. recipients currently living in  
49 community placements may continue to receive State-funded services.  
50

1 **COLLABORATION AMONG DEPARTMENTS OF ADMINISTRATION, HEALTH**  
2 **AND HUMAN SERVICES, JUVENILE JUSTICE AND DELINQUENCY**  
3 **PREVENTION, AND PUBLIC INSTRUCTION ON SCHOOL-BASED CHILD AND**  
4 **FAMILY TEAM INITIATIVE**

5 **SECTION 10.13.(a) School-Based Child and Family Team Initiative Established.**

- 6 –
- 7 (1) Purpose and duties. – There is established the School-Based Child and  
8 Family Team Initiative. The purpose of the Initiative is to identify and  
9 coordinate appropriate community services and supports for children at risk  
10 of school failure or out-of-home placement in order to address the physical,  
11 social, legal, emotional, and developmental factors that affect academic  
12 performance. The Department of Health and Human Services, the  
13 Department of Public Instruction, the State Board of Education, the  
14 Department of Juvenile Justice and Delinquency Prevention, the  
15 Administrative Office of the Courts, and other State agencies that provide  
16 services for children shall share responsibility and accountability to improve  
17 outcomes for these children and their families. The Initiative shall be based  
18 on the following principles:
- 19 a. The development of a strong infrastructure of interagency  
20 collaboration.
  - 21 b. One child, one team, one plan.
  - 22 c. Individualized, strengths-based care.
  - 23 d. Accountability.
  - 24 e. Cultural competence.
  - 25 f. Children at risk of school failure or out-of-home placement may  
26 enter the system through any participating agency.
  - 27 g. Services shall be specified, delivered, and monitored through a  
28 unified Child and Family Plan that is outcome-oriented and  
29 evaluation-based.
  - 30 h. Services shall be the most efficient in terms of cost and effectiveness  
31 and shall be delivered in the most natural settings possible.
  - 32 i. Out-of-home placements for children shall be a last resort and shall  
33 include concrete plans to bring the children back to a stable,  
34 permanent home, their schools, and their community.
  - 35 j. Families and consumers shall be involved in decision making  
36 throughout service planning, delivery, and monitoring.
- 37 (2) Program goals and services. – In order to ensure that children receiving  
38 services are appropriately served, the affected State and local agencies shall  
39 do the following:
- 40 a. Increase capacity in the school setting to address the academic,  
41 health, mental health, social, and legal needs of children.
  - 42 b. Ensure that children receiving services are screened initially to  
43 identify needs and assessed periodically to determine progress and  
44 sustained improvement in educational, health, safety, behavioral, and  
45 social outcomes.
  - 46 c. Develop uniform screening mechanisms and a set of outcomes that  
47 are shared across affected agencies to measure children's progress in  
48 home, school, and community settings.
  - 49 d. Promote practices that are known to be effective based upon research  
50 or national best practice standards.

- 1 e. Review services provided across affected State agencies to ensure  
2 that children's needs are met.
- 3 f. Eliminate cost-shifting and facilitate cost-sharing among  
4 governmental agencies with respect to service development, service  
5 delivery, and monitoring for participating children and their families.
- 6 g. Participate in a local memorandum of agreement signed annually by  
7 the participating superintendent of the local LEA, directors of the  
8 county departments of social services and health, director of the local  
9 management entity, the chief district court judge, and the chief  
10 district court counselor.
- 11 (3) Local level responsibilities. – In coordination with the North Carolina Child  
12 and Family Leadership Council (Council), established in subsection (b) of  
13 this section, the local board of education shall establish the School-Based  
14 Child and Family Team Initiative at designated schools and shall appoint the  
15 Child and Family Team Leaders, who shall be a school nurse and a school  
16 social worker. Each local management entity that has any selected schools in  
17 its catchment area shall appoint a Care Coordinator, and any department of  
18 social services that has a selected school in its catchment area shall appoint a  
19 Child and Family Teams Facilitator. The Care Coordinators and Child and  
20 Family Team Facilitators shall have as their sole responsibility working with  
21 the selected schools in their catchment areas and shall provide training to  
22 school-based personnel, as required. The Child and Family Team Leaders  
23 shall identify and screen children who are potentially at risk of academic  
24 failure or out-of-home placement due to physical, social, legal, emotional, or  
25 developmental factors. Based on the screening results, responsibility for  
26 developing, convening, and implementing the Child and Family Team  
27 Initiative is as follows:
- 28 a. School personnel shall take the lead role for those children and their  
29 families whose primary unmet needs are related to academic  
30 achievement.
- 31 b. The local management entity shall take the lead role for those  
32 children and their families whose primary unmet needs are related to  
33 mental health, substance abuse, or developmental disabilities and  
34 who meet the criteria for the target population established by the  
35 Division of Mental Health, Developmental Disabilities, and  
36 Substance Abuse Services.
- 37 c. The local department of public health shall take the lead role for  
38 those children and their families whose primary unmet needs are  
39 health-related.
- 40 d. Local departments of social services shall take the lead for those  
41 children and their families whose primary unmet needs are related to  
42 child welfare, abuse, or neglect.
- 43 e. The chief district court counselor shall take the lead for those  
44 children and their families whose primary unmet needs are related to  
45 juvenile justice issues. A representative from each named or  
46 otherwise identified publicly supported children's agency shall  
47 participate as a member of the Team as needed. Team members shall  
48 coordinate, monitor, and assure the successful implementation of a  
49 unified Child and Family Plan.

- 1 (4) Reporting requirements. – School-Based Child and Family Team Leaders  
2 shall provide data to the Council for inclusion in their report to the North  
3 Carolina General Assembly. The report shall include the following:  
4 a. The number of and other demographic information on children  
5 screened and assigned to a team and a description of the services  
6 needed by and provided to these children.  
7 b. The number of and information about children assigned to a team  
8 who are placed in programs or facilities outside the child's home or  
9 outside the child's county and the average length of stay in residential  
10 treatment.  
11 c. The amount and source of funds expended to implement the  
12 Initiative.  
13 d. Information on how families and consumers are involved in decision  
14 making throughout service planning, delivery, and monitoring.  
15 e. Other information as required by the Council to evaluate success in  
16 local programs and ensure appropriate outcomes.  
17 f. Recommendations on needed improvements.
- 18 (5) Local advisory committee. – In each county with a participating school, the  
19 superintendent of the local LEA shall either identify an existing  
20 cross-agency collaborative or council or shall form a new group to serve as a  
21 local advisory committee to work with the Initiative. Newly formed  
22 committees shall be chaired by the superintendent and one other member of  
23 the committee to be elected by the committee. The local advisory committee  
24 shall include the directors of the county departments of social services and  
25 health; the directors of the local management entity; the chief district court  
26 judge; the chief district court counselor; the director of a school-based or  
27 school-linked health center, if a center is located within the catchment area  
28 of the School-Based Child and Family Team Initiative; and representatives  
29 of other agencies providing services to children, as designated by the  
30 committee. The members of the committee shall meet as needed to monitor  
31 and support the successful implementation of the School-Based Child and  
32 Family Team Initiative. The Local Child and Family Team Advisory  
33 Committee may designate existing cross-agency collaboratives or councils  
34 as working groups or to provide assistance in accomplishing established  
35 goals.

36 **SECTION 10.13.(b)** North Carolina Child and Family Leadership Council. –

- 37 (1) Leadership Council established; location. – There is established the North  
38 Carolina Child and Family Leadership Council (Council). The Council shall  
39 be located within the Department of Administration for organizational and  
40 budgetary purposes.
- 41 (2) Purpose. – The purpose of the Council is to review and advise the Governor  
42 in the development of the School-Based Child and Family Team Initiative  
43 and to ensure the active participation and collaboration in the Initiative by all  
44 State agencies and their local counterparts providing services to children in  
45 participating counties in order to increase the academic success of and  
46 reduce out-of-home and out-of-county placements of children at risk of  
47 academic failure.
- 48 (3) Membership. – The Superintendent of Public Instruction and the Secretary  
49 of Health and Human Services shall serve as cochairs of the Council.  
50 Council membership shall include the Secretary of the Department of  
51 Juvenile Justice and Delinquency Prevention, the Chairman of the State

1 Board of Education, the Director of the Administrative Office of the Courts,  
2 and other members as appointed by the Governor.

3 (4) The Council shall:

- 4 a. Sign an annual memorandum of agreement (MOA) among the named  
5 State agencies to define the purposes of the program and to ensure  
6 that program goals are accomplished.
- 7 b. Resolve State policy issues, as identified at the local level, which  
8 interfere with effective implementation of the School-Based Child  
9 and Family Team Initiative.
- 10 c. Direct the integration of resources, as needed, to meet goals and  
11 ensure that the Initiative promotes the most effective and efficient  
12 use of resources and eliminates duplication of effort.
- 13 d. Establish criteria for defining success in local programs and ensure  
14 appropriate outcomes.
- 15 e. Develop an evaluation process, based on expected outcomes, to  
16 ensure the goals and objectives of this Initiative are achieved.
- 17 f. Review progress made on integrating policies and resources across  
18 State agencies, reaching expected outcomes, and accomplishing other  
19 goals.
- 20 g. Report semiannually, on January 1 and July 1, on progress made and  
21 goals achieved to the Office of the Governor, the Joint  
22 Appropriations Committees and Subcommittees on Education,  
23 Justice and Public Safety, and Health and Human Services, and the  
24 Fiscal Research Division of the Legislative Services Office. The  
25 Council may designate existing cross-agency collaboratives or  
26 councils as working groups or to provide assistance in accomplishing  
27 established goals.

28 **SECTION 10.13.(c)** Department of Health and Human Services. – The Secretary  
29 of the Department of Health and Human Services shall ensure that all agencies within the  
30 Department collaborate in the development and implementation of the School-Based Child and  
31 Family Team Initiative and provide all required support to ensure that the Initiative is  
32 successful.

33 **SECTION 10.13.(d)** Department of Juvenile Justice and Delinquency Prevention.  
34 – The Secretary of the Department of Juvenile Justice and Delinquency Prevention shall ensure  
35 that all agencies within the Department collaborate in the development and implementation of  
36 the School-Based Child and Family Team Initiative and provide all required support to ensure  
37 that the Initiative is successful.

38 **SECTION 10.13.(e)** Administrative Office of the Courts. – The Director of the  
39 Administrative Office of the Courts shall ensure that the Office collaborates in the development  
40 and implementation of the School-Based Child and Family Team Initiative and shall provide all  
41 required support to ensure that the Initiative is successful.

42 **SECTION 10.13.(f)** Department of Public Instruction. – The Superintendent of  
43 Public Instruction shall ensure that the Department collaborates in the development and  
44 implementation of the School-Based Child and Family Team Initiative and shall provide all  
45 required support to ensure that the Initiative is successful.

#### 46 **LME FUNDS FOR SUBSTANCE ABUSE SERVICES**

47 **SECTION 10.14.(a)** Consistent with G.S. 122C-2, the General Assembly strongly  
48 encourages Local Management Entities (LMEs) to use a portion of the funds appropriated for  
49 substance abuse treatment services to support prevention and education activities.  
50

1           **SECTION 10.14.(b)** An LME may use up to one percent (1%) of funds allocated  
2 to it for substance abuse treatment services to provide nominal incentives for consumers who  
3 achieve specified treatment benchmarks, in accordance with the federal Substance Abuse and  
4 Mental Health Services Administration best practice model entitled Contingency Management.

5           **SECTION 10.14.(c)** In providing treatment and services for adult offenders and  
6 increasing the number of Treatment Accountability for Safer Communities (TASC) case  
7 managers, local management entities shall consult with TASC to improve offender access to  
8 substance abuse treatment and match evidence-based interventions to individual needs at each  
9 stage of substance abuse treatment. Special emphasis should be placed on intermediate  
10 punishment offenders, community punishment offenders at risk for revocation, and Department  
11 of Correction (DOC) releasees who have completed substance abuse treatment while in  
12 custody.

13           In addition to the funds appropriated in this act to the Department of Health and  
14 Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse  
15 Services, to provide substance abuse services for adult offenders and to increase the number of  
16 TASC case managers, the Department shall allocate up to three hundred thousand dollars  
17 (\$300,000) to TASC. These funds shall be allocated to TASC before funds are allocated to  
18 LMEs for mental health services, substance abuse services, and crisis services.

19           **SECTION 10.14.(d)** In providing drug treatment court services, LMEs shall  
20 consult with the local drug treatment court team and shall select a treatment provider that meets  
21 all provider qualification requirements and the drug treatment court's needs. A single treatment  
22 provider may be chosen for non-Medicaid-eligible participants only. A single provider may be  
23 chosen who can work with all of the non-Medicaid-eligible drug treatment court participants in  
24 a single group. During the 52-week drug treatment court program, participants shall receive an  
25 array of treatment and aftercare services that meet the participant's level of need, including  
26 step-down services that support continued recovery.

## 27 28 **TRANSITION OF UTILIZATION MANAGEMENT OF COMMUNITY-BASED** 29 **SERVICES TO LOCAL MANAGEMENT ENTITIES**

30           **SECTION 10.15.** The Department of Health and Human Services shall collaborate  
31 with LMEs to enhance their administrative capabilities to assume utilization management  
32 responsibilities for the provision of community-based mental health, developmental disabilities,  
33 and substance abuse services. The Department may, with approval of the Office of State  
34 Budget and Management, use funds available to implement this section.

## 35 36 **DUTIES OF COUNTIES; APPROPRIATION AND ALLOCATION OF FUNDS BY** 37 **COUNTIES AND CITIES**

38           **SECTION 10.16.** G.S. 122C-115 reads as rewritten:

39 **"§ 122C-115. Duties of counties; appropriation and allocation of funds by counties and**  
40 **cities.**

41           (a) A county shall provide mental health, developmental disabilities, and substance  
42 abuse services through an area authority or through a county program established pursuant to  
43 G.S. 122C-115.1. The catchment area of an area authority or a county program shall contain  
44 either a minimum population of at least 200,000 or a minimum of six counties. Effective July 1,  
45 2012, the catchment area of an area authority or a county program shall consist of a minimum  
46 population of 300,000. To the extent this section conflicts with G.S. 153A-77(a), the provisions  
47 of G.S. 153A-77(a) control.

48           (a1) Effective July 1, 2007, through June 30, 2012, the Department of Health and Human  
49 Services shall reduce by ten percent (10%) annually the administrative funding for LMEs that  
50 do not comply with the catchment area requirements of subsection (a) of this section. ~~However,~~  
51 ~~an LME that does not comply with the catchment area requirements because of a change in~~

1 county membership shall have 12 months from the effective date of the change to comply with  
2 subsection (a) of this section. Effective July 1, 2012, the management fee that each LME  
3 receives shall be based upon a minimum population of 300,000. Any savings resulting from the  
4 policy initiative shall be used to increase the availability of community-based services. The  
5 amount of savings and the method of allocating savings shall be reported to the House of  
6 Representatives Appropriations Subcommittee on Health and Human Services, the Senate  
7 Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

8 (b) Counties shall and cities may appropriate funds for the support of programs that  
9 serve the catchment area, whether the programs are physically located within a single county or  
10 whether any facility housing a program is owned and operated by the city or county. Counties  
11 and cities may make appropriations for the purposes of this Chapter and may allocate for these  
12 purposes other revenues not restricted by law, and counties may fund them by levy of property  
13 taxes pursuant to G.S. 153A-149(c)(22).

14 (c) Except as authorized in G.S. 122C-115.1, within a catchment area designated in the  
15 business plan pursuant to G.S. 122C-115.2, a board of county commissioners or two or more  
16 boards of county commissioners jointly shall establish an area authority with the approval of  
17 the Secretary.

18 (d) Except as otherwise provided in this subsection, counties shall not reduce county  
19 appropriations and expenditures for current operations and ongoing programs and services of  
20 area authorities or county programs because of the availability of State-allocated funds, fees,  
21 capitation amounts, or fund balance to the area authority or county program. Counties may  
22 reduce county appropriations by the amount previously appropriated by the county for  
23 one-time, nonrecurring special needs of the area authority or county program."  
24

### 25 **THIRD-PARTY BILLING FOR STATE FACILITIES**

26 **SECTION 10.17.** G.S. 122C-55 reads as rewritten:

27 "**§ 122C-55. Exceptions; care and treatment.**

28 ...

29 (g) Whenever there is reason to believe that the client is eligible for financial benefits  
30 through a governmental agency, a facility may disclose confidential information to State, local,  
31 or federal government agencies. Except as provided in ~~G.S. 122C-55(a3)~~, G.S. 122C-55(a3) and  
32 G.S. 122C-55(g1), disclosure is limited to that confidential information necessary to establish  
33 financial benefits for a client. ~~After—~~ Except as provided in G.S. 122C-55(g1), after  
34 establishment of these benefits, the consent of the client or his legally responsible person is  
35 required for further release of confidential information under this subsection.

36 (g1) A facility may disclose confidential information for the purpose of collecting  
37 payment due the facility for the cost of care, treatment, or habilitation.

38 ...."  
39

### 40 **MENTAL HEALTH TRUST FUND**

41 **SECTION 10.18.** G.S. 143C-9-2 reads as rewritten:

42 "**§ 143C-9-2. Trust Fund for Mental Health, Developmental Disabilities, and Substance**  
43 **Abuse Services and Bridge Funding Needs.**

44 (a) The Trust Fund for Mental Health, Developmental Disabilities, and Substance  
45 Abuse Services ~~and Bridge Funding Needs~~ is established as an interest-bearing, nonreverting  
46 special trust fund in the Office of State Budget and Management. Moneys in the Trust Fund  
47 shall be held in trust and used solely to increase community-based services that meet the mental  
48 health, developmental disabilities, and substance abuse services needs of the State. The Trust  
49 Fund shall be used to supplement and not to supplant or replace existing State and local funding  
50 available to meet the mental health, developmental disabilities, and substance abuse services  
51 needs of the State.

1 The State Treasurer shall hold the Trust Fund separate and apart from all other moneys,  
2 funds, and accounts. The State Treasurer shall be the custodian of the Trust Fund and shall  
3 invest its assets in accordance with G.S. 147-69.2 and G.S. 147-69.3. Investment earnings  
4 credited to the assets of the Trust Fund shall become part of the Trust Fund. Any balance  
5 remaining in the Trust Fund at the end of any fiscal year shall be carried forward in the Trust  
6 Fund for the next succeeding fiscal year.

7 Moneys in the Trust Fund shall be expended only in accordance with subsection (b) of this  
8 section and in accordance with limitations and directions enacted by the General Assembly.

9 (b) The Secretary of the Department of Health and Human Services shall develop the  
10 criteria and process for the utilization of funds from the Trust Fund. Moneys in the Trust Fund  
11 for Mental Health, Developmental Disabilities, and Substance Abuse Services ~~and Bridge~~  
12 ~~Funding Needs~~ shall be allocated to area programs to be used only to:

13 (1) Provide start-up funds and operating support for programs and services that  
14 provide more appropriate and cost-effective community treatment  
15 alternatives for individuals currently residing in the State's mental health,  
16 developmental disabilities, and substance abuse services institutions.

17 (2) Repealed by Session Laws 2007-323, s. 10.49(w1), effective July 1, 2007.

18 (3) ~~Facilitate reform~~Enhance operation of the mental health, developmental  
19 disabilities, and substance abuse services system ~~and expand and enhance~~  
20 ~~treatment and prevention services in these program areas to remove waiting~~  
21 ~~lists and provide appropriate and safe services for clients through the~~  
22 following:

23 a. Start-up costs and technical assistance associated with LME merger  
24 efforts and Medicaid waiver participation.

25 b. Infrastructure development and training to ensure implementation of  
26 evidence-based practices.

27 (4) ~~Provide bridge funding to maintain appropriate client services during~~  
28 ~~transitional periods as a result of facility closings, including departmental~~  
29 ~~restructuring of services.~~Enhance and expand appropriate treatment, support,  
30 and prevention services for consumers through the following:

31 a. Primary care integration efforts, including, but not limited to,  
32 colocation of primary care and behavioral health systems.

33 b. Increased community psychiatric inpatient capacity.

34 c. Transition costs associated with the expansion of supported housing  
35 options.

36 d. Increased coordination between local management entities (LMEs),  
37 State-operated facilities, federal agencies, and community provider  
38 organizations through electronic health records.

39 (5) Repealed by Session Laws 2007-323, s. 10.49(w1), effective July 1, 2007.

40 (c) Notwithstanding G.S. 143C-1-2, any nonrecurring savings in State appropriations  
41 realized from the closure of any State psychiatric hospitals that are in excess of the cost of  
42 operating and maintaining a new State psychiatric hospital shall not revert to the General Fund  
43 but shall be placed in the Trust Fund and shall be used for the purposes authorized in this  
44 section. Notwithstanding G.S. 143C-1-2, recurring savings realized from the closure of any  
45 State psychiatric hospitals shall not revert to the General Fund but shall be credited to the  
46 Department of Health and Human Services to be used only for the purposes of subsections  
47 (b)(1) and (b)(3) of this section.

48 (d) Beginning July 1, 2007, the Secretary of the Department of Health and Human  
49 Services shall report annually to the Fiscal Research Division on the expenditures made during  
50 the preceding fiscal year from the Trust Fund. The report shall identify each expenditure by



1 recipient and purpose and shall indicate the authority under subsection (b) of this section for the  
2 expenditure."

#### 4 **HEALTH INFORMATION TECHNOLOGY**

5 **SECTION 10.19.(a)** The Department of Health and Human Services, in  
6 cooperation with the State Chief Information Officer and the North Carolina Office of  
7 Economic Recovery and Investment, shall coordinate health information technology (HIT)  
8 policies and programs within the State of North Carolina. The Department's goal in  
9 coordinating State HIT policy and programs shall be to avoid duplication of efforts and to  
10 ensure that each State agency, public entity, and private entity that undertakes health  
11 information technology activities associated with the American Recovery and Reinvestment  
12 Act of 2009 (ARRA) does so within the area of its greatest expertise and technical capability  
13 and in a manner that supports coordinated State and national goals, which shall include at least  
14 all of the following:

- 15 (1) Ensuring that patient health information is secure and protected, in  
16 accordance with applicable law.
- 17 (2) Improving health care quality, reducing medical errors, reducing health  
18 disparities, and advancing the delivery of patient-centered medical care.
- 19 (3) Providing appropriate information to guide medical decisions at the time and  
20 place of care.
- 21 (4) Ensuring meaningful public input into HIT infrastructure development.
- 22 (5) Improving the coordination of information among hospitals, laboratories,  
23 physician offices, and other entities through an effective infrastructure for  
24 the secure and authorized exchange of health care information.
- 25 (6) Improving public health services and facilitating early identification and  
26 rapid response to public health threats and emergencies, including  
27 bioterrorist events and infectious disease outbreaks.
- 28 (7) Facilitating health and clinical research.
- 29 (8) Promoting early detection, prevention, and management of chronic diseases.

30 **SECTION 10.19.(b)** The Department of Health and Human Services shall  
31 establish and direct a HIT management structure that is efficient and transparent and that is  
32 compatible with the Office of the National Health Coordinator for Information Technology  
33 (National Coordinator) governance mechanism. The HIT management structure shall be  
34 responsible for all of the following:

- 35 (1) Developing a State plan for implementing and ensuring compliance with  
36 national HIT standards and for the most efficient, effective, and widespread  
37 adoption of HIT.
- 38 (2) Ensuring that (i) specific populations are effectively integrated into the State  
39 plan, including aging populations, populations requiring mental health  
40 services, and populations utilizing the public health system and (ii) unserved  
41 and underserved populations receive priority consideration for HIT support.
- 42 (3) Identifying all HIT stakeholders and soliciting feedback and participation  
43 from each stakeholder in the development of the State plan.
- 44 (4) Ensuring that existing HIT capabilities are considered and incorporated into  
45 the State plan.
- 46 (5) Identifying and eliminating conflicting HIT efforts where necessary.
- 47 (6) Identifying available resources for the implementation, operation, and  
48 maintenance of health information technology, with emphasis on identifying  
49 resources and available opportunities for North Carolina institutions of  
50 higher education.

- 1 (7) Ensuring that the appropriate State entities receive all the necessary  
2 information and support to successfully compete for federal funding.
- 3 (8) Ensuring that potential State plan participants are aware of HIT policies and  
4 programs and the opportunity for improved health information technology.
- 5 (9) Monitoring HIT efforts and initiatives in other states and replicating  
6 successful efforts and initiatives in North Carolina.
- 7 (10) Monitoring the development of the National Coordinator's strategic plan and  
8 ensuring that all stakeholders are aware of and in compliance with its  
9 requirements.
- 10 (11) Monitoring the progress and recommendations of the HIT Policy and  
11 Standards Committees and ensuring that all stakeholders remain informed of  
12 the Committee's recommendations.
- 13 (12) Monitoring all studies and reports provided to the United States Congress  
14 and reporting to the Joint Legislative Oversight Committee on Information  
15 Technology and the Fiscal Research Division on the impact of report  
16 recommendations on State efforts to implement coordinated HIT.

17 **SECTION 10.19.(c)** Beginning July 1, 2011, the Department of Health and Human  
18 Services shall provide semiannual written reports on October 1 and April 1 of each year on the  
19 status of HIT efforts to the Senate Appropriations Committee on Health and Human Services,  
20 the House of Representatives Appropriations Subcommittee on Health and Human Services,  
21 and the Fiscal Research Division. The report shall include the following:

- 22 (1) Current status of federal HIT initiatives.
- 23 (2) Current status of State HIT efforts and initiatives among both public and  
24 private entities.
- 25 (3) A breakdown of current public and private funding sources and dollar  
26 amounts for State HIT initiatives.
- 27 (4) Department efforts to coordinate HIT initiatives within the State and any  
28 obstacles or impediments to coordination.
- 29 (5) HIT research efforts being conducted within the State and sources of funding  
30 for research efforts.
- 31 (6) Opportunities for stakeholders to participate in HIT funding and other efforts  
32 and initiatives during the next quarter.
- 33 (7) Issues associated with the implementation of HIT in North Carolina and  
34 recommended solutions to these issues.

## 35 36 **TRANSFER TO OFFICE OF ADMINISTRATIVE HEARINGS**

37 **SECTION 10.20.** From funds available to the Department of Health and Human  
38 Services (Department) for the 2011-2012 fiscal year, the sum of one million dollars  
39 (\$1,000,000) and for the 2012-2013 fiscal year, the sum of one million dollars (\$1,000,000)  
40 shall be transferred by the Department of Health and Human Services to the Office of  
41 Administrative Hearings (OAH). These funds shall be allocated by the OAH for mediation  
42 services provided for Medicaid applicant and recipient appeals and to contract for other  
43 services necessary to conduct the appeals process. OAH shall continue the Memorandum of  
44 Agreement (MOA) with the Department for mediation services provided for Medicaid recipient  
45 appeals and contracted services necessary to conduct the appeals process. The MOA will  
46 facilitate the Department's ability to draw down federal Medicaid funds to support this  
47 administrative function. Upon receipt of invoices from OAH for covered services rendered in  
48 accordance with the MOA, the Department shall transfer the federal share of Medicaid funds  
49 drawn down for this purpose.

## 50 51 **NC HEALTH CHOICE MEDICAL POLICY**

1           **SECTION 10.21.** Unless required for compliance with federal law, the Department  
2 shall not change medical policy affecting the amount, sufficiency, duration, and scope of NC  
3 Health Choice health care services and who may provide services until the Division of Medical  
4 Assistance has prepared a five-year fiscal analysis documenting the increased cost of the  
5 proposed change in medical policy and submitted it for Departmental review. If the fiscal  
6 impact indicated by the fiscal analysis for any proposed medical policy change exceeds one  
7 million dollars (\$1,000,000) in total requirements for a given fiscal year, then the Department  
8 shall submit the proposed medical policy change with the fiscal analysis to the Office of State  
9 Budget and Management and the Fiscal Research Division. The Department shall not  
10 implement any proposed medical policy change exceeding one million dollars (\$1,000,000) in  
11 total requirements for a given fiscal year unless the source of State funding is identified and  
12 approved by the Office of State Budget and Management. For medical policy changes  
13 exceeding one million dollars (\$1,000,000) in total requirements for a given fiscal year that are  
14 required for compliance with federal law, the Department shall submit the proposed medical  
15 policy or policy interpretation change with a five-year fiscal analysis to the Office of State  
16 Budget and Management prior to implementing the change. The Department shall provide the  
17 Office of State Budget and Management and the Fiscal Research Division a quarterly report  
18 itemizing all medical policy changes with total requirements of less than one million dollars  
19 (\$1,000,000).

## 20 21 **NC HEALTH CHOICE**

22           **SECTION 10.22.(a)** Procedures for Changing Medical Policy. – Effective July 1,  
23 2011, G.S. 108A-54.3 reads as rewritten:

### 24 **"§ 108A-54.3. Procedures for changing medical policy.**

25           The Department shall develop, amend, and adopt medical coverage policy in accordance  
26 with the following:

- 27           (1) During the development of new medical coverage policy or amendment to  
28 existing medical coverage policy applicable to the North Carolina Health  
29 Choice Program for Children, consult with and seek the advice of the  
30 Physician Advisory Group and other organizations the Secretary deems  
31 appropriate. The Secretary shall also consult with and seek the advice of  
32 officials of the professional societies or associations representing providers  
33 who are affected by the new medical coverage policy or amendments to  
34 existing medical coverage policy.
- 35           (2) At least 45 days prior to the adoption of new or amended medical coverage  
36 policy, the Department shall:
  - 37           a. Publish the proposed new or amended medical coverage policy on  
38 the Department's Web site;
  - 39           b. Notify all North Carolina Health Choice Program for Children  
40 providers of the proposed, new, or amended policy; and
  - 41           c. Upon request, provide persons copies of the proposed medical  
42 coverage policy.
- 43           (3) During the 45-day period immediately following publication of the proposed  
44 new or amended medical coverage policy, accept oral and written comments  
45 on the proposed new or amended policy.
- 46           (4) If, following the comment period, the proposed new or amended medical  
47 coverage policy is modified, then the Department shall do all of the  
48 following, at least 15 days prior to its adoption:
  - 49           a. Notify all North Carolina Health Choice Program for Children  
50 providers of the proposed policy.

- 1           b.       Upon request, provide persons notice of amendments to the proposed  
2                   policy.  
3           c.       Accept additional oral or written comments during this 15-day  
4                   period.

5           (5)    Any changes in medical policy that require an amendment to the Health  
6           Choice State Plan will be submitted by the Department upon approval of the  
7           proposed policy."

8           **SECTION 10.22.(b)** Effective July 1, 2011, G.S. 108A-70.21(b) reads as rewritten:

9           "(b) Benefits. – Except as otherwise provided for eligibility, fees, deductibles,  
10          copayments, and other cost sharing charges, health benefits coverage provided to children  
11          eligible under the Program shall be equivalent to coverage provided for dependents under the  
12          Predecessor Plan, North Carolina Medicaid Program except for the following:

- 13           (1)    No services for long-term care.  
14           (2)    No nonemergency medical transportation.  
15           (3)    No EPSDT.  
16           (4)    Dental services shall be provided on a restricted basis in accordance with  
17                   criteria adopted by the Department to implement this subsection.

18          In addition to the benefits provided under the Predecessor Plan, North Carolina Medicaid  
19          Program, the following services and supplies are covered under the Health Insurance Program  
20          for Children established under this Part:

- 21           (1)    ~~Oral examinations, teeth cleaning, and topical fluoride treatments twice~~  
22                   ~~during a 12-month period, full mouth X-rays once every 60 months,~~  
23                   ~~supplemental bitewing X-rays showing the back of the teeth once during a~~  
24                   ~~12-month period, sealants, extractions, other than impacted teeth or wisdom~~  
25                   ~~teeth, therapeutic pulpotomies, space maintainers, root canal therapy for~~  
26                   ~~permanent anterior teeth and permanent first molars, prefabricated stainless~~  
27                   ~~steel crowns, and routine fillings of amalgam or other tooth-colored filling~~  
28                   ~~material to restore diseased teeth.~~  
29           (1a) ~~Orthognathic surgery to correct functionally impairing malocclusions when~~  
30                   ~~orthodontics was approved and initiated while the child was covered by~~  
31                   ~~Medicaid and the need for orthognathic surgery was documented in the~~  
32                   ~~orthodontic treatment plan.~~  
33           (2)    Vision: Scheduled routine eye examinations once every 12 months, eyeglass  
34                   lenses or contact lenses once every 12 months, routine replacement of  
35                   eyeglass frames once every 24 months, and optical supplies and solutions  
36                   when needed. Optical NCHC recipients must obtain optical services,  
37                   supplies, and solutions must be obtained from NCHC enrolled, licensed or  
38                   certified ophthalmologists, optometrists, or optical dispensing  
39                   laboratories-opticians. In accordance with G.S. 148-134, NCHC providers  
40                   must order complete eyeglasses, eyeglass lenses, and ophthalmic frames  
41                   through Nash Optical Plant. Eyeglass lenses are limited to NCHC-approved  
42                   single vision, bifocal, trifocal, or other complex lenses necessary for a Plan  
43                   enrollee's visual welfare. Coverage for oversized lenses and frames, designer  
44                   frames, photosensitive lenses, tinted contact lenses, blended lenses,  
45                   progressive multifocal lenses, coated lenses, and laminated lenses is limited  
46                   to the coverage for single vision, bifocal, trifocal, or other complex lenses  
47                   provided by this subsection. Eyeglass frames are limited to  
48                   ~~those~~ NCHC-approved frames made of zylonite, metal, or a combination of  
49                   zylonite and metal. All visual aids covered by this subsection require prior  
50                   approval. Requests for medically necessary complete eyeglasses, eyeglass  
51                   lenses, and ophthalmic frames outside of the NCHC-approved selection

1 require prior approval. Requests for medically necessary fabrication of  
 2 complete eyeglasses or eyeglass lenses outside of Nash Optical Plan require  
 3 prior approval. Upon prior approval refractions may be covered more often  
 4 than once every 12 months.

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

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

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

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

26 (4) Over-the-counter medications: Selected over-the-counter medications  
 27 provided the medication is covered under the State Medical Assistance Plan.  
 28 Coverage shall be subject to the same policies and approvals as required  
 29 under the Medicaid program.

30 (5) Routine diagnostic examinations and tests: Annual routine diagnostic  
 31 examinations and tests, including x-rays, blood and blood pressure checks,  
 32 urine tests, tuberculosis tests, and general health checkups that are medically  
 33 necessary for the maintenance and improvement of individual health are  
 34 covered.

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

37 The Department shall provide services to children enrolled in the NC Health Choice  
 38 Program through Community Care of North Carolina (CCNC) and shall pay Community Care  
 39 of North Carolina providers ~~for these services~~ the per member, per month fees as allowed under  
 40 Medicaid. ~~The Department shall pay for these services only if sufficient information is~~  
 41 ~~available to the Department for utilization management of the services provided through~~  
 42 ~~CCNC."~~

43 **SECTION 10.22.(c)** Effective July 1, 2011, G.S. 108A-70.23 is repealed.

44 **SECTION 10.22.(d)** Effective July 1, 2011, G.S. 108A-70.27(c) reads as rewritten:

45 "(c) ~~The Executive Administrator and Board of Trustees of the North Carolina Teachers'~~  
 46 ~~and State Employees' Major Medical Plan ("Plan")DMA~~ shall provide to the Department data  
 47 required under this section that are collected by the Plan. Data shall be reported by the Plan in  
 48 sufficient detail to meet federal reporting requirements under Title XXI. The Plan shall report  
 49 periodically to the Joint Legislative Health Care Oversight Committee claims processing data  
 50 for the Program and any other information the Plan or the Committee deems appropriate and  
 51 relevant to assist the Committee in its review of the Program."

1           **SECTION 10.22.(e)** Effective July 1, 2011, G.S. 108A-70.29 reads as rewritten:

2   "**§ 108A-70.29. Program review process.**

3    ...

4    (e)   Rule-Making authority. – The Department shall ~~have the authority to adopt rules for~~ the implementation and operation of the NC Health Choice Program provider review process.

6    (f)   Rule-Making authority. – The Department of Health and Human Services shall have the authority to adopt rules for the transition and operation of the North Carolina Health Choice Program. Notwithstanding G.S. 150B-21.1(a), the Department of Health and Human Services may adopt temporary rules in accordance with Chapter 150B of the General Statutes for enrolling providers to participate in the NC Health Choice Program, for regulating provider participation in the NC Health Choice Program, and for other operational issues regarding the NC Health Choice Program.

#### 14   **COMMUNITY CARE OF NORTH CAROLINA**

15           **SECTION 10.24.(a)** The Department of Health and Human Services (Department) shall submit a report annually from a qualified entity with proven experience in conducting actuarial and health care studies on the Medicaid cost-savings achieved by the CCNC networks, which shall include children, adults, and the aged, blind, and disabled, to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

21           **SECTION 10.24.(b)** The Department and the Division of Medical Assistance (DMA) shall enter into a three-party contract between North Carolina Community Care Networks, Inc., (NCCCN, Inc.) and each of the 14 participating local CCNC networks and shall require NCCCN, Inc., to provide standardized clinical and budgetary coordination, oversight, and reporting for a statewide Enhanced Primary Care Case Management System for Medicaid enrollees. The contracts shall require NCCCN, Inc., to build upon and expand the existing successful CCNC primary care case management model to include comprehensive statewide quantitative performance goals and deliverables which shall include all of the following areas: (i) service utilization management, (ii) budget analytics, (iii) budget forecasting methodologies, (iv) quality of care analytics, (v) participant access measures, and (vi) predictable cost containment methodologies.

32           **SECTION 10.24.(c)** NCCCN, Inc., shall report quarterly to the Department and to the Office of State Budget and Management (OSBM) on the development of the statewide Enhanced Primary Care Case Management System and its defined goals and deliverables as agreed upon in the contract. NCCCN, Inc., shall submit biannual reports to the Secretary of Health and Human Services, OSBM, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division on the progress and results of implementing the quantitative, analytical, utilization, quality, cost-containment, and access goals and deliverables set out in the contract. NCCCN, Inc., shall conduct its own analysis of the CCNC system to identify any variations from the development plan for the Enhanced Primary Care Case Management System and its defined goals and deliverables set out in the contract between DMA and NCCCN, Inc. Upon identifying any variations, NCCCN, Inc., shall develop and implement a plan to address the variations. NCCCN, Inc., shall report the plan to DMA within 30 days after taking any action to implement the plan.

46           **SECTION 10.24.(d)** By January 1, 2012, the Department and OSBM shall assess the performance of NCCCN, Inc., and CCNC regarding the goals and deliverables established in the contract. Based on this assessment, the Department and DMA shall expand, cancel, or alter the contract with NCCCN, Inc., and CCNC effective April 1, 2012. Expansion or alteration of the contract may reflect refinements based on clearly identified goals and

1 deliverables in the areas of quality of care, participant access, cost containment, and service  
2 delivery.

3 **SECTION 10.24.(e)** By July 1, 2012, the Department, DMA, and NCCCN, Inc.,  
4 shall finalize a comprehensive plan that establishes management methodologies which include  
5 all of the following: (i) quality of care measures, (ii) utilization measures, (iii) recipient access  
6 measures, (iv) performance incentive models in which past experience indicates a benefit from  
7 financial incentives, (v) accountable budget models, (vi) shared savings budget models, and  
8 (vii) budget forecasting analytics as agreed upon by the Department, DMA, and NCCCN, Inc.  
9 In the development of these methodologies, the Department, DMA, and NCCCN, Inc., shall  
10 consider options for shared risk. The Department and DMA shall provide assistance to  
11 NCCCN, Inc., in meeting the objectives of this section.  
12

### 13 **LIABILITY INSURANCE**

14 **SECTION 10.25.(a)** The Secretary of the Department of Health and Human  
15 Services, the Secretary of the Department of Environment and Natural Resources, and the  
16 Secretary of the Department of Correction may provide medical liability coverage not to  
17 exceed one million dollars (\$1,000,000) per incident on behalf of employees of the  
18 Departments licensed to practice medicine or dentistry, on behalf of all licensed physicians who  
19 are faculty members of The University of North Carolina who work on contract for the  
20 Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for  
21 incidents that occur in Division programs, and on behalf of physicians in all residency training  
22 programs from The University of North Carolina who are in training at institutions operated by  
23 the Department of Health and Human Services. This coverage may include commercial  
24 insurance or self-insurance and shall cover these individuals for their acts or omissions only  
25 while they are engaged in providing medical and dental services pursuant to their State  
26 employment or training.

27 **SECTION 10.25.(b)** The coverage provided under this section shall not cover any  
28 individual for any act or omission that the individual knows or reasonably should know  
29 constitutes a violation of the applicable criminal laws of any state or the United States or that  
30 arises out of any sexual, fraudulent, criminal, or malicious act or out of any act amounting to  
31 willful or wanton negligence.

32 **SECTION 10.25.(c)** The coverage provided pursuant to this section shall not  
33 require any additional appropriations and shall not apply to any individual providing  
34 contractual service to the Department of Health and Human Services, the Department of  
35 Environment and Natural Resources, or the Department of Correction, with the exception that  
36 coverage may include physicians in all residency training programs from The University of  
37 North Carolina who are in training at institutions operated by the Department of Health and  
38 Human Services and licensed physicians who are faculty members of The University of  
39 North Carolina who work for the Division of Mental Health, Developmental Disabilities, and  
40 Substance Abuse Services.  
41

### 42 **MEDICAID MANAGEMENT INFORMATION SYSTEM (MMIS)** 43 **FUNDS/IMPLEMENTATION OF MMIS**

44 **SECTION 10.26.(a)** The Secretary of the Department of Health and Human  
45 Services may utilize prior year earned revenue received for the new Medicaid Management  
46 Information System (MMIS) in the amount of three million two hundred thirty-two thousand  
47 three hundred four dollars (\$3,232,304) in fiscal year 2011-2012 and twelve million dollars  
48 (\$12,000,000) in fiscal year 2012-2013. The Department shall utilize prior year earned  
49 revenues received for the procurement, design, development, and implementation of the new  
50 MMIS. In the event that the Department does not receive prior year earned revenues in the  
51 amounts authorized by this section, the Department is authorized, with approval of the Office

1 of State Budget and Management, to utilize other overrealized receipts and funds appropriated  
2 to the Department to achieve the level of funding specified in this section for the MMIS.

3 **SECTION 10.26.(b)** The Department shall make full development of the  
4 replacement MMIS a top priority. During the development and implementation of MMIS, the  
5 Department shall develop plans to ensure the timely and effective implementation of  
6 enhancements to the system to provide the following capabilities:

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

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

9 The Department shall make every effort to expedite the implementation of the  
10 enhancements. The Office of Information Technology Services shall work in cooperation with  
11 the Department to ensure the timely and effective implementation of the MMIS and  
12 enhancements. The contract between the Department and the contract vendor shall contain an  
13 explicit provision requiring that the MMIS have the capability to fully implement the  
14 administration of NC Health Choice, NC Kids' Care, Ticket to Work, Families Pay Part of the  
15 Cost of Services under the CAP-MR/DD, CAP Children's Program, and all relevant Medicaid  
16 waivers and the Medicare 646 waiver as it applies to Medicaid eligibles. The Department must  
17 have detailed cost information for each requirement before signing the contract. Any contract  
18 between the Department and a vendor for the MMIS that does not contain the explicit provision  
19 required under this subsection is void on its face. Notwithstanding any other provision of law to  
20 the contrary, the Secretary of the Department does not have the authority to sign a contract for  
21 the MMIS if the contract does not contain the explicit provision required under this section.

22 **SECTION 10.26.(c)** Notwithstanding G.S. 114-2.3, the Department shall engage  
23 the services of private counsel with the pertinent information technology and computer law  
24 expertise to review requests for proposals and to negotiate and review contracts associated with  
25 MMIS. The counsel engaged by the Department shall review the MMIS contract between the  
26 Department and the vendor to ensure that the requirements of subsection (b) of this section are  
27 met in their entirety.

28 **SECTION 10.26.(d)** The Department shall develop a comprehensive schedule for  
29 the development and implementation of the MMIS that fully incorporates federal and State  
30 project management and review requirements. The Department shall ensure that the schedule  
31 is as accurate as possible. Any changes to the design, development, and implementation  
32 schedule shall be reported as part of the Department's quarterly MMIS reporting requirements.  
33 The Department shall submit the schedule to the Chairs of the House of Representatives  
34 Committee on Appropriations and the House of Representatives Subcommittee on Health and  
35 Human Services, the Chairs of the Senate Committee on Appropriations and the Senate  
36 Appropriations Committee on Health and Human Services, and the Fiscal Research Division.  
37 Any change to key milestones in either schedule shall be immediately reported to the Chairs of  
38 the House of Representatives Committee on Appropriations and the House of Representatives  
39 Subcommittee on Health and Human Services, the Chairs of the Senate Committee on  
40 Appropriations and the Senate Appropriations Committee on Health and Human Services, and  
41 the Fiscal Research Division with a full explanation of the reason for the change.

42 **SECTION 10.26.(e)** Beginning July 1, 2011, the Department shall make quarterly  
43 reports on changes in the functionality and projected costs of the MMIS. Each report shall be  
44 made to the Chairs of the House of Representatives Committee on Appropriations and the  
45 House of Representatives Subcommittee on Health and Human Services, the Chairs of the  
46 Senate Committee on Appropriations and the Senate Appropriations Committee on Health and  
47 Human Services, and the Fiscal Research Division. A copy of the final report on the contract  
48 award also shall be submitted to the Joint Legislative Commission on Governmental  
49 Operations.

50 **SECTION 10.26.(f)** Upon initiation of the NC MMIS Program Reporting and  
51 Analytics Project and the Division of Health Services Regulation Project, the Department shall



1 submit all reports regarding functionality, schedule, and cost in the next regular cycle of  
2 reporting identified in subsections (d) and (e) of this section. The Department shall ensure that  
3 the solution developed in the Reporting and Analytics Project supports the capability, in its  
4 initial implementation, to interface with the North Carolina Teachers' and State Employees'  
5 Health Plan. The costs for this capability shall be negotiated prior to the award of the  
6 Reporting and Analytics Project contract. The Reporting and Analytics Project solution must be  
7 completed simultaneously with the replacement MMIS.

## 9 NORTH CAROLINA FAMILIES ACCESSING SERVICES THROUGH 10 TECHNOLOGY (NC FAST) FUNDS

11 **SECTION 10.27.** Of the funds appropriated in this act to the Department of Health  
12 and Human Services (Department), the nonrecurring sum of nine million five hundred  
13 ninety-two thousand three hundred thirty-two dollars (\$9,592,332) for fiscal year 2011-2012  
14 and the nonrecurring sum of nine million five hundred ninety-two thousand three hundred  
15 thirty-two dollars (\$9,592,332) for fiscal year 2012-2013 shall be used to support the NC FAST  
16 project. These funds shall be (i) deposited to the Department's information technology budget  
17 code and (ii) used to match federal funds for the project. In addition, the Department shall  
18 utilize prior year earned revenues received in the amount of eight million seven hundred  
19 sixty-seven thousand six hundred ninety-six dollars (\$8,767,696) in fiscal year 2011-2012 for  
20 the NC FAST project. Funds appropriated to the Department by this act shall be used to  
21 expedite the development and implementation of the Global Case Management and Food and  
22 Nutrition Services and the Eligibility Information System (EIS) components of the North  
23 Carolina Families Accessing Services through Technology (NC FAST) project. In the event  
24 that the Department does not receive prior year earned revenues in the amount authorized by  
25 this section, the Department is authorized, with approval of the Office of State Budget and  
26 Management, to utilize other overrealized receipts and funds appropriated to the Department to  
27 achieve the level of funding specified in this section for the NC FAST project. The Department  
28 shall not obligate any of its overrealized receipts or funds for this purpose without (i) prior  
29 written approval from the United States Department of Agriculture Food and Nutrition Service,  
30 the United States Department of Health and Human Services Administration for Children and  
31 Families, the Centers for Medicare and Medicaid Services, and any other federal partner  
32 responsible for approving changes to the annual Advance Planning Document update (APDu)  
33 for the NC FAST Program and (ii) prior review and approval from the Office of Information  
34 Technology Services (ITS) and the Office of State Budget and Management (OSBM). The  
35 Department shall report any changes to the NC FAST Program to the Joint Legislative  
36 Oversight Committee on Information Technology, the Joint Legislative Commission on  
37 Governmental Operations, the Senate Appropriations Committee on Health and Human  
38 Services, the House Appropriations Subcommittee on Health and Human Services, and the  
39 Fiscal Research Division not later than 30 days after receiving all the approvals required by this  
40 section.

## 41 NC NOVA

42 **SECTION 10.28.** The Department of Health and Human Services, Division of  
43 Health Service Regulation, may use up to thirty-eight thousand dollars (\$38,000) for fiscal year  
44 2011-2012 and thirty-eight thousand dollars (\$38,000) for fiscal year 2012-2013 of existing  
45 resources to continue the NC New Organizational Vision Award certification program. The  
46 Division shall use federal civil monetary penalty receipts as a source of support for this  
47 initiative, when appropriate.

## 49 CHANGE EFFECTIVE DATE FOR WELL TESTING

50 **SECTION 10.29.** Section 4 of S.L. 2009-124 reads as rewritten:  
51

1 "SECTION 4. Section 1 of this act becomes effective October 1, ~~2010~~2012. The remainder  
2 of the act is effective when it becomes law."  
3

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

6 **SECTION 10.30.** Of the funds appropriated to the Department of Health and  
7 Human Services, Division of Aging and Adult Services, for the 2011-2012 and 2012-2013  
8 fiscal years, the sum of two hundred thousand dollars (\$200,000) in recurring funds shall be  
9 used to support Alzheimer's-related activities consistent with the goals of Project Caregiver  
10 Alternatives To Running On Empty (Project C.A.R.E.). The Division of Aging and Adult  
11 Services shall annually develop and implement a plan for use of these funds and beginning  
12 October 1, 2010, and annually thereafter, report the plan to the Governor's Advisory Council on  
13 Aging, the North Carolina Study Commission on Aging, and the Fiscal Research Division.  
14

15 **INTENSIVE FAMILY PRESERVATION SERVICES FUNDING AND**  
16 **PERFORMANCE ENHANCEMENTS**

17 **SECTION 10.31.(a)** Notwithstanding the provisions of G.S. 143B-150.6, the  
18 Intensive Family Preservation Services (IFPS) Program shall provide intensive services to  
19 children and families in cases of abuse, neglect, and dependency where a child is at imminent  
20 risk of removal from the home and to children and families in cases of abuse where a child is  
21 not at imminent risk of removal. The Program shall be developed and implemented statewide  
22 on a regional basis. The IFPS shall ensure the application of standardized assessment criteria  
23 for determining imminent risk and clear criteria for determining out-of-home placement.  
24

25 **SECTION 10.31.(b)** The Department of Health and Human Services shall require  
26 that any program or entity that receives State, federal, or other funding for the purpose of  
27 Intensive Family Preservation Services shall provide information and data that allows for the  
28 following:

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

42 **SECTION 10.31.(c)** The Department shall establish performance-based funding  
43 protocol and shall provide funding only to those programs and entities providing the required  
44 information specified in subsection (b) of this section. The amount of funding shall be based on  
45 the individual performance of each program.

46 **FOSTER CARE AND ADOPTION ASSISTANCE PAYMENTS**

47 **SECTION 10.32.(a)** The maximum rates for State participation in the foster care  
48 assistance program are established on a graduated scale as follows:

- 49 (1) \$475.00 per child per month for children aged birth through 5.
- 50 (2) \$581.00 per child per month for children aged 6 through 12.
- 51 (3) \$634.00 per child per month for children aged 13 through 18.

1           **SECTION 10.32.(b)** The maximum rates for the State adoption assistance program  
2 are established consistent with the foster care rates as follows:

- 3           (1)     \$475.00 per child per month for children aged birth through 5.
- 4           (2)     \$581.00 per child per month for children aged 6 through 12.
- 5           (3)     \$634.00 per child per month for children aged 13 through 18.

6           **SECTION 10.32.(c)** In addition to providing board payments to foster and  
7 adoptive families of HIV-infected children, as prescribed in Section 23.28 of Chapter 324 of  
8 the 1995 Session Laws, any additional funds remaining that were appropriated for this purpose  
9 shall be used to provide medical training in avoiding HIV transmission in the home.

10          **SECTION 10.32.(d)** The maximum rates for the State participation in HIV foster  
11 care and adoption assistance are established on a graduated scale as follows:

- 12          (1)     \$800.00 per child per month with indeterminate HIV status.
- 13          (2)     \$1,000 per child per month confirmed HIV-infected, asymptomatic.
- 14          (3)     \$1,200 per child per month confirmed HIV-infected, symptomatic.
- 15          (4)     \$1,600 per child per month terminally ill with complex care needs.

16          **SECTION 10.32.(e)** The State and a county participating in foster care and  
17 adoption assistance shall each contribute fifty percent (50%) of the nonfederal share of the cost  
18 of care for a child placed by a county department of social services or child placing agency in a  
19 family foster home or residential child care facility. A county shall be held harmless from  
20 contributing fifty percent (50%) of the nonfederal share of the cost for a child placed in a  
21 family foster home or residential child care facility under an agreement with that provider as of  
22 October 31, 2008, until the child leaves foster care or experiences a placement change.

23          **SECTION 10.32.(f)** The Department of Health and Human Services may establish  
24 foster care and adoption assistance rates based on the United States Department of Agriculture  
25 (USDA) "Expenditures on Children by Families" index subject to State appropriations for each  
26 fiscal year.

## 27 **CHILD CARING INSTITUTIONS**

28          **SECTION 10.33.** Until the Social Services Commission adopts rules setting  
29 standardized rates for child caring institutions as authorized under G.S. 143B-153(8), the  
30 maximum reimbursement for child caring institutions shall not exceed the rate established for  
31 the specific child caring institution by the Department of Health and Human Services, Office of  
32 the Controller. In determining the maximum reimbursement, the State shall include county and  
33 IV-E reimbursements.  
34

## 35 **MEDICAID RECIPIENT APPEALS**

36          **SECTION 10.34.(a)** G.S. 108A-70.9A reads as rewritten:

37          "**§ 108A-70.9A. Appeals commenced by Medicaid applicants or recipients.**

38          (a)     Definitions. – The following definitions apply in this section, G.S. 108A-70.9B and  
39 G.S. 108A-70.9C, unless the context clearly requires otherwise:

- 40          (1)     Adverse determination. – A determination by the Department to deny,  
41 terminate, suspend, or reduce a Medicaid covered services service or an  
42 authorization for a Medicaid service.
- 43          (2)     Applicant or recipient. – This term includes an applicant's or recipient's  
44 parent, guardian, or legal representative.
- 45          (3)     Department. – This term includes the Department, its agents, contractors, or  
46 vendors who authorize, manage, or provide Medicaid services pursuant to  
47 the federal Medicaid Act, North Carolina Medicaid State Plan, or any  
48 waivers of the federal Medicaid Act granted by the U.S. Department of  
49 Health and Human Services.  
50

1 (b) General Rule. – Notwithstanding any provision of State law or rules to the contrary,  
2 this section shall govern the process used by a Medicaid applicant or recipient to appeal a  
3 determination made by the Department to deny, terminate, suspend, or reduce Medicaid  
4 covered services.

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

- 13 (1) An identification of the applicant or recipient whose services are being  
14 affected by the adverse determination, including full name and Medicaid  
15 identification number.
- 16 (2) An explanation of what service is being denied, terminated, suspended, or  
17 reduced and the reason for the determination.
- 18 (3) The specific regulation, statute, or medical coverage policy that supports or  
19 requires the adverse determination.
- 20 (4) The effective date of the adverse determination.
- 21 (5) An explanation of the applicant's or recipient's right to appeal the  
22 Department's adverse determination in an evidentiary hearing before an  
23 administrative law judge.
- 24 ~~(6) An explanation of the applicant's or recipient's right to examine at a  
25 reasonable time before the hearing and during the hearing the contents of the  
26 applicant's or recipient's case file and documents to be used by the  
27 Department in the hearing before the administrative law judge.~~
- 28 ~~(7) An explanation of the applicant's or recipient's right to an interpreter.~~
- 29 ~~(8) In instances in which the hearing involves medical issues, an explanation of  
30 the applicant's or recipient's right to request a medical assessment at the  
31 expense of the Department, if the administrative law judge determines that  
32 the medical assessment is necessary.~~
- 33 (9) An explanation of how the applicant or recipient can request a hearing and a  
34 statement that the applicant or recipient may represent himself or herself or  
35 use legal counsel, a relative, or other spokesperson.
- 36 (10) A statement that the applicant or recipient will continue to receive Medicaid  
37 services at the level provided on the day immediately preceding the  
38 Department's adverse determination or the amount requested by the  
39 applicant or recipient, whichever is less, if the applicant or recipient requests  
40 a hearing before the effective date of the adverse determination and if the  
41 request was received by Medicaid at least 10 days prior to the expiration of  
42 the current authorization. The services shall continue until the hearing is  
43 completed and a final decision is rendered.
- 44 (11) The ~~name and~~ telephone numbers of ~~a contact person at the Department's~~  
45 Medicaid Appeal Section and the CARE-LINE to respond in a timely  
46 fashion to the applicant's or recipient's questions.
- 47 (12) The telephone number by which the applicant or recipient may contact a  
48 Legal Aid/Legal Services office.
- 49 (13) The appeal request form described in subsection (e) of this section that the  
50 applicant or recipient may use to request a hearing.

1 (d) Appeals. – Except as provided by this section and G.S. 108A-70.9B, a request for a  
2 hearing to appeal an adverse determination of the Department under this section is a contested  
3 case subject to the provisions of Article 3 of Chapter 150B of the General Statutes. The  
4 applicant or recipient must request a hearing within 30 days of the mailing of the notice (date  
5 on notice) and as required by subsection (c) of this section by sending the completed appeal  
6 request form provided by the department to the Office of Administrative Hearings ~~and the~~  
7 ~~Department~~. Where a request for hearing concerns the reduction, modification, or termination  
8 of Medicaid services, including the failure to approve a timely request for reauthorization, upon  
9 the receipt of a timely appeal, the Department shall reinstate the services to the level or manner  
10 prior to action by the Department as permitted by federal law or regulation and as required by  
11 subsection (c)(10) of this section. If the hearing request is submitted more than 30 days from  
12 the date the notice is mailed (date on notice), and regardless of whether the service request was  
13 submitted timely, the recipient shall not receive Medicaid services during the pendency of the  
14 appeal. The Department shall immediately forward a copy of the notice to the Office of  
15 Administrative Hearings electronically. The information contained in the notice is confidential  
16 unless the recipient appeals. The Office of Administrative Hearings may dispose of the records  
17 after one year. The Department may not influence, limit, or interfere with the applicant's or  
18 recipient's decision to request a hearing.

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

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

35 Only a completed hearing request form provided by the Department shall be accepted and  
36 processed by OAH. Appeal request forms filed untimely (that is more than 30 days from the  
37 date the notice was mailed and date on appeal request form) shall not be accepted/processed by  
38 OAH unless a statement of good cause is filed with the request initially.

39 (f) Final Decision. – After a hearing before an administrative law judge, the judge shall  
40 return the decision and record to the Department in accordance with G.S. 108A-70.9B. The  
41 Department shall make a final decision in the case within 20 days of receipt of the decision and  
42 record from the administrative law judge and promptly notify the applicant or recipient of the  
43 final decision and of the right to judicial review of the decision pursuant to Article 4 of Chapter  
44 150B of the General Statutes."

45 **SECTION 10.34.(b)** G.S. 108A-70.9B(b)(1) reads as rewritten:

- 46 "(1) To the extent possible, OAH shall schedule and hear contested Medicaid  
47 cases within 55 days of submission of a completed Department of Health  
48 and Human Services request for appeal. Appeal request forms filed untimely  
49 (that is more than 30 days from the date the notice was mailed and date on  
50 appeal request form) shall not be accepted/processed by OAH unless a  
51 statement of good cause is filed with the initial request for appeal."

**CHILD WELFARE POSTSECONDARY SUPPORT PROGRAM**

**SECTION 10.35.** Section 10.50 of S.L. 2009-451 reads as rewritten:

**"SECTION 10.50.(a)** There is appropriated from the Escheat Fund income to the Department of Health and Human Services the sum of three million one hundred sixty-eight thousand two hundred fifty dollars (\$3,168,250) for the 2009-2010 fiscal year. These funds shall be used to support the child welfare postsecondary support program for the educational needs of foster youth aging out of the foster care system and special needs children adopted from foster care after age 12 by providing assistance with the "cost of attendance" as that term is defined in 20 U.S.C. § 1087II. The Department shall collaborate with the State Education Assistance Authority to develop policies and procedures for the distribution of these funds.

If the interest income generated from the Escheat Fund is less than the amounts referenced in this section, the difference may be taken from the Escheat Fund principal to reach the appropriations referenced in this section; however, under no circumstances shall the Escheat Fund principal be reduced below the sum required in G.S. 116B-6(f).

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

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

**"SECTION 10.50.(a1)** Of the funds appropriated from the General Fund to the Department of Health and Human Services, the sum of ~~three million one hundred sixty-eight thousand two hundred fifty dollars (\$3,168,250)~~ one million five hundred eighty-four thousand one hundred twenty-five dollars (\$1,584,125) for the ~~2010-2011 fiscal year~~ 2011-2012 fiscal year and one million five hundred eighty-four thousand one hundred twenty-five dollars (\$1,584,125) for the 2012-2013 fiscal year shall be used to support the child welfare postsecondary support program for the educational needs of foster youth aging out of the foster care system and special needs children adopted from foster care after age 12 by providing assistance with the "cost of attendance" as that term is defined in 20 U.S.C. § 1087II.

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

**"SECTION 10.50.(b)** Of the funds appropriated from the General Fund to the Department of Health and Human Services the sum of fifty thousand dollars (\$50,000) for the ~~2009-2010~~2011-2012 fiscal year and the sum of fifty thousand dollars (\$50,000) for the ~~2010-2011~~2012-2013 fiscal year shall be allocated to the North Carolina State Education Assistance Authority (SEAA). The SEAA shall use these funds only to perform administrative functions necessary to manage and distribute scholarship funds under the child welfare postsecondary support program.

**"SECTION 10.50.(c)** Of the funds appropriated from the General Fund to the Department of Health and Human Services the sum of ~~five hundred thousand dollars (\$500,000)~~ three hundred thirty-nine thousand four hundred ninety-three dollars (\$339,493) for the ~~2009-2010~~2011-2012 fiscal year and the sum of ~~five hundred thousand dollars (\$500,000)~~ three hundred thirty-nine thousand four hundred ninety-three dollars (\$339,493) for the ~~2010-2011~~2012-2013 fiscal year shall be used to contract with an entity to develop and administer the child welfare postsecondary support program described under subsection (a) of this section, which development and administration shall include the performance of case management services.

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

**TANF BENEFIT IMPLEMENTATION**

**SECTION 10.36.(a)** The General Assembly approves the plan titled "North Carolina Temporary Assistance for Needy Families State Plan FY 2010-2012," prepared by the Department of Health and Human Services and presented to the General Assembly. The North Carolina Temporary Assistance for Needy Families State Plan covers the period October 1, 2010, through September 30, 2012. The Department shall submit the State Plan, as revised in accordance with subsection (b) of this section, to the United States Department of Health and Human Services, as amended by this act or any other act of the 2009 General Assembly.

**SECTION 10.36.(b)** The counties approved as Electing Counties in the North Carolina Temporary Assistance for Needy Families State Plan FY 2010-2012, as approved by this section are: Beaufort, Caldwell, Catawba, Lenoir, Lincoln, Macon, and Wilson.

**SECTION 10.36.(c)** Counties that submitted the letter of intent to remain as an Electing County or to be redesignated as an Electing County and the accompanying county plan for fiscal years 2009 through 2011, pursuant to G.S. 108A-27(e), shall operate under the Electing County budget requirements effective July 1, 2009. For programmatic purposes, all counties referred to in this subsection shall remain under their current county designation through September 30, 2012.

**SECTION 10.36.(d)** For the 2011-2012 fiscal year, Electing Counties shall be held harmless to their Work First Family Assistance allocations for the 2008-2009 fiscal year, provided that remaining funds allocated for Work First Family Assistance and Work First Diversion Assistance are sufficient for payments made by the Department on behalf of Standard Counties pursuant to G.S. 108A-27.11(b).

**SECTION 10.36.(e)** In the event that departmental projections of Work First Family Assistance and Work First Diversion Assistance for the 2010-2011 fiscal year indicate that remaining funds are insufficient for Work First Family Assistance and Work First Diversion Assistance payments to be made on behalf of Standard Counties, the Department is authorized to deallocate funds, of those allocated to Electing Counties for Work First Family Assistance in excess of the sums set forth in G.S. 108A-27.11, up to the requisite amount for payments in Standard Counties. Prior to deallocation, the Department shall obtain approval by the Office of State Budget and Management. If the Department adjusts the allocation set forth in subsection (d) of this section, then a report shall be made to the Joint Legislative Commission on Governmental Operations, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

**NON-MEDICAID REIMBURSEMENT CHANGES**

**SECTION 10.37.(a)** Providers of medical services under the various State programs, other than Medicaid, offering medical care to citizens of the State shall be reimbursed at rates no higher than those under the North Carolina Medical Assistance Program.

The Department of Health and Human Services may reimburse hospitals at the full prospective per diem rates without regard to the Medical Assistance Program's annual limits on hospital days. When the Medical Assistance Program's per diem rates for inpatient services and its interim rates for outpatient services are used to reimburse providers in non-Medicaid medical service programs, retroactive adjustments to claims already paid shall not be required.

Notwithstanding the provisions of this section, the Department of Health and Human Services may negotiate with providers of medical services under the various Department of Health and Human Services programs, other than Medicaid, for rates as close as possible to Medicaid rates for the following purposes: contracts or agreements for medical services and purchases of medical equipment and other medical supplies. These negotiated rates are allowable only to meet the medical needs of its non-Medicaid eligible patients,

1 residents, and clients who require such services that cannot be provided when limited to the  
2 Medicaid rate.

3 Maximum net family annual income eligibility standards for services in these  
4 programs shall be as follows:

5 DSB Medical Eye Care	125% FPL
6 DSB Independent Living <55	125% FPL
7 DSB Independent Living 55>	200% FPL
8 DSB Vocational Rehabilitation	125% FPL
9 DVR Independent Living	125% FPL
10 DVR Vocational Rehabilitation	125% FPL

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

14 **SECTION 10.37.(b)** Subject to the prior approval of the Office of State Budget  
15 and Management, the Secretary shall reduce provider rates for services rendered for the  
16 Medical Eye Care, Independent Living, and Vocational Rehabilitation programs within the  
17 Division of Services for the Blind, and Independent Living and Vocational Rehabilitation  
18 programs within the Division of Vocational Rehabilitation to accomplish the reduction in funds  
19 for this purpose enacted in this act.

#### 20 **STATE-COUNTY SPECIAL ASSISTANCE**

21 **SECTION 10.38.(a)** The maximum monthly rate for residents in adult care home  
22 facilities shall be one thousand one hundred eighty-two dollars (\$1,182) per month per resident  
23 unless adjusted by the Department in accordance with subsection (d) of this section. The  
24 eligibility of Special Assistance recipients residing in adult care homes on September 30, 2009,  
25 shall not be affected by an income reduction in the Special Assistance eligibility criteria  
26 resulting from the adoption of this maximum monthly rate, provided these recipients are  
27 otherwise eligible.

28 **SECTION 10.38.(b)** The maximum monthly rate for residents in  
29 Alzheimer/Dementia special care units shall be one thousand five hundred fifteen dollars  
30 (\$1,515) per month per resident unless adjusted by the Department in accordance with  
31 subsection (d) of this section.

32 **SECTION 10.38.(c)** Notwithstanding any other provision of this section, the  
33 Department of Health and Human Services shall review activities and costs related to the  
34 provision of care in adult care homes and shall determine what costs may be considered to  
35 properly maximize allowable reimbursement available through Medicaid personal care services  
36 for adult care homes (ACH-PCS) under federal law. As determined, and with any necessary  
37 approval from the Centers for Medicare and Medicaid Services (CMS), and the approval of the  
38 Office of State Budget and Management, the Department may transfer necessary funds from  
39 the State-County Special Assistance program within the Division of Social Services to the  
40 Division of Medical Assistance and may use those funds as State match to draw down federal  
41 matching funds to pay for such activities and costs under Medicaid's ACH-PCS, thus  
42 maximizing available federal funds. The established rate for State-County Special Assistance  
43 set forth in subsections (b) and (c) of this section shall be adjusted by the Department to reflect  
44 any transfer of funds from the Division of Social Services to the Division of Medical  
45 Assistance and related transfer costs and responsibilities from State-County Special Assistance  
46 to the Medicaid ACH-PCS. Subject to approval by the CMS and prior to implementing this  
47 section, the Department may disregard a limited amount of income for individuals whose  
48 countable income exceeds the adjusted State-County Special Assistance rate. The amount of  
49 the disregard shall not exceed the difference between the State-County Special Assistance rate  
50 prior to the adjustment and the State-County Special Assistance rate after the adjustment and  
51



1 shall be used to pay a portion of the cost of the ACH-PCS and reduce the Medicaid payment for  
2 the individual's personal care services provided in an adult care home. In no event shall the  
3 reimbursement for services through the ACH-PCS exceed the average cost of the services as  
4 determined by the Department from review of cost reports as required and submitted by adult  
5 care homes. The Department shall report any transfers of funds and modifications of rates to  
6 the House of Representatives Appropriations Subcommittee on Health and Human Services,  
7 the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research  
8 Division.

9       **SECTION 10.38.(d)** The Department of Health and Human Services shall  
10 recommend rates for State-County Special Assistance and for Adult Care Home Personal Care  
11 Services. The Department may recommend rates based on appropriate cost methodology and  
12 cost reports submitted by adult care homes that receive State-County Special Assistance funds  
13 and shall ensure that cost reporting is done for State-County Special Assistance and Adult Care  
14 Home Personal Care Services to the same standards as apply to other residential service  
15 providers.

## 16 17 **MEDICAID**

18       **SECTION 10.40.(a)** Use of Funds, Allocation of Costs, Other Authorizations. –

- 19       (1) Use of funds. – Funds appropriated in this act for services provided in  
20 accordance with Title XIX of the Social Security Act (Medicaid) are for both  
21 the categorically needy and the medically needy.
- 22       (2) Allocation of nonfederal cost of Medicaid. – The State shall pay one  
23 hundred percent (100%) of the nonfederal costs of all applicable services  
24 listed in this section. In addition, the State shall pay one hundred percent  
25 (100%) of the federal Medicare Part D clawback payments under the  
26 Medicare Modernization Act of 2004.
- 27       (3) Use of funds for development and acquisition of equipment and software. –  
28 If first approved by the Office of State Budget and Management, the  
29 Division of Medical Assistance, Department of Health and Human Services,  
30 may use funds that are identified to support the cost of development and  
31 acquisition of equipment and software and related operational costs through  
32 contractual means to improve and enhance information systems that provide  
33 management information and claims processing. The Department of Health  
34 and Human Services shall identify adequate funds to support the  
35 implementation and first year's operational costs that exceed funds allocated  
36 for the new contract for the fiscal agent for the Medicaid Management  
37 Information System.
- 38       (4) Reports. – Unless otherwise provided, whenever the Department of Health  
39 and Human Services is required by this section to report to the General  
40 Assembly, the report shall be submitted to the House of Representatives  
41 Appropriations Subcommittee on Health and Human Services, the Senate  
42 Appropriations Committee on Health and Human Services, and the Fiscal  
43 Research Division of the Legislative Services Office. Reports shall be  
44 submitted on the date provided in the reporting requirement.

45       **SECTION 10.40.(b)** Policy. –

- 46       (1) Volume purchase plans and single source procurement. – The Department of  
47 Health and Human Services, Division of Medical Assistance, may, subject to  
48 the approval of a change in the State Medicaid Plan, contract for services,  
49 medical equipment, supplies, and appliances by implementation of volume  
50 purchase plans, single source procurement, or other contracting processes in  
51 order to improve cost containment.

- 1 (2) Cost containment programs. – The Department of Health and Human  
 2 Services, Division of Medical Assistance, may undertake cost containment  
 3 programs, including contracting for services, preadmissions to hospitals, and  
 4 prior approval for certain outpatient surgeries before they may be performed  
 5 in an inpatient setting.
- 6 (3) Fraud and abuse. – The Division of Medical Assistance, Department of  
 7 Health and Human Services, shall provide incentives to counties that  
 8 successfully recover fraudulently spent Medicaid funds by sharing State  
 9 savings with counties responsible for the recovery of the fraudulently spent  
 10 funds.
- 11 (4) Medical policy. – Unless required for compliance with federal law, the  
 12 Department shall not change medical policy affecting the amount,  
 13 sufficiency, duration, and scope of health care services and who may provide  
 14 services until the Division of Medical Assistance has prepared a five-year  
 15 fiscal analysis documenting the increased cost of the proposed change in  
 16 medical policy and submitted it for departmental review. If the fiscal impact  
 17 indicated by the fiscal analysis for any proposed medical policy change  
 18 exceeds three million dollars (\$3,000,000) in total requirements for a given  
 19 fiscal year, then the Department shall submit the proposed medical policy  
 20 change with the fiscal analysis to the Office of State Budget and  
 21 Management and the Fiscal Research Division. The Department shall not  
 22 implement any proposed medical policy change exceeding three million  
 23 dollars (\$3,000,000) in total requirements for a given fiscal year unless the  
 24 source of State funding is identified and approved by the Office of State  
 25 Budget and Management. For medical policy changes exceeding three  
 26 million dollars (\$3,000,000) in total requirements for a given fiscal year that  
 27 are required for compliance with federal law, the Department shall submit  
 28 the proposed medical policy or policy interpretation change with the  
 29 five-year fiscal analysis to the Office of State Budget and Management prior  
 30 to implementing the change. The Department shall provide the Office of  
 31 State Budget and Management and the Fiscal Research Division a quarterly  
 32 report itemizing all medical policy changes with total requirements of less  
 33 than three million dollars (\$3,000,000).

34 **SECTION 10.40.(c) Eligibility.** – Eligibility for Medicaid shall be determined in  
 35 accordance with the following:

- 36 (1) Medicaid and Work First Family Assistance. –  
 37 a. Income eligibility standards. – The maximum net family annual  
 38 income eligibility standards for Medicaid and Work First Family  
 39 Assistance and the Standard of Need for Work First Family  
 40 Assistance shall be as follows:

	<b>CATEGORICALLY NEEDY – WFFA*</b>	<b>MEDICALLY NEEDY</b>
	Standard of Need & Families and Families and Children Income Level	Children & AA, AB, AD* Income Level
Family Size	WFFA* Payment Level	
1	\$4,344	\$2,172 \$2,900

1	2	5,664	2,832	3,800
2	3	6,528	3,264	4,400
3	4	7,128	3,564	4,800
4	5	7,776	3,888	5,200
5	6	8,376	4,188	5,600
6	7	8,952	4,476	6,000
7	8	9,256	4,680	6,300

\*Work First Family Assistance (WFFA); Aid to the Aged (AA); Aid to the Blind (AB); and Aid to the Disabled (AD).

- b. The payment level for Work First Family Assistance shall be fifty percent (50%) of the standard of need. These standards may be changed with the approval of the Director of the Budget.
  - c. The Department of Health and Human Services shall provide Medicaid coverage to 19- and 20-year-olds in accordance with federal rules and regulations.
  - d. Medicaid enrollment of categorically needy families with children shall be continuous for one year without regard to changes in income or assets.
- (2) For the following Medicaid eligibility classifications for which the federal poverty guidelines are used as income limits for eligibility determinations, the income limits will be updated each April 1 immediately following publication of federal poverty guidelines. The Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to the following:
- a. All elderly, blind, and disabled people who have incomes equal to or less than one hundred percent (100%) of the federal poverty guidelines.
  - b. Pregnant women with incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines and without regard to resources. Services to pregnant women eligible under this subsection continue throughout the pregnancy but include only those related to pregnancy and to those other conditions determined by the Department as conditions that may complicate pregnancy.
  - c. Infants under the age of one with family incomes equal to or less than two hundred percent (200%) of the federal poverty guidelines and without regard to resources.
  - d. Children aged one through five with family incomes equal to or less than two hundred percent (200%) of the federal poverty guidelines and without regard to resources.
  - e. Children aged six through 18 with family incomes equal to or less than one hundred percent (100%) of the federal poverty guidelines and without regard to resources.
  - f. Family planning services to men and women of childbearing age with family incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines and without regard to resources.
  - g. Workers with disabilities described in G.S. 108A-54.1 with unearned income equal to or less than one hundred fifty percent (150%) of the federal poverty guidelines.

(3) The Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to adoptive children with special or rehabilitative needs regardless of the adoptive family's income.

(4) The Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to "independent foster care adolescents," ages 18, 19, and 20, as defined in section 1905(w)(1) of the Social Security Act [42 U.S.C. § 1396d(w)(1)], without regard to the adolescent's assets, resources, or income levels.

(5) ICF and ICF/MR work incentive allowances. – The Department of Health and Human Services may provide an incentive allowance to Medicaid-eligible recipients of ICF and ICF/MR services, who are regularly engaged in work activities as part of their developmental plan, and for whom retention of additional income contributes to their achievement of independence. The State funds required to match the federal funds that are required by these allowances shall be provided from savings within the Medicaid budget or from other unbudgeted funds available to the Department. The incentive allowances may be as follows:

<b>Monthly Net Wages</b>	<b>Monthly Incentive Allowance</b>
\$1.00 to \$100.99	Up to \$50.00
\$101.00 to \$200.99	\$80.00
\$201.00 to \$300.99	\$130.00
\$301.00 and greater	\$212.00

(6) The Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to women who need treatment for breast or cervical cancer and who are defined in 42 U.S.C. § 1396a.(a)(10)(A)(ii)(XVIII).

**SECTION 10.40.(d)** Services and Payment Bases. – The Department shall spend funds appropriated for Medicaid services in accordance with the following schedule of services and payment bases. All services and payments are subject to the language at the end of this subsection. Unless otherwise provided, services and payment bases will be as prescribed in the State Plan as established by the Department of Health and Human Services and may be changed with the approval of the Director of the Budget.

The Department of Health and Human Services (DHHS) shall operate and manage the Medicaid program within the annual State appropriation. DHHS shall establish policies, practices, rates, and expenditure procedures that are in compliance with CMS regulations and approved State Plans, State laws, and regulations.

Additionally, the Department shall be required to use the Physician's Advisory Group for review and will collaborate with other stakeholder groups in the adoption and implementation of all clinical and payment policies, including all public notice and posting provisions in use as of the effective date of this provision.

(1) **Mandatory Services** – In order to manage the Medicaid program within the annual State appropriation, the Secretary shall have the authority to submit State Plan amendments and establish temporary rules affecting the amount of service and payment rate for the following mandatory services:

- a. Hospital inpatient. – Payment for hospital inpatient services will be prescribed by the State Plan as established by the Department of Health and Human Services.
- b. Hospital outpatient. – Eighty percent (80%) of allowable costs or a prospective reimbursement plan as established by the Department of Health and Human Services.

- 1 c. Nursing facilities. – Nursing facilities providing services to Medicaid  
2 recipients who also qualify for Medicare must be enrolled in the  
3 Medicare program as a condition of participation in the Medicaid  
4 program. State facilities are not subject to the requirement to enroll in  
5 the Medicare program. Residents of nursing facilities who are  
6 eligible for Medicare coverage of nursing facility services must be  
7 placed in a Medicare-certified bed. Medicaid shall cover facility  
8 services only after the appropriate services have been billed to  
9 Medicare.
- 10 d. Physicians, certified nurse midwife services, nurse practitioners,  
11 physician assistants. – Fee schedules as developed by the Department  
12 of Health and Human Services.
- 13 e. EPSDT Screens. – Payments in accordance with rate schedule  
14 developed by the Department of Health and Human Services.
- 15 f. Home health and related services, durable medical equipment. –  
16 Payments according to reimbursement plans developed by the  
17 Department of Health and Human Services.
- 18 g. Rural health clinical services. – Provider-based, reasonable cost,  
19 nonprovider-based, single-cost reimbursement rate per clinic visit.
- 20 h. Family planning. – Negotiated rate for local health departments. For  
21 other providers see specific services, e.g., hospitals, physicians.
- 22 i. Independent laboratory and X-ray services. – Uniform fee schedules  
23 as developed by the Department of Health and Human Services.
- 24 j. Medicare Buy-In. – Social Security Administration premium.
- 25 k. Ambulance services. – Uniform fee schedules as developed by the  
26 Department of Health and Human Services. Public ambulance  
27 providers will be reimbursed at cost.
- 28 l. Medicare crossover claims. – The Department shall apply Medicaid  
29 medical policy to Medicare claims for dually eligible recipients. The  
30 Department shall pay an amount up to the actual coinsurance or  
31 deductible or both, in accordance with the State Plan, as approved by  
32 the Department of Health and Human Services. The Department may  
33 disregard application of this policy in cases where application of the  
34 policy would adversely affect patient care.
- 35 m. Pregnancy-related services. – Covered services for pregnant women  
36 shall include nutritional counseling, psychosocial counseling, and  
37 predelivery and postpartum home visits as described in clinical  
38 policy.
- 39 n. Mental health services. – Coverage is limited to children eligible for  
40 EPSDT services provided by:
- 41 1. Licensed or certified psychologists, licensed clinical social  
42 workers, certified clinical nurse specialists in psychiatric  
43 mental health advanced practice, nurse practitioners certified  
44 as clinical nurse specialists in psychiatric mental health  
45 advanced practice, licensed psychological associates, licensed  
46 professional counselors, licensed marriage and family  
47 therapists, licensed clinical addictions specialists, and  
48 certified clinical supervisors, when Medicaid-eligible children  
49 are referred by the Community Care of North Carolina  
50 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 (2) **Optional Services** – In order to manage the Medicaid program within the  
10 annual State appropriation, the Secretary shall have the authority to submit  
11 State Plan amendments and establish temporary rules affecting the amount  
12 of service, payment rate, or elimination of the following optional services:
- 13 a. Certified registered nurse anesthetists.  
14 b. Community Alternative Programs.  
15 c. Hearing aids. – Wholesale cost plus dispensing fee to provider.  
16 d. Ambulatory surgical centers.  
17 e. Private duty nursing, clinic services, prepaid health plans.  
18 f. Intermediate care facilities for the mentally retarded.  
19 g. Chiropractors, podiatrists, optometrists, dentists.  
20 h. Dental coverage. – Dental services shall be provided on a restricted  
21 basis in accordance with criteria adopted by the Department to  
22 implement this subsection.
- 23 i. Optical supplies. – Payment for materials is made to a contractor in  
24 accordance with 42 C.F.R. § 431.54(d). Fees paid to dispensing  
25 providers are negotiated fees established by the State agency based  
26 on industry charges.
- 27 j. Physical therapy, occupational therapy, and speech therapy. –  
28 Services for adults. Payments are to be made only to qualified  
29 providers at rates negotiated by the Department of Health and Human  
30 Services.
- 31 k. Personal care services. – Payment in accordance with the State Plan  
32 developed by the Department of Health and Human Services.
- 33 l. Case management services. – Reimbursement in accordance with the  
34 availability of funds to be transferred within the Department of  
35 Health and Human Services.
- 36 m. Hospice and palliative care.  
37 n. Medically necessary prosthetics or orthotics. – In order to be eligible  
38 for reimbursement, providers must be licensed or certified by the  
39 occupational licensing board or the certification authority having  
40 authority over the provider's license or certification. Medically  
41 necessary prosthetics and orthotics are subject to prior approval and  
42 utilization review.
- 43 o. Health insurance premiums.  
44 p. Medical care/other remedial care. – Services not covered elsewhere  
45 in this section include related services in schools; health professional  
46 services provided outside the clinic setting to meet maternal and  
47 infant health goals.
- 48 q. Bariatric surgeries. – Covered as described in clinical policy 1A-15,  
49 Surgery for Clinically Severe Obesity. In order to raise the standard  
50 of bariatric care in North Carolina, approval for these procedures  
51 shall only be granted to those providers (facilities and surgeons) who

1 are designated as a Bariatric Surgery Center of Excellence (BSCOE)  
2 by the American Society for Metabolic and Bariatric Surgery  
3 (ASMBS). Providers must then submit to NC Medicaid  
4 documentation of their designation as a BSCOE as well as verify  
5 their continued annual participation.

6 r. Drugs. –

7 1. Reimbursements. – Reimbursements shall be available for  
8 prescription drugs as allowed by federal regulations plus a  
9 professional services fee per month, excluding refills for the  
10 same drug or generic equivalent during the same month.  
11 Payments for drugs are subject to the provisions of this  
12 subdivision or in accordance with the State Plan adopted by  
13 the Department of Health and Human Services, consistent  
14 with federal reimbursement regulations. Payment of the  
15 professional services fee shall be made in accordance with the  
16 State Plan adopted by the Department of Health and Human  
17 Services, consistent with federal reimbursement regulations.  
18 The professional services fee shall be established by the  
19 Department. In addition to the professional services fee, the  
20 Department may pay an enhanced fee for pharmacy services.

21 2. Limitations on quantity. – The Department of Health and  
22 Human Services may establish authorizations, limitations,  
23 and reviews for specific drugs, drug classes, brands, or  
24 quantities in order to manage effectively the Medicaid  
25 program. The Department may impose prior authorization  
26 requirements on brand-name drugs for which the phrase  
27 "medically necessary" is written on the prescription.

28 3. Dispensing of generic drugs. – Notwithstanding  
29 G.S. 90-85.27 through G.S. 90-85.31, or any other law to the  
30 contrary, under the Medical Assistance Program (Title XIX  
31 of the Social Security Act), and except as otherwise provided  
32 in this subsection for drugs listed in the narrow therapeutic  
33 index, a prescription order for a drug designated by a trade or  
34 brand name shall be considered to be an order for the drug by  
35 its established or generic name, except when the prescriber  
36 has determined, at the time the drug is prescribed, that the  
37 brand-name drug is medically necessary and has written on  
38 the prescription order the phrase "medically necessary." An  
39 initial prescription order for a drug listed in the narrow  
40 therapeutic drug index that does not contain the phrase  
41 "medically necessary" shall be considered an order for the  
42 drug by its established or generic name, except that a  
43 pharmacy shall not substitute a generic or established name  
44 prescription drug for subsequent brand or trade name  
45 prescription orders of the same prescription drug without  
46 explicit oral or written approval of the prescriber given at the  
47 time the order is filled. Generic drugs shall be dispensed at a  
48 lower cost to the Medical Assistance Program rather than  
49 trade or brand-name drugs. Notwithstanding this subdivision  
50 to the contrary, the Secretary of Health and Human Services  
51 may prevent substitution of a generic equivalent drug,

- 1 including a generic equivalent that is on the State maximum  
2 allowable cost list, when the net cost to the State of the  
3 brand-name drug, after consideration of all rebates, is less  
4 than the cost of the generic equivalent. As used in this  
5 subsection, "brand name" means the proprietary name the  
6 manufacturer places upon a drug product or on its container,  
7 label, or wrapping at the time of packaging; and "established  
8 name" has the same meaning as in section 502(e)(3) of the  
9 Federal Food, Drug, and Cosmetic Act, as amended, 21  
10 U.S.C. § 352(e)(3).
- 11 4. Specialty drug provider network. – The Department of Health  
12 and Human Services shall work with specialty drug  
13 providers, manufacturers of specialty drugs, Medicaid  
14 recipients who are prescribed specialty drugs, and the medical  
15 professionals that treat Medicaid recipients who are  
16 prescribed specialty drugs to develop ways to ensure that best  
17 practices and the prevention of overutilization are maintained  
18 in the delivery and utilization of specialty drugs.
- 19 5. Lock controlled substances prescriptions into single  
20 pharmacy/provider. – The Department of Health and Human  
21 Services, Division of Medical Assistance (DMA), shall lock  
22 Medicaid enrollees into a single pharmacy and provider when  
23 the Medicaid enrollee's utilization of selected controlled  
24 substance medications meets the lock-in criteria approved by  
25 the Physicians Advisory Group (PAG), as follows:
- 26 I. Enrollees may be prescribed selected controlled  
27 substance medications by only one prescribing  
28 physician and may not change the prescribing  
29 physician at any time without prior approval or  
30 authorization by the Division.
- 31 II. Enrollees may have prescriptions for selected  
32 controlled substance medications filled at only one  
33 pharmacy and may not change to another pharmacy at  
34 any time without prior approval or authorization by  
35 the Division.
- 36 6. Preferred Drug List (PDL). – The Department of Health and  
37 Human Services shall establish and implement a PDL  
38 program under the DMA. Medications prescribed for the  
39 treatment of mental illness shall be included on the PDL.
- 40 The Physician Advisory Group Pharmacy and  
41 Therapeutics (PAG P&T) Committee shall provide ongoing  
42 review of the preferred drug list, including the  
43 implementation of prior authorization on identified drugs.  
44 Members of the committee shall submit conflict of interest  
45 disclosure statements to the Department and shall have an  
46 ongoing duty to disclose conflicts of interest not included in  
47 the original disclosure.
- 48 The Department, in consultation with the PAG, shall  
49 adopt and publish policies and procedures relating to the  
50 PDL, including:



- I. Guidelines for the presentation and review of drugs for inclusion on the PDL,
- II. The manner and frequency of audits of the PDL for appropriateness of patient care and cost-effectiveness,
- III. An appeals process for the resolution of disputes, and
- IV. Such other policies and procedures as the Department deems necessary and appropriate.

The Department and the PAG P&T Committee shall consider all therapeutic classes of prescription drugs for inclusion on the PDL.

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

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

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

The Secretary of the Department of Health and Human Services shall establish a PDL Policy Review Panel within 60 days after the effective date of this section. The purpose of the PDL Policy Review Panel is to review the Medicaid PDL recommendations from the DMA, and the PAG P&T Committee.

The Secretary shall appoint the following individuals to the review panel:

- I. The Director of Pharmacy for the DMA.
- II. A representative from the PAG P&T Committee.
- III. A representative from the Old North State Medical Society.
- IV. A representative from the North Carolina Association of Pharmacists.
- V. A representative from Community Care of North Carolina (CCNC).
- VI. A representative from the North Carolina Psychiatric Association.
- VII. A representative from the North Carolina Pediatric Society.
- VIII. A representative from the North Carolina Academy of Family Physicians.

- 1 IX. A representative from the North Carolina Chapter of  
2 the American College of Physicians.  
3 X. A representative from a research-based  
4 pharmaceutical company.  
5 XI. A representative from a hospital-based pharmacy.

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

9 After the Department, in consultation with the PAG P&T  
10 Committee, publishes a proposed policy or procedure related  
11 to the Medicaid PDL, the PDL Policy Review Panel shall  
12 hold an open meeting to review the recommended policy or  
13 procedure along with any written public comments received  
14 as a result of the posting. The PDL Policy Review Panel shall  
15 provide an opportunity for public comment at the meeting.  
16 After the conclusion of the meeting, the PDL Policy Review  
17 Panel shall submit policy recommendations about the  
18 proposed Medicaid PDL policy or procedure to the Secretary.

19 The Department may establish a PDL for the North  
20 Carolina Health Choice for Children program and pursue  
21 negotiated discounts or rebates for all prescription drugs  
22 under the program in order to achieve the lowest available  
23 price for such drugs under such program. The Department  
24 may procure a sole source contract with an outside entity or  
25 contractor to conduct negotiations for these discounts or  
26 rebates. The PAG P&T Committee and PDL Policy Review  
27 Panel will provide recommendations on policies and  
28 procedures for the NC Health Choice PDL.

- 29 s. Incentive payments as outlined in the State Medicaid Health  
30 Information Plan for Electronic Health Records.  
31 t. Other mental health services. – Unless otherwise covered by this  
32 section, coverage is limited to the following:  
33 1. Services as established by the DMA in consultation with the  
34 Division of Mental Health, Developmental Disabilities, and  
35 Substance Abuse Services and approved by the Centers for  
36 Medicare and Medicaid Services (CMS), when provided in  
37 agencies meeting the requirements and reimbursement is  
38 made in accordance with a State Plan developed by the  
39 Department of Health and Human Services not to exceed the  
40 upper limits established in federal regulations, and  
41 2. For Medicaid-eligible adults, services provided by licensed or  
42 certified psychologists, licensed clinical social workers,  
43 certified clinical nurse specialists in psychiatric mental health  
44 advanced practice, nurse practitioners certified as clinical  
45 nurse specialists in psychiatric mental health advanced  
46 practice, licensed psychological associates, licensed  
47 professional counselors, licensed marriage and family  
48 therapists, certified clinical addictions specialists, and  
49 licensed clinical supervisors, may be self-referred.  
50 3. Payments made for services rendered in accordance with this  
51 subdivision shall be to qualified providers in accordance with

1 approved policies and the State Plan. Nothing in  
2 sub-subdivision b. or c. of this subdivision shall be  
3 interpreted to modify the scope of practice of any service  
4 provider, practitioner, or licensee, nor to modify or attenuate  
5 any collaboration or supervision requirement related to the  
6 professional activities of any service provider, practitioner, or  
7 licensee. Nothing in sub-subdivision b. or c. of this  
8 subdivision shall be interpreted to require any private health  
9 insurer or health plan to make direct third-party  
10 reimbursements or payments to any service provider,  
11 practitioner, or licensee.

12 Notwithstanding G.S. 150B-21.1(a), the Department of Health  
13 and Human Services may adopt temporary rules in accordance with  
14 Chapter 150B of the General Statutes further defining the  
15 qualifications of providers and referral procedures in order to  
16 implement this subdivision. Coverage policy for services established  
17 by the DMA in consultation with the Division of Mental Health,  
18 Developmental Disabilities, and Substance Abuse Services under  
19 sub-subdivisions a. and b.2. of this subdivision shall be established  
20 by the DMA.

- 21 u. Experimental/investigational medical procedures. – Coverage is  
22 limited to services, supplies, drugs, or devices recognized as standard  
23 medical care for the condition, disease, illness, or injury being treated  
24 as determined by nationally recognized scientific professional  
25 organizations or scientifically based federal organizations such as the  
26 Food and Drug Administration, the National Institutes of Health, the  
27 Centers for Disease Control, or the Agency for Health Care Research  
28 and Quality.
- 29 v. Clinical trials. – The DMA shall develop clinical policy for the  
30 coverage of routine costs in clinical trial services for life-threatening  
31 conditions using resources such as coverage criteria from Medicare  
32 and the NC State Health Plan and the input of the PAG.
- 33 (3) Never Events and Hospital Acquired Conditions (HACs) shall not be  
34 reimbursed. Medicaid will adhere to Medicare requirements for definition of  
35 events and conditions.

36 **SECTION 10.40.(e) Provider Performance Bonds and Visits. –**

- 37 (1) Subject to the provisions of this subdivision, the Department may require  
38 Medicaid-enrolled providers to purchase a performance bond in an amount  
39 not to exceed one hundred thousand dollars (\$100,000) naming as  
40 beneficiary the Department of Health and Human Services, DMA, or  
41 provide to the Department a validly executed letter of credit or other  
42 financial instrument issued by a financial institution or agency honoring a  
43 demand for payment in an equivalent amount. The Department may require  
44 the purchase of a performance bond or the submission of an executed letter  
45 of credit or financial instrument as a condition of initial enrollment,  
46 reenrollment, or reinstatement if:
- 47 a. The provider fails to demonstrate financial viability.
- 48 b. The Department determines there is significant potential for fraud  
49 and abuse.
- 50 c. The Department otherwise finds it is in the best interest of the  
51 Medicaid program to do so.

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

3 (1a) The Department may waive or limit the requirements of this subsection for  
4 individual Medicaid-enrolled providers or for one or more classes of  
5 Medicaid-enrolled providers based on the following:

6 a. The provider's or provider class's dollar amount of monthly billings  
7 to Medicaid.

8 b. The length of time an individual provider has been licensed,  
9 endorsed, certified, or accredited in this State to provide services.

10 c. The length of time an individual provider has been enrolled to  
11 provide Medicaid services in this State.

12 d. The provider's demonstrated ability to ensure adequate record  
13 keeping, staffing, and services.

14 e. The need to ensure adequate access to care.

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

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

34 Prenatal services, all Early and Periodic Screenings, Diagnosis, and  
35 Treatment (EPSDT) children, emergency room visits, and mental health  
36 visits subject to independent utilization review are exempt from the visit  
37 limitations contained in this subdivision. Subject to appropriate medical  
38 review, the Department may authorize exceptions when additional care is  
39 medically necessary. Routine or maintenance visits above the established  
40 visit limit will not be covered unless necessary to actively manage a  
41 life-threatening disorder or as an alternative to more costly care options.

42 **SECTION 10.40.(f)** Exceptions and Limitations on Services; Authorization of  
43 Co-Payments and Other Services. –

44 (1) Exceptions to service limitations, eligibility requirements, and payments. –  
45 Service limitations, eligibility requirements, and payment bases in this  
46 section may be waived by the Department of Health and Human Services,  
47 with the approval of the Director of the Budget, to allow the Department to  
48 carry out pilot programs for prepaid health plans, contracting for services,  
49 managed care plans, or community-based services programs in accordance  
50 with plans approved by the United States Department of Health and Human

1 Services or when the Department determines that such a waiver or  
2 innovation projects will result in a reduction in the total Medicaid costs.

3 (2) Co-payment for Medicaid services. – The Department of Health and Human  
4 Services may establish co-payments up to the maximum permitted by federal  
5 law and regulation.

6 (3) Provider enrollment fee. – Effective September 1, 2009, the Department of  
7 Health and Human Services, DMA, shall charge an enrollment fee of one  
8 hundred dollars (\$100.00), or the amount federally required, to each provider  
9 enrolling in the Medicaid program for the first time. The fee shall be charged  
10 to all providers at recredentialling every three years.

11 **SECTION 10.40.(g) Rules, Reports, and Other Matters. –**

12 The Department of Health and Human Services may adopt temporary or emergency  
13 rules according to the procedures established in G.S. 150B-21.1 and G.S. 150B-21.1A when it  
14 finds that these rules are necessary to maximize receipt of federal funds within existing State  
15 appropriations, to reduce Medicaid expenditures, and to reduce fraud and abuse. The  
16 Department of Health and Human Services shall adopt rules requiring providers to attend  
17 training as a condition of enrollment and may adopt temporary or emergency rules to  
18 implement the training requirement.

19 Prior to the filing of the temporary or emergency rules authorized under this  
20 subsection with the Rules Review Commission and the Office of Administrative Hearings, the  
21 Department shall consult with the Office of State Budget and Management on the possible  
22 fiscal impact of the temporary or emergency rule and its effect on State appropriations and  
23 local governments.

24  
25 **DMA CONTRACT SHORTFALL**

26 **SECTION 10.41.(a)** Budget approval is required by the Office of State Budget and  
27 Management prior to the Department of Health and Human Services, Division of Medical  
28 Assistance, entering into any new contract or the renewal or amendment of existing contracts  
29 that exceed the current contract amounts.

30 **SECTION 10.41.(b)** The Division of Medical Assistance shall make every effort to  
31 effect savings within its operational budget and use those savings to offset its contract shortfall.  
32 Notwithstanding G.S. 143C-6-4(b)(3), the Department may use funds appropriated in this act to  
33 cover the contract shortfall in the Division of Medical Assistance if insufficient funds exist  
34 within the Division.

35  
36 **MEDICAID COST CONTAINMENT ACTIVITIES**

37 **SECTION 10.42.(a)** The Department of Health and Human Services may use up to  
38 five million dollars (\$5,000,000) in the 2011-2012 fiscal year and up to five million dollars  
39 (\$5,000,000) in the 2012-2013 fiscal year in Medicaid funds budgeted for program services to  
40 support the cost of administrative activities when cost-effectiveness and savings are  
41 demonstrated. The funds shall be used to support activities that will contain the cost of the  
42 Medicaid Program, including contracting for services, hiring additional staff, funding pilot  
43 programs, Health Information Exchange and Health Information Technology (HIE/HIT)  
44 administrative activities, or providing grants through the Office of Rural Health and  
45 Community Care to plan, develop, and implement cost containment programs.

46 Medicaid cost containment activities may include prospective reimbursement  
47 methods, incentive-based reimbursement methods, service limits, prior authorization of  
48 services, periodic medical necessity reviews, revised medical necessity criteria, service  
49 provision in the least costly settings, plastic magnetic stripped Medicaid identification cards for  
50 issuance to Medicaid enrollees, fraud detection software or other fraud detection activities,  
51 technology that improves clinical decision making, credit balance recovery and data mining

1 services, and other cost containment activities. Funds may be expended under this section only  
2 after the Office of State Budget and Management has approved a proposal for the expenditure  
3 submitted by the Department. Proposals for expenditure of funds under this section shall  
4 include the cost of implementing the cost containment activity and documentation of the  
5 amount of savings expected to be realized from the cost containment activity.

6 **SECTION 10.42.(b)** The Department shall report annually on the expenditures  
7 under this section to the House of Representatives Appropriations Subcommittee on Health and  
8 Human Services, the Senate Appropriations Committee on Health and Human Services, and the  
9 Fiscal Research Division. The report shall include the methods used to achieve savings and the  
10 amount saved by these methods. The report is due to the House and Senate Appropriations  
11 Subcommittees on Health and Human Services and the Fiscal Research Division of the General  
12 Assembly not later than December 1 of each year for the activities of the previous State fiscal  
13 year.

#### 14 **MEDICAID SPECIAL FUND TRANSFER**

15 **SECTION 10.43.** Of the funds transferred to the Department of Health and Human  
16 Services for Medicaid programs pursuant to G.S. 143C-9-1, there is appropriated from the  
17 Medicaid Special Fund to the Department of Health and Human Services the sum of forty-three  
18 million dollars (\$43,000,000) for the 2011-2012 fiscal year and the sum of forty-three million  
19 dollars (\$43,000,000) for the 2012-2013 fiscal year. These funds shall be allocated as  
20 prescribed by G.S. 143C-9-1(b) for Medicaid programs. Notwithstanding the prescription in  
21 G.S. 143C-9-1(b) that these funds not reduce State general revenue funding, these funds shall  
22 replace the reduction in general revenue funding effected in this act. The Department may also  
23 use funds in the Medicaid Special Fund to fund the settlement of the Disproportionate Share  
24 Hospital payment audit issues between the Department of Health and Human Services and the  
25 federal government related to fiscal years 1997-2002, and funds are appropriated from the Fund  
26 for the 2011-2012 fiscal year for this purpose.  
27

#### 28 **FAMILIES PAY PART OF THE COST OF SERVICES UNDER THE CAP-MR/DD** 29 **PROGRAM AND THE CAP-CHILDREN'S PROGRAM BASED ON FAMILY** 30 **INCOME**

31 **SECTION 10.44.(a)** Subject to approval from the Centers for Medicare and  
32 Medicaid Services (CMS), the Department of Health and Human Services, Division of Medical  
33 Assistance, shall, in consultation with the Division of Mental Health, Developmental  
34 Disabilities, and Substance Abuse Services, and Community Alternatives Program (CAP)  
35 stakeholders, develop a schedule of cost-sharing requirements for children of families with  
36 incomes above the Medicaid allowable limit to share in the costs of their child's Medicaid  
37 expenses under the CAP-MR/DD (Community Alternatives Program for Mental Retardation  
38 and Developmentally Disabled) and the CAP-C (Community Alternatives Program for  
39 Children). The cost-sharing amounts shall be based on a sliding scale of family income and  
40 shall take into account the impact on families with more than one child in the CAP programs.  
41 In developing the schedule, the Department shall also take into consideration how other states  
42 have implemented cost-sharing in their CAP programs. The Division of Medical Assistance  
43 may establish monthly deductibles as a means of implementing this cost-sharing. The  
44 Department shall provide for at least one public hearing and other opportunities for individuals  
45 to comment on the imposition of cost-sharing under the CAP program schedule.  
46

47 **SECTION 10.44.(b)** The Division of Medical Assistance shall also, in  
48 collaboration with the Controller's Office of the Department of Health and Human Services, the  
49 Division of Information Resource Management (DIRM), and the new vendor of the  
50 replacement Medicaid Management Information System, develop business rules and program  
51 policies and procedures, and define relevant technical requirements.

1           **SECTION 10.44.(c)** Implementation of this provision shall be delayed until the  
2 implementation of the new Medicaid Management Information System.

3  
4           **STATEWIDE EXPANSION OF CAPITATED 1915(B)/(C) BEHAVIORAL HEALTH**  
5           **WAIVERS**

6           **SECTION 10.45.** The Department of Health and Human Services (Department)  
7 shall implement the capitated 1915(b)/(c) Medicaid waiver during the 2011-2012 fiscal year  
8 through an RFA process that includes LME applicants who prove readiness. The waiver  
9 program shall include all Medicaid-covered mental health, developmental disabilities, and  
10 substance abuse services. Expansion of the waiver shall be contingent upon approval by the  
11 Centers for Medicare and Medicaid Services.

12  
13           **MEDICAID WAIVER FOR ASSISTED LIVING**

14           **SECTION 10.46.(a)** The Department of Health and Human Services, Division of  
15 Medical Assistance (Division), shall develop and implement a home- and community-based  
16 services program under Medicaid State Plan 1915(i) authority in order to continue Medicaid  
17 funding of personal care services to individuals living in adult care homes.

18           **SECTION 10.46.(b)** The Division shall implement the program upon approval of  
19 the application by the Centers for Medicare and Medicaid Services.

20           **SECTION 10.46.(c)** On or before April 1, 2012, the Division shall provide a report  
21 on the status of approval and implementation of the program to the Joint Legislative  
22 Commission on Governmental Operations, the Senate Appropriations Committee on Health  
23 and Human Services, the House of Representatives Appropriations Subcommittee on Health  
24 and Human Services, and the Fiscal Research Division.

25  
26           **ACCOUNTING FOR MEDICAID RECEIVABLES AS NONTAX REVENUE**

27           **SECTION 10.47.(a)** Receivables reserved at the end of the 2011-2012 and  
28 2012-2013 fiscal years shall, when received, be accounted for as nontax revenue for each of  
29 those fiscal years.

30           **SECTION 10.47.(b)** For the 2011-2012 fiscal year, the Department of Health and  
31 Human Services shall deposit from its revenues one hundred fifteen million dollars  
32 (\$115,000,000) with the Department of State Treasurer to be accounted for as nontax revenue.  
33 For the 2012-2013 fiscal year, the Department of Health and Human Services shall deposit  
34 from its revenues one hundred fifteen million dollars (\$115,000,000) with the Department of  
35 State Treasurer to be accounted for as nontax revenue. These deposits shall represent the return  
36 of General Fund appropriations provided to hospitals that are owned and operated by the State  
37 to provide indigent and nonindigent care services and shall be returned to the DHHS. The  
38 treatment of any revenue derived from federal programs shall be in accordance with the  
39 requirements specified in the Code of Federal Regulations, Volume 2, Part 225.

40  
41           **AUTHORIZE THE DIVISION OF MEDICAL ASSISTANCE TO TAKE CERTAIN**  
42           **STEPS TO EFFECTUATE COMPLIANCE WITH BUDGET REDUCTIONS IN**  
43           **THE MEDICAID PROGRAM**

44           **SECTION 10.48.(a)** The Department of Health and Human Services, Division of  
45 Medical Assistance, may take the following actions, notwithstanding any other provision of this  
46 act or other State law or rule to the contrary and subject to the requirements of subsection (e) of  
47 this section:

48           (1) Electronic transactions. –

49           a. Medicaid providers shall follow the Department's established  
50 procedures for securing electronic payments. The Department shall  
51 not issue routine provider payments by check.

- 1 b. All Medicaid providers shall file claims electronically to the fiscal  
2 agent. Nonelectronic claims submission may be required when it is in  
3 the best interest of the Department.
- 4 c. Enrolled Medicaid providers shall submit Preadmission Screening  
5 and Annual Resident Reviews (PASARR) through the Department's  
6 Web-based tool or through a vendor with interface capability to  
7 submit data into the Web-based PASARR.
- 8 d. Providers shall submit requests for prior authorizations electronically  
9 via the vendor's Web site. Providers may opt to access their  
10 authorizations via online portals rather than receiving hard copies by  
11 mail. Recipients will continue to receive adverse decisions via  
12 trackable mail. Providers shall receive copies electronically.
- 13 e. Once Web portal is live for provider enrollment, providers must  
14 submit their provider enrollment applications online. Thereafter, the  
15 Department will accept electronic signatures, rather than require  
16 receipt of signed hard copies.
- 17 (2) Clinical coverage. – The Department of Health and Human Services,  
18 Division of Medical Assistance, shall amend applicable clinical policies and  
19 submit applicable State Plan amendments to Centers for Medicare and  
20 Medicaid Services (CMS) to implement the budget reductions authorized in  
21 the following clinical coverage areas in this act:
- 22 a. Eliminate or limit adult physical therapy, occupational therapy, and  
23 speech therapy visits to three visits per calendar year.
- 24 (3) Medicaid Personal Care Service provision. – Upon the enactment of this act,  
25 the Division of Medical Assistance shall implement the following new  
26 criteria for personal care services (PCS) set out in subdivision (3a) of this  
27 section.
- 28 (3a) In-Home Care provision. – In order to enhance in-home aide services to  
29 Medicaid recipients, the Department of Health and Human Services,  
30 Division of Medical Assistance (DMA), shall:
- 31 a. No longer provide services under PCS and PCS-Plus the later of  
32 January 1, 2011, or whenever CMS approves the elimination of the  
33 PCS and PCS-Plus programs and the implementation of the  
34 following two new services:
- 35 1. In-Home Care for Children (IHCC). – Services to assist  
36 families to meet the in-home care needs of children, including  
37 those individuals under the age of 21 receiving  
38 comprehensive and preventive child health services through  
39 the Early and Periodic Screening, Diagnosis, and Treatment  
40 (EPSDT) program.
- 41 2. In-Home Care for Adults (IHCA). – Services to meet the  
42 eating, dressing, bathing, toileting, and mobility needs of  
43 individuals 21 years of age or older who, because of a  
44 medical condition, disability, or cognitive impairment,  
45 demonstrate unmet needs for, at a minimum (i) three of the  
46 five qualifying activities of daily living (ADLs) with limited  
47 hands-on assistance; (ii) two ADLs, one of which requires  
48 extensive assistance; or (iii) two ADLs, one of which requires  
49 assistance at the full dependence level. The five qualifying  
50 ADLs are eating, dressing, bathing, toileting, and mobility.



- 1 IHCA shall serve individuals at the highest level of need for  
2 in-home care who are able to remain safely in the home.
- 3 b. Establish, in accordance with G.S. 108A-54.2, a Medical Coverage  
4 Policy for each of these programs to include:
- 5 1. For IHCC, up to 60 hours per month in accordance with an  
6 assessment conducted by DMA or its designee and a plan of  
7 care developed by the service provider and approved by  
8 DMA or its designee. Additional hours may be authorized  
9 when the services are required to correct or ameliorate defects  
10 and physical and mental illnesses and conditions in this age  
11 group, as defined in 42 U.S.C. § 1396d(r)(5), in accordance  
12 with a plan of care approved by DMA or its designee.
- 13 2. For IHCA, up to 80 hours per month in accordance with an  
14 assessment conducted by DMA or its designee and a plan of  
15 care developed by the service provider and approved by  
16 DMA or its designee.
- 17 c. Implement the following program limitations and restrictions to  
18 apply to both IHCC and IHCA:
- 19 1. Additional services to children required under federal EPSDT  
20 requirements shall be provided to qualified recipients in the  
21 IHCC Program.
- 22 2. Services shall be provided in a manner that supplements,  
23 rather than supplants, family roles and responsibilities.
- 24 3. Services shall be authorized in amounts based on assessed  
25 need of each recipient, taking into account care and services  
26 provided by the family, other public and private agencies, and  
27 other informal caregivers who may be available to assist the  
28 family. All available resources shall be utilized fully, and  
29 services provided by such agencies and individuals shall be  
30 disclosed to the DMA assessor.
- 31 4. Services shall be directly related to the hands-on assistance  
32 and related tasks to complete each qualifying ADL in  
33 accordance with the IHCC or IHCA assessment and plan of  
34 care, as applicable.
- 35 5. Services provided under IHCC and IHCA shall not include  
36 household chores not directly related to the qualifying ADLs,  
37 nonmedical transportation, financial management, and  
38 non-hands-on assistance such as cueing, prompting, guiding,  
39 coaching, or babysitting.
- 40 6. Essential errands that are critical to maintaining the health  
41 and welfare of the recipient may be approved on a  
42 case-by-case basis by the DMA assessor when there is no  
43 family member, other individual, program, or service  
44 available to meet this need. Approval, including the amount  
45 of time required to perform this task, shall be documented on  
46 the recipient's assessment form and plan of care.
- 47 d. Utilize the following process for admission to the HCC programs:
- 48 1. The recipient shall be seen by his or her primary or attending  
49 physician, who shall provide written authorization for referral  
50 for the service and written attestation to the medical necessity  
51 for the service.

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2. All assessments for admission to IHCC and IHCA, continuation of these services, and change of status reviews for these services shall be performed by DMA or its designee. The DMA designee may not be an owner of a provider business or provider of in-home or personal care services of any type.
  3. DMA or its designee shall determine and authorize the amount of service to be provided on a "needs basis," as determined by its review and findings of each recipient's degree of functional disability and level of unmet needs for hands-on personal assistance in the five qualifying ADLs.
- e. Take all appropriate actions to manage the cost, quality, program compliance, and utilization of services provided under the IHCC and IHCA programs, including, but not limited to, the following:
1. Priority independent reassessment of recipients before the anniversary date of their initial admission or reassessment for those recipients likely to qualify for the restructured IHCC and IHCA programs.
  2. Priority independent reassessment of recipients requesting a change of service provider.
  3. Targeted reassessments of recipient prior to their anniversary dates when the current provider assessment indicates they may not qualify for the program or for the amount of services they are currently receiving.
  4. Targeted reassessment of recipients receiving services from providers with a history of program noncompliance.
  5. Provider desk and on-site reviews and recoupment of all identified overpayments or improper payments.
  6. Recipient reviews, interviews, and surveys.
  7. The use of mandated electronic transmission of referral forms, plans of care, and reporting forms.
  8. The use of mandated electronic transmission of uniform reporting forms for recipient complaints and critical incidents.
  9. The use of automated systems to monitor, evaluate, and profile provider performance against established performance indicators.
  10. Establishment of rules that implement the requirements of 42 C.F.R. § 441.16.
- f. Time line for implementation of new IHCC and IHCA programs.
1. Subject to approvals from CMS, DMA shall make every effort to implement the new IHCC and IHCA programs.
  2. DMA shall ensure that individuals who qualify for the IHCC and IHCA programs shall not experience a lapse in service and, if necessary, shall be admitted on the basis of their current provider assessment when an independent reassessment has not yet been performed and the current assessment documents that the medical necessity requirements for the IHCC or IHCA program, as applicable, have been met.
  3. Prior to the implementation date of the new IHCC and IHCA programs, all recipients in the PCS and PCS-Plus programs

- 1 shall be notified pursuant to 42 C.F.R. § 431.220(b) and  
2 discharged, and the Department shall no longer provide  
3 services under the PCS and PCS-Plus programs, which shall  
4 terminate. Recipients who qualify for the new IHCC and  
5 IHCA programs shall be admitted and shall be eligible to  
6 receive services immediately.
- 7 (4) MH/DD/SA Personal Care and Personal Assistance Services Provision. – A  
8 denial, reduction, or termination of Medicaid-funded in-home care services  
9 shall result in a similar denial, reduction, or termination of State-funded  
10 MH/DD/SA personal care and personal assistance services.
- 11 (5) MH Residential. – The Department of Health and Human Services shall  
12 restructure the Medicaid child mental health, developmental disabilities, and  
13 substance abuse residential services to ensure that total expenditures are  
14 within budgeted levels. All restructuring activities shall be in compliance  
15 with federal and State law or rule. The Divisions of Medical Assistance and  
16 Mental Health, Developmental Disabilities, and Substance Abuse Services  
17 shall establish a team inclusive of providers, LMEs, and other stakeholders  
18 to assure effective transition of recipients to appropriate treatment options.  
19 The restructuring shall address all of the following:
- 20 a. Submission of the therapeutic family service definition to CMS.  
21 b. The Department shall reexamine the entrance and continued stay  
22 criteria for all residential services. The revised criteria shall promote  
23 least restrictive services in the home prior to residential placement.  
24 During treatment, there must be inclusion in community activities  
25 and parent or legal guardian participation in treatment.
- 26 c. Require all existing residential providers or agencies to be nationally  
27 accredited within one year of enactment of this act. Any providers  
28 enrolled after the enactment of this act shall be subject to existing  
29 endorsement and nationally accrediting requirements. In the interim,  
30 providers who are nationally accredited will be preferred providers  
31 for placement considerations.
- 32 d. Before a child can be admitted to Level III or Level IV placement,  
33 one or more of the following shall apply:
- 34 1. Placement shall be a step down from a higher level placement  
35 such as a psychiatric residential treatment facility or inpatient.  
36 2. Multisystemic therapy or intensive in-home therapy services  
37 have been unsuccessful.  
38 3. The Child and Family Team has reviewed all other  
39 alternatives and recommendations and recommends Level III  
40 or Level IV placement due to maintaining health and safety.  
41 4. Transition or discharge plan shall be submitted as part of the  
42 initial or concurrent request.
- 43 e. Length of stay is limited to no more than 120 days. Any exceptions  
44 granted will require (i) an independent psychiatric assessment, (ii)  
45 Child and Family Team review of goals and treatment progress, (iii)  
46 family or discharge placement setting actively engaged in treatment  
47 goals and objectives, and (iv) active participation of the prior  
48 authorization of vendor.
- 49 f. Submission of discharge plan is required in order for the request to  
50 be considered complete. Failure to submit a complete discharge plan  
51 will result in the request being returned as unable to process.

- 1 g. Any residential provider that ceases to function as a provider shall  
2 provide written notification to DMA, the Local Management Entity,  
3 recipients, and the prior authorization vendor 30 days prior to closing  
4 of the business.
- 5 h. Record maintenance is the responsibility of the provider and must be  
6 in compliance with record retention requirements. Records shall also  
7 be available to State, federal, and local agencies.
- 8 i. Failure to comply with notification, recipient transition planning, or  
9 record maintenance shall be grounds for withholding payment until  
10 such activity is concluded. In addition, failure to comply shall be  
11 conditions that prevent enrollment for any Medicaid or State-funded  
12 service. A provider (including its officers, directors, agents, or  
13 managing employees or individuals or entities having a direct or  
14 indirect ownership interest or control interest of five percent (5%) or  
15 more as set forth in Title XI of the Social Security Act) that fails to  
16 comply with the required record retention may be subject to  
17 sanctions, including exclusion from further participation in the  
18 Medicaid program, as set forth in Title XI of the Social Security Act.
- 19 (6) Medicaid identification cards. – The Department shall issue Medicaid  
20 identification cards to recipients on an annual basis with quarterly updates.
- 21 (7) The Division of Medical Assistance together with NCCCN shall develop a  
22 State plan amendment that maximizes the increased FMAP available  
23 through Health Home for enrollees with chronic conditions under PPACA.  
24 This may include, but is not limited to, modification to clinical policies and  
25 further case and care management consolidation.
- 26 (8) For the purpose of promoting cost-effective utilization of outpatient mental  
27 health services for children, DMA shall require prior authorization for  
28 services following the sixteenth visit.
- 29 (9) Provision of Medicaid Private Duty Nursing (PDN). – DMA shall change  
30 the Medicaid Private Duty Nursing program provided under the State  
31 Medicaid Plan, as follows:
- 32 a. Restructure the current PDN program to provide services that are:
- 33 1. Provided only to qualified recipients under the age of 21.
- 34 2. Authorized by the recipient's primary care or attending  
35 physician.
- 36 3. Limited to 16 hours of service per day, unless additional  
37 services are required to correct or ameliorate defects and  
38 physical and mental illnesses and conditions as defined in 42  
39 U.S.C. § 1396d(r)(5).
- 40 4. Approved based on an initial assessment and continuing need  
41 reassessments performed by an Independent Assessment  
42 Entity (IAE) that does not provide PDN services and  
43 authorized in amounts that are medically necessary based on  
44 the recipient's medical condition, amount of family assistance  
45 available, and other relevant conditions and circumstances, as  
46 defined by the Medicaid Clinical Coverage Policy for this  
47 service.
- 48 5. Provided in accordance with a plan of care approved by DMA  
49 or its designee.

- 1                   b.        Develop and submit to CMS a 1915(c) Home and Community Based  
 2                   Services Waiver for individuals dependent on technology to  
 3                   substitute for a vital body function.
- 4                   c.        Once approved by CMS and upon approval of the Medicaid Clinical  
 5                   Coverage Policy, all qualified recipients age 21 and older currently  
 6                   receiving PDN will be transitioned to waiver services provided under  
 7                   the Technology-Dependent Waiver.

8                   **SECTION 10.48.(b)** The Department of Health and Human Services shall not  
 9                   implement any actions directed by this act if the Department determines that such actions  
 10                  would jeopardize the receipt of federal funds appropriated or allocated to the Department.

11                  The Department of Health and Human Services shall not implement any actions  
 12                  directed by this act if the Department determines that such actions would jeopardize the receipt  
 13                  of federal Medicaid funds appropriated or allocated to the Department.  
 14

15                  **ADOPTION ASSISTANCE VENDOR PAYMENTS AND STATE ADOPTION**  
 16                  **ASSISTANCE**

17                  **SECTION 10.49.(a)** The Department of Health and Human Services, Division of  
 18                  Social Services, is authorized to eliminate the Adoption Assistance Vendor payments for all  
 19                  adoptions finalized on or after July 1, 2011. All agreements entered into prior to July 1, 2011,  
 20                  will remain in effect.

21                  **SECTION 10.49.(b)** Eligibility for Adoption Assistance is clarified to mean that  
 22                  only children who have been in foster care are eligible for Adoption Assistance.  
 23

24                  **REDUCE FRAUD AND ABUSE IN THE MEDICAID AND HEALTH CHOICE**  
 25                  **PROGRAMS**

26                  **SECTION 10.50.(a)** The General Statutes are amended by adding a new Chapter  
 27                  to read:

28   **"Chapter 108C.**

29   **"Medicaid and Health Choice Provider Requirements.**

30                   **"§ 108C-1. Scope; applicability of this Chapter.**

31                   (a) This Chapter shall apply to health care providers as that term is defined in  
 32                   G.S. 108C-2(e).

33                   (b) Nothing in the North Carolina General Statutes or the North Carolina  
 34                   Administrative Code shall be construed to give rise to any property or liberty right in initial or  
 35                   continued participation as a provider in the North Carolina Medicaid or Health Choice  
 36                   programs.

37                   (c) Entering into a Medicaid or Health Choice administrative participation or  
 38                   enrollment agreement with the Department does not give rise to any property or liberty right in  
 39                   continued participation as a provider in the North Carolina Medicaid or Health Choice  
 40                   programs.

41                   (d) The approval or acceptance of a Medicaid administrative participation or enrollment  
 42                   agreement by the Department that grants Medicaid billing privileges or allows a provider to  
 43                   furnish services under the North Carolina State Plan for Medical Assistance in accordance with  
 44                   42 C.F.R. § 431.107 shall not be construed to waive the Department's sovereign immunity.

45                   **"§ 108C-2. Definitions.**

46                   (a) Department. – The North Carolina Department of Health and Human Services.

47                   (b) Division. – The Division of Medical Assistance of the North Carolina Department  
 48                   of Health and Human Services.

49                   (c) Medicaid. – The Medical Assistance program authorized by G.S. 108A-54 and as  
 50                   set forth in the North Carolina State Plan for Medical Assistance.

1 (d) Health Choice. – The Health Insurance Program for Children authorized by  
2 G.S. 108A-70.25 and as set forth in the North Carolina State Plan for the Health Insurance  
3 Program for Children.

4 (e) Health Care Provider or Provider. – An individual, partnership, group, association,  
5 corporation, institution, or entity enrolled or seeking to enroll in the North Carolina Medicaid  
6 program or the North Carolina Health Insurance Program for Children, or who provides  
7 State-funded behavioral health services or any other services reimbursed from any federal  
8 block grant funds.

9 (f) Program Integrity. – This term means all activities undertaken by the Department,  
10 its Divisions, contractors, vendors, and authorized agents to prevent fraud, waste, and abuse in  
11 and ensure the integrity of the North Carolina Medicaid and Health Choice programs.

12 (g) Revalidation. – This term means the reenrollment of a provider in the Medicaid or  
13 Health Choice programs as required under State or federal law.

14 **"§ 108C-3. Medicaid and Health Choice provider screening.**

15 (a) The Department shall conduct provider screening of Medicaid and Health Choice  
16 providers in accordance with the Affordable Care Act and implementing regulations and this  
17 Chapter.

18 (b) The Department must screen all initial and revalidation applications for enrollment  
19 in Medicaid and Health Choice, including applications for a new practice location, based on  
20 Department assessment of risk and assignment to a categorical risk level of "limited,"  
21 "moderate," or "high." If a provider could fit within more than one risk level, the highest level  
22 of screening is applicable.

23 (c) Limited Categorical Risk Provider Categories. – The following provider types are  
24 hereby designated as "limited" categorical risk:

25 (1) Physician or nonphysician practitioners (including nurse practitioners,  
26 CRNAs, physician assistants, physician extenders, occupational therapists,  
27 speech/language pathologists, chiropractors, optometrists, and audiologists)  
28 and medical groups or clinics.

29 (2) Ambulatory surgical centers.

30 (3) End-stage renal disease facilities.

31 (4) Federally qualified health centers.

32 (5) Histocompatibility laboratories.

33 (6) Vision and hearing aid providers.

34 (7) Transplant and transplant-related service providers.

35 (8) Hospitals, including critical access hospitals, Department of Veterans Affairs  
36 Hospitals, and other State or federally owned hospital facilities.

37 (9) Health programs operated by an Indian Health Program (as defined in  
38 section 4(12) of the Indian Health Care Improvement Act) or an urban  
39 Indian organization (as defined in section 4(29) of the Indian Health Care  
40 Improvement Act) that receives funding from the Indian Health Service  
41 pursuant to Title V of the Indian Health Care Improvement Act.

42 (10) Mammography screening centers.

43 (11) Mass immunization roster billers.

44 (12) Organ procurement organizations.

45 (13) Radiation therapy centers.

46 (14) Rural health clinics.

47 (15) Nursing facilities, including intermediate care facilities for the mentally  
48 retarded.

49 (16) Local education agencies.

50 (d) Moderate Categorical Risk Provider Categories. – The following provider types are  
51 hereby designated as "moderate" categorical risk:

- 1           (1)    Directly-enrolled outpatient behavioral health services providers.
- 2           (2)    Comprehensive outpatient rehabilitation facilities.
- 3           (3)    Revalidating Critical Access Behavioral Health Agencies.
- 4           (4)    Hospice organizations.
- 5           (5)    Independent clinical laboratories.
- 6           (6)    Independent diagnostic testing facilities.
- 7           (7)    Physical therapists enrolling as individuals or as group practices.
- 8           (8)    Pharmacy services.
- 9           (9)    Dentists and orthodontists.
- 10          (10)   Revalidating agencies providing private duty nursing, home health, or home  
11            infusion services.
- 12          (11)   Revalidating agencies providing home- or community-based services  
13            pursuant to waivers authorized by the federal Centers for Medicare and  
14            Medicaid Services under 42 U.S.C. § 1396n(c).
- 15          (e)    High Categorical Risk Provider Categories. – The following provider types are  
16          hereby designated as "high" categorical risk:
- 17            (1)    Agencies providing personal care services or in-home care services.
- 18            (2)    Adult care homes delivering Medicaid reimbursed services.
- 19            (3)    Agencies providing durable medical equipment, including, but not limited  
20            to, orthotics and prosthetics.
- 21            (4)    Agencies providing behavioral health services, excluding revalidating  
22            critical access behavioral health agencies and all directly-enrolled outpatient  
23            behavioral health services providers.
- 24            (5)    Prospective (newly enrolling) critical access behavioral health agencies.
- 25            (6)    Prospective (newly enrolling) agencies providing private duty nursing, home  
26            health, or home infusion services.
- 27            (7)    Prospective (newly enrolling) agencies providing home- or  
28            community-based services pursuant to waivers authorized by the federal  
29            Centers for Medicare and Medicaid Services under 42 U.S.C. § 1396n(c).
- 30            (8)    Agencies providing HIV case management.
- 31            (9)    Ambulance services.
- 32            (10)   Providers who have incurred a Medicaid or Health Choice overpayment to  
33            the Department in excess of ten percent (10%) of the provider's payments  
34            received from Medicaid and Health Choice in the previous 12-month period.
- 35            (11)   Providers against whom the Department has imposed a payment suspension  
36            in accordance with 42 C.F.R. § 455.23 or G.S. 108C-4 within the previous  
37            12-month period.
- 38            (12)   Providers whose owners, operators, or managing employees were convicted  
39            of a disqualifying offense pursuant to G.S. 108C-3A but were granted an  
40            exemption by the Department within the previous 10 years.
- 41            (13)   Providers that were excluded, or whose owners, operators, or managing  
42            employees were excluded, by the OIG or another state's Medicaid program  
43            within the previous 10 years.
- 44          (f)    Adjustment of Risk Level. – The Department may adjust the categorical risk level  
45          for any individual provider or provider type from "limited" or "moderate" to "high" when any  
46          of the conditions described in 42 C.F.R. § 455.450(c)(3) or any of the following conditions  
47          occur:
- 48            (1)    The Department places a provider on prepayment review.
- 49            (2)    The provider has an outstanding overpayment owed to the Department.
- 50            (3)    The Department or any licensing board institutes a licensure action against a  
51            provider.

1        The Department shall establish a procedure for a provider who has had its risk level  
2 adjusted to the "moderate" or "high" category to be adjusted back to the previous risk level after  
3 the above condition(s) are resolved to the satisfaction of the Department.

4        (g) For providers dually-enrolled in the federal Medicare program and the North  
5 Carolina Medicaid program, the Department may rely on the results of the provider screening  
6 performed by Medicare contractors.

7        (h) For out-of-state providers, the Department may rely on the results of the provider  
8 screening performed by the Medicaid agencies or Health Insurance Program for Children  
9 agencies of other states.

10 **"§ 108C-3A. Criminal background checks for certain providers.**

11        (a) The Division shall conduct a criminal background check of and require the  
12 submission of fingerprints from a provider subject to G.S. 108C-3(e) (a high categorical risk  
13 provider), an owner and/or operator of that provider, and its managing employees, unless it is  
14 relying upon the results of screenings pursuant to G.S. 108C-3(g) or (h). The Division may also  
15 require a criminal background check of employees involved in direct patient care on behalf of  
16 the high categorical risk provider. For purposes of this section:

17            (1) A "managing employee" means a general manager, business manager,  
18 administrator, director, or other individual who exercises operational or  
19 managerial control over, or who directly or indirectly conducts the  
20 day-to-day operation of an institution, organization, or agency, including the  
21 chief financial officer for the organization.

22            (2) An "owner and/or operator" means a person or corporation that:

23            a. Has an ownership interest totaling five percent (5%) or more in a  
24 health care provider;

25            b. Has an indirect ownership interest equal to five percent (5%) or more  
26 in a health care provider;

27            c. Has a combination of direct and indirect ownership interests equal to  
28 five percent (5%) or more in a health care provider;

29            d. Is an officer or director of a health care provider that is organized as  
30 a corporation or limited liability company; or

31            e. Is a partner in a health care provider that is organized as a  
32 partnership.

33        (b) Upon request by the Division, the North Carolina Department of Justice shall  
34 provide to the Division a national criminal history for a provider or other person subject to this  
35 section. The Division shall provide to the Department of Justice the fingerprints of the covered  
36 person to be checked, any additional information required by the Department of Justice, and a  
37 form signed by the person to be checked consenting to the check of the criminal record and to  
38 the use of fingerprints and other identifying information required by the State or National  
39 Repositories. The fingerprints of the individual shall be forwarded to the State Bureau of  
40 Investigation for a search of the State criminal history record file, and the State Bureau of  
41 Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a  
42 national criminal history record check. The Division shall keep all information pursuant to this  
43 section confidential. The Department of Justice shall charge a reasonable fee for conducting the  
44 checks of the criminal history records authorized by this section. A provider or applicant shall  
45 reimburse the Department for the cost of capturing fingerprints pursuant to this Chapter.

46        (c) All releases of criminal history information under this section shall be subject to,  
47 and in compliance with, rules governing the dissemination of criminal history record checks as  
48 adopted by the North Carolina Division of Criminal Information. All of the information  
49 received through the checking of the criminal history is privileged information and for the  
50 exclusive use of the Division.



1       (d)     The Division shall deny enrollment or terminate the enrollment of a provider where  
2 any person with a five percent (5%) or greater direct or indirect ownership interest in the  
3 provider has been convicted of any criminal offense related to that person's involvement with  
4 the Medicare, Medicaid, or Health Choice program in the last 10 years, unless the Division  
5 determines that denial or termination of enrollment is not in the best interests of the Medicaid  
6 program and the State Medicaid agency documents that determination in writing.

7       (e)     The Division may deny enrollment or terminate the enrollment of a provider subject  
8 to G.S. 108C-3(e) if it is determined that the applicant, provider, or owner, operator, or  
9 employee of the provider or applicant has been convicted of any of the following offenses, if,  
10 after review of the seriousness, age, and other circumstances involving the offense, the Division  
11 determines it is in the best interest of the integrity of the Medicaid program or Health Choice  
12 program to do so: any criminal offenses as set forth in any of the following Articles of Chapter  
13 14 of the General Statutes; Article 5, Counterfeiting and Issuing Monetary Substitutes; Article  
14 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7A, Rape  
15 and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13,  
16 Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14,  
17 Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16,  
18 Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and  
19 Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit  
20 Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20,  
21 Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article  
22 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery;  
23 Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article  
24 36A, Riots and Civil Disorders; Article 39, Protection of Minors; Article 40, Protection of the  
25 Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes  
26 also include possession or sale of drugs in violation of the North Carolina Controlled  
27 Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses  
28 such as sale to underage persons in violation of G.S. 18B-302, or driving while impaired in  
29 violation of G.S. 20-138.1 through G.S. 20-138.5.

30 **"§ 108C-4. Payment suspension.**

31       (a)     In addition to the procedures for suspending payment set forth in 42 C.F.R. §  
32 455.23, the Department shall also suspend payment to any North Carolina Medicaid or North  
33 Carolina Health Choice provider which:

34             (1)     Owes an outstanding overpayment, assessment, fine or other accounts  
35 receivable to the Department; or

36             (2)     Has had its participation in the North Carolina Medicaid or North Carolina  
37 Health Choice programs suspended or terminated by the Division of Medical  
38 Assistance.

39       (b)     For providers who owe an outstanding overpayment, assessment, or other accounts  
40 receivable to the Department, the suspension of payment shall not exceed the amount owed to  
41 the Department, including any applicable penalty and interest charges, and shall continue  
42 during the pendency of any appeal filed at the Office of Administrative Hearings or State or  
43 federal courts.

44       (c)     Providers whose participation in the North Carolina Medicaid or North Carolina  
45 Health Choice programs has been suspended or terminated shall have all payments suspended  
46 beginning on the 31<sup>st</sup> day after the notice of suspension or termination is mailed by the  
47 Department to the provider's last known address on file with the Division, and the suspension  
48 of payment shall continue during the pendency of any appeal filed at the Office of  
49 Administrative Hearings or State or federal courts. The notice to the provider of the  
50 overpayment, assessment, other accounts receivable, suspension, or termination shall include

1 notice of the potential payment suspension. The Department is not required to send a separate  
2 notice of the payment suspension.

3 (d) If the final agency decision is in favor of the provider, or if the provider appeals the  
4 final agency decision and the final court decision is in favor of the provider, the Department  
5 shall reimburse the provider for payments for all clean claims suspended during the period of  
6 appeal.

7 (e) The Department shall not make any payment to a North Carolina Medicaid or North  
8 Carolina Health Choice provider unless and until all outstanding recoupments, assessments,  
9 finances, or overpayments have been repaid in full to the Department, together with any applicable  
10 penalty and interest charges, or unless and until the provider has entered into a payment plan  
11 approved by the Department not to exceed 24 months. The Department has the sole discretion  
12 whether to allow a provider to enter into a payment plan and to set terms and conditions for  
13 such plans.

14 (f) A recoupment, assessment, fine, or overpayment owed to the Department becomes  
15 outstanding on the 31<sup>st</sup> day after the final notice of such recoupment, assessment, fine, or  
16 overpayment is mailed by the Department to the provider's last known address on file with the  
17 Division. For purposes of this Chapter, "outstanding" means 31 days after the provider receives  
18 notification that the Department has identified an overpayment, fine, or assessment or other  
19 accounts receivable owed to the Department, or upon the 31<sup>st</sup> day after the recoupment,  
20 assessment, fine, or overpayment is upheld, in full or in part, by a Department hearing officer  
21 following an informal hearing or reconsideration review, regardless of whether the provider has  
22 appealed such notification or determination to the Office of Administrative Hearings or any  
23 State or federal courts.

24 (g) All payments suspended in accordance with this Chapter shall be applied toward  
25 any outstanding recoupment, assessment, fine, or overpayment owed to the Department unless  
26 the Department is required to remit such payments to the United States Internal Revenue  
27 Service in accordance with federal law.

28 (h) When issuing payment suspensions in accordance with this Chapter, the Department  
29 may suspend payment to all providers which share the same IRS Employee Identification  
30 Number or corporate parent as the provider or provider site location which owes the  
31 recoupment, fine, assessment, or overpayment.

32 (i) If the Office of Administrative Hearings issues a stay of the agency action giving  
33 rise to the payment suspension described herein in accordance with G.S. 1A-1, Rule 65 of the  
34 Rules of Civil Procedure, a bond equal to the outstanding amount owed to the Department, or  
35 one month of the provider's average annual billing, shall be required, the case shall be placed  
36 on an expedited hearing docket and such stay shall only be in effect for a maximum of 30 days  
37 from issuance.

38 (j) The Office of Administrative Hearings is prohibited from issuing a stay of a  
39 payment suspension implemented in accordance with 42 C.F.R. § 455.23.

40 **"§ 108C-5. Agents, clearinghouses, and alternate payees; registration required.**

41 The Department is authorized to establish a registry of billing agents, clearinghouses,  
42 and/or alternate payees that submit claims on behalf of health care providers and to charge a  
43 reasonable fee to cover the costs of creating the registry in accordance with the Affordable Care  
44 Act and implementing regulations. All billing agents, clearinghouses, or alternate payees shall  
45 register with the Department within six months of the enactment of this Chapter before  
46 submitting claims on behalf of health care providers. Any billing agent, clearinghouse, or  
47 alternate payee that fails to register with the Department prior to submitting claims on behalf of  
48 health care providers shall be excluded from the registry for a period not to exceed one year.

49 **"§ 108C-6. Prepayment claims review.**

50 (a) In order to ensure that all claims presented by a provider for payment by the  
51 Department meet the Department's medical necessity criteria and all other Medicaid, Health

1 Choice, or other federal or State documentation requirements, a provider may be required to  
2 undergo prepayment claims review by the Department. Grounds for being placed on  
3 prepayment claims review include, but shall not be limited to, receipt by the Department of  
4 allegations of fraud, waste, or abuse and identification of aberrant billing practices as a result of  
5 investigations or data analysis performed by the Division, its contractors, and agents.

6 (b) Providers are not entitled to payment prior to claims review by the Department. The  
7 Department or its applicable contractor is required to notify the provider in writing of the  
8 decision and the process for submitting claims for prepayment claims review within no less  
9 than fourteen calendar days prior to instituting prepayment claims review, and the notice shall  
10 contain the following:

11 (1) An explanation of the Department's decision to place the provider on  
12 prepayment claims review.

13 (2) A description of the review process and time lines.

14 (3) A list of all supporting documentation that the provider will need to submit  
15 contemporaneously with the claims that will be subject to the prepayment  
16 claims review.

17 (4) The process for submitting claims and supporting documentation.

18 (c) The Department or its applicable contractor is required to process all claims  
19 submitted for prepayment review within 30 calendar days of submission by the provider. If the  
20 Department or its applicable contractor need additional information to process a claim pursuant  
21 to this section, a request for additional information must be sent to the provider in writing  
22 within 15 calendar days of receipt of such claim, and the provider shall have 15 calendar days  
23 to provide additional information. The Department or its applicable contractor shall have an  
24 additional 30 days to process a claim after receipt of additional information. If the provider fails  
25 to submit additional information for review, the claim may be denied.

26 (d) The provider's claims shall remain subject to the prepayment claims review process  
27 until the provider achieves three consecutive months with a minimum seventy percent (70%)  
28 clean claims rate. A provider shall not withhold claims to avoid the claims review process. If  
29 the provider does not meet this standard within six months of being placed on prepayment  
30 claims review, the Department may implement sanctions, including termination of the  
31 applicable Medicaid Administrative Participation Agreement, or continuation of prepayment  
32 review for an additional six-month period. In no instance shall prepayment claims review  
33 continue longer than 12 months.

34 (e) The decision to place a provider on prepayment review does not give rise to a  
35 contested case appealable under Chapter 150B of the General Statutes. A provider may not  
36 appeal or otherwise contest a decision of the Department to place a provider on prepayment  
37 review. A determination by the Department that the provider did not satisfy the threshold set  
38 forth in subsection (d) of this section is an adverse determination, and the provider is entitled to  
39 appeal such a determination. The provider maintains its right to appeal the denial of any claims  
40 subject to prepayment claims review by the Department in accordance with procedures set forth  
41 by the Department and its fiscal agent.

42 (f) Nothing in this section shall prevent the Department from engaging in random  
43 prepayment claims review or otherwise reviewing or auditing providers' claims before  
44 payment.

45 (g) The Office of Administrative Hearings is prohibited from issuing a stay of the  
46 Department's decision to place a provider on prepayment review.

47 **"§ 108C-7. Threshold recovery amount.**

48 The Department shall not pursue recovery of Medicaid or Health Choice overpayments  
49 owed to the State for any total amount less than one hundred fifty dollars (\$150.00) unless  
50 directed to do so by the Centers for Medicare and Medicaid Services or unless such recovery

1 would be cost-effective and in the best interest of the State of North Carolina and Medicaid  
2 recipients.

3 **"§ 108C-8. Cooperation with investigations and audits.**

4 (a) Providers must permit all announced and unannounced site visits, audits,  
5 investigations, postpayment reviews, or other program integrity activities conducted by  
6 licensing agencies, regulatory boards, the Department, its Divisions, or its contractors, vendors,  
7 or authorized agents. Providers who fail to grant prompt and reasonable access or who fail to  
8 timely provide documentation to licensing agencies, regulatory boards, the Department, its  
9 Divisions, or its contractors, vendors, or authorized agents shall be subject to a five hundred  
10 dollar (\$500.00) per day fine and may be terminated from the North Carolina Medicaid or  
11 North Carolina Health Choice programs.

12 (b) The Department shall establish deadlines of no less than 24 hours for providers to  
13 submit documentation in response to announced and unannounced site visits, audits,  
14 investigations, postpayment reviews, or other program integrity activities. Once the provider  
15 has been notified in writing of the findings, including, but not limited to, any overpayment  
16 determination, resulting from any announced or unannounced site visit, audit, investigation,  
17 postpayment review, or other program integrity action, the provider shall have no more than 30  
18 business days in which to submit additional documentation to the Department or longer if the  
19 provider can show good cause. There shall be no additional opportunities in which to submit  
20 further documentation for review by the Department in relation to the specific audit,  
21 investigation, or postpayment review findings. This section does not apply to criminal  
22 investigations conducted by the Medicaid Investigations Unit of the Attorney General's Office.

23 (c) Nothing in this Chapter shall be construed to limit the ability of the federal  
24 government, the Centers for Medicare and Medicaid Services, the U.S. Department of Health  
25 and Human Services Office of Inspector General, the U.S. Department of Justice, or any of the  
26 foregoing entities' contractors or agents, to enforce federal requirements for the submission of  
27 documentation in response to an audit or investigation.

28 **"§ 108C-9. Collaboration among agencies to ensure effective investigation, monitoring,**  
29 **and prosecution of Medicaid fraud and abuse.**

30 (a) All State regulatory agencies, licensing boards, and accrediting bodies that are  
31 involved in the monitoring, investigation, licensure, or prosecution of health care providers are  
32 directed to meet on a regular basis, but no more often than quarterly, to facilitate early  
33 identification of payment error trends, to review procedures for incident reporting and response,  
34 and to identify system challenges and inconsistencies with the goal of improving operational  
35 performance of the North Carolina Medicaid and North Carolina Health Choice programs at the  
36 State and provider level.

37 (b) Meetings shall consist of a closed session and an open session:

38 (1) Closed session: Licensing boards, law enforcement, and State regulatory  
39 agencies will share information, to the extent they are authorized or  
40 permitted under federal and State law, regarding actions taken against health  
41 care providers, and will develop strategies and procedures for responding to  
42 fraud, abuse, neglect, exploitation, and quality of care issues.

43 (2) Open session: Stakeholders, provider representatives, and other health care  
44 professionals, including health insurers and pharmacy benefit managers, will  
45 be invited to participate.

46 (c) The Department shall establish and announce the meetings' schedule, and meetings  
47 shall be chaired by the State Medicaid Director or his or her designee.

48 **"§ 108C-10. Provider enrollment criteria.**

49 (a) Providers who submit an initial application for enrollment in North Carolina  
50 Medicaid or North Carolina Health Choice, including applications for a new practice or site  
51 location, shall be required to submit an attestation and complete required trainings prior to

1 being enrolled. Currently enrolled providers shall be required to submit an attestation and  
2 complete required trainings within six months of the enactment of this Chapter.

3 (b) The attestation shall contain a statement that the applicant has the minimum  
4 business requirements necessary to comply with all federal and State requirements governing  
5 the Medicaid and Children's Health Insurance programs, does not owe any outstanding taxes or  
6 finances to the U.S. or North Carolina Departments of Revenue or Labor or the Employment  
7 Security Commission, does not owe any overpayment, assessment, or fine to the North  
8 Carolina Medicaid or North Carolina Health Choice programs or any other State Medicaid or  
9 Children's Health Insurance program, and has implemented a corporate compliance program as  
10 required under federal law.

11 (c) A provider representative shall be required to attend trainings on at least the  
12 following topics prior to the provider being enrolled in the North Carolina Medicaid or North  
13 Carolina Health Choice programs:

14 (1) Basic Medicaid 101, including the Basic Medicaid Billing Guide, audit  
15 procedures, common billing errors and how to avoid them;

16 (2) How to identify Medicaid recipient fraud;

17 (3) How to report suspected fraud or abuse; and

18 (4) Medicaid recipient due process and appeal rights.

19 Online training shall be available for completion through the Department's Web site. The  
20 Department may charge a fee for such training as necessary to control costs.

21 (d) Making any false or misleading statement in an attestation or enrollment application  
22 shall be grounds for denial or termination of, or permanent exclusion from, enrollment in the  
23 North Carolina Medicaid or North Carolina Health Choice programs.

24 **"§ 108C-11. Change of ownership and successor liability.**

25 (a) For purposes of health care providers subject to this Chapter, any of the following  
26 occurrences shall constitute a change of ownership:

27 (1) Partnership. – In the case of a partnership, the removal, addition, or  
28 substitution of a partner, unless the partners expressly agree otherwise, as  
29 permitted by Chapter 59 of the General Statutes, constitutes change of  
30 ownership.

31 (2) Limited liability company. – In the case of an LLC, the withdrawal or  
32 removal of a member, or when a person acquires a membership interest from  
33 the LLC or when a business entity converts or merges into the LLC pursuant  
34 to Chapter 57A of the General Statutes, constitutes change of ownership.

35 (3) Unincorporated sole proprietorship. – Transfer of title and property to  
36 another party constitutes change of ownership.

37 (4) Corporation. – The merger of the provider corporation into another  
38 corporation, or the consolidation of two or more corporations, resulting in  
39 the creation of a new corporation constitutes change of ownership. Transfer  
40 of corporate stock or the merger of another corporation into the provider  
41 corporation does not constitute change of ownership.

42 (5) Leasing. – The lease of all or part of a provider facility constitutes change of  
43 ownership of the leased portion. The provider agreement will be assigned to  
44 the lessee only to the extent of the leased portion of the facility.

45 (b) Notice to the Department. – A provider must notify the Department at least 30 days  
46 prior to the effective date of any change of ownership and provide a copy of the document(s)  
47 which the provider purports to constitute the sale or lease agreement between the parties.

48 (c) Assignment of Agreement. – When there is a change of ownership as specified in  
49 subsection (a) of this section, the existing provider agreement will automatically be assigned to  
50 the new owner.

1       (d) Conditions That Apply to Assigned Agreements. – An assigned agreement is subject  
2 to all applicable statutes and regulations and to the terms and conditions under which it was  
3 originally issued including, but not limited to, the following:

- 4           (1) Any existing plan of correction.
- 5           (2) Compliance with applicable health and safety standards.
- 6           (3) Assumption of any liability associated with the agreement.
- 7           (4) Payment of any outstanding debts, recoupments, overpayments, assessments,  
8 taxes, or other accounts receivables owed to the Department or the State of  
9 North Carolina arising from the agreement.

10       (e) If the purchaser or lessee elects not to accept a transfer of the provider agreement,  
11 then the old agreement should be terminated, and the purchaser or lessee is considered a new  
12 applicant. The Department may deny the application based on any outstanding debts,  
13 recoupments, overpayments, assessments, taxes, or other accounts receivables owed to the  
14 Department or the State of North Carolina arising from the previous agreement."

15       **SECTION 10.50.(b)** The Division, in consultation with stakeholder groups and the  
16 North Carolina Department of Justice, may study the status of criminal and other employment  
17 background checks among all providers and health care licensing boards and may make  
18 recommendations to the 2012 Regular Session of the 2011 General Assembly concerning the  
19 use of background checks with respect to participation in the Medicaid and Health Choice  
20 programs.

21       **SECTION 10.50.(c)** G.S. 108A-54.2 reads as rewritten:

22 **"§ 108A-54.2. Procedures for ~~changing medical policy.~~ medical or clinical coverage policy.**

23       (a) The Department shall develop, amend, and adopt medical or clinical coverage  
24 policy in accordance with ~~the following:~~ this section.

25       (b) Medical and clinical coverage policy is defined as those policies, definitions, or  
26 guidelines utilized to evaluate the health conditions of a recipient so as to determine eligibility,  
27 authorization, or continued authorization for a covered procedure, product, or service and to  
28 establish requirements for how a covered procedure, product, or service shall be delivered by a  
29 provider, including, but not limited to, service records requirements.

30       (c) The Department shall:

- 31           (1) During the development of new medical or clinical coverage policy or  
32 amendment to existing medical coverage policy, consult with and seek the  
33 advice of the Physician Advisory Group and other organizations the  
34 Secretary deems appropriate. The Secretary shall also consult with and seek  
35 the advice of officials of the professional societies or associations  
36 representing providers who are affected by the new medical or clinical  
37 coverage policy or amendments to existing medical or clinical coverage  
38 policy.
- 39           (2) At least 45 days prior to the adoption of new or amended medical or clinical  
40 coverage policy, the Department shall:
  - 41           a. Publish the proposed new or amended medical or clinical coverage  
42 policy on the Department's Web site;
  - 43           b. Notify all Medicaid providers of the proposed, new, or amended  
44 policy; and
  - 45           c. Upon request, provide persons copies of the proposed medical or  
46 clinical coverage policy.
- 47           (3) During the 45-day period immediately following publication of the proposed  
48 new or amended medical or clinical coverage policy, accept oral and written  
49 comments on the proposed new or amended policy.

- 1 (4) If, following the comment period, the proposed new or amended medical or  
2 clinical coverage policy is modified, then the Department shall, at least 15  
3 days prior to its adoption:  
4 a. Notify all Medicaid providers of the proposed policy;  
5 b. Upon request, provide persons notice of amendments to the proposed  
6 policy; and  
7 c. Accept additional oral or written comments during this 15-day  
8 period."

9 **SECTION 10.50.(d)** G.S. 150B-1 reads as rewritten:

10 **"§ 150B-1. Policy and scope.**

11 (a) Purpose. – This Chapter establishes a uniform system of administrative rule making  
12 and adjudicatory procedures for agencies. The procedures ensure that the functions of rule  
13 making, investigation, advocacy, and adjudication are not all performed by the same person in  
14 the administrative process.

15 (b) Rights. – This Chapter confers procedural rights.

16 (c) Full Exemptions. – This Chapter applies to every agency except:

- 17 (1) The North Carolina National Guard in exercising its court-martial  
18 jurisdiction.  
19 (2) The Department of Health and Human Services in exercising its authority  
20 over the Camp Butner reservation granted in Article 6 of Chapter 122C of  
21 the General Statutes.  
22 (3) The Utilities Commission.  
23 (4) The Industrial Commission.  
24 (5) The Employment Security Commission.  
25 (6) The State Board of Elections in administering the HAVA Administrative  
26 Complaint Procedure of Article 8A of Chapter 163 of the General Statutes.  
27 (7) The North Carolina State Lottery.  
28 (8) **(Expires June 30, 2012)** Except as provided in G.S. 150B-21.1B, any  
29 agency with respect to contracts, disputes, protests, and/or claims arising out  
30 of or relating to the implementation of the American Recovery and  
31 Reinvestment Act of 2009 (Public Law 111-5).

32 (d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the  
33 following:

- 34 (1) The Commission.  
35 (2) Repealed by Session Laws 2000-189, s. 14, effective July 1, 2000.  
36 (3) Repealed by Session Laws 2001-474, s. 34, effective November 29, 2001.  
37 (4) The Department of Revenue, with respect to the notice and hearing  
38 requirements contained in Part 2 of Article 2A.  
39 (5) The North Carolina Global TransPark Authority with respect to the  
40 acquisition, construction, operation, or use, including fees or charges, of any  
41 portion of a cargo airport complex.  
42 (6) The Department of Correction, with respect to matters relating solely to  
43 persons in its custody or under its supervision, including prisoners,  
44 probationers, and parolees.  
45 (7) The State Health Plan for Teachers and State Employees in administering  
46 the provisions of Article 3A of Chapter 135 of the General Statutes.  
47 (8) The North Carolina Federal Tax Reform Allocation Committee, with respect  
48 to the adoption of the annual qualified allocation plan required by 26 U.S.C.  
49 § 42(m), and any agency designated by the Committee to the extent  
50 necessary to administer the annual qualified allocation plan.

- 1 (9) The Department of Health and Human Services in adopting new or  
2 amending existing medical coverage policies under the State Medicaid  
3 ~~Program-Program~~ pursuant to G.S. 108A-54.2.
- 4 (10) The Economic Investment Committee in developing criteria for the Job  
5 Development Investment Grant Program under Part 2F of Article 10 of  
6 Chapter 143B of the General Statutes.
- 7 (11) The North Carolina State Ports Authority with respect to fees established  
8 pursuant to G.S. 143B-454(a)(11).
- 9 (12) The Department of Commerce and the Economic Investment Committee in  
10 developing criteria and administering the Site Infrastructure Development  
11 Program under G.S. 143B-437.02.
- 12 (13) The Department of Commerce and the Governor's Office in developing  
13 guidelines for the One North Carolina Fund under Part 2H of Article 10 of  
14 Chapter 143B of the General Statutes.
- 15 (14) The Community Colleges System Office in developing guidelines for the  
16 Community College Facilities and Equipment Fund.
- 17 (15) Repealed by Session Laws 2009-445, s. 41(b), effective August 7, 2009.
- 18 (16) The State Ethics Commission with respect to Chapter 138A and Chapter  
19 120C of the General Statutes.
- 20 (17) The Department of Commerce in developing guidelines for the NC Green  
21 Business Fund under Part 2B of Article 10 of Chapter 143B of the General  
22 Statutes.
- 23 (18) The Department of Commerce and the Economic Investment Committee in  
24 developing criteria and administering the Job Maintenance and Capital  
25 Development Fund under G.S. 143B-437.012.
- 26 (19) The Community Colleges System Office in developing criteria and  
27 guidelines administering the Customized Training Program under  
28 G.S. 115D-5.1.
- 29 (e) Exemptions From Contested Case Provisions. – The contested case provisions of  
30 this Chapter apply to all agencies and all proceedings not expressly exempted from the Chapter.  
31 The contested case provisions of this Chapter do not apply to the following:
- 32 (1) The Department of Health and Human Services and the Department of  
33 Environment and Natural Resources in complying with the procedural  
34 safeguards mandated by Section 680 of Part H of Public Law 99-457 as  
35 amended (Education of the Handicapped Act Amendments of 1986).
- 36 (2) Repealed by Session Laws 1993, c. 501, s. 29.
- 37 (3), (4) Repealed by Session Laws 2001-474, s. 35, effective November 29,  
38 2001.
- 39 (5) Hearings required pursuant to the Rehabilitation Act of 1973, (Public Law  
40 93-122), as amended and federal regulations promulgated thereunder.  
41 G.S. 150B-51(a) is considered a contested case hearing provision that does  
42 not apply to these hearings.
- 43 (6) Repealed by Session Laws 2007-491, s. 2, effective January 1, 2008.
- 44 (7) The Department of Correction.
- 45 (8) The Department of Transportation, except as provided in G.S. 136-29.
- 46 (9) The North Carolina Occupational Safety and Health Review Commission.
- 47 (10) The North Carolina Global TransPark Authority with respect to the  
48 acquisition, construction, operation, or use, including fees or charges, of any  
49 portion of a cargo airport complex.
- 50 (11) Hearings that are provided by the Department of Health and Human Services  
51 regarding the eligibility and provision of services for eligible assaultive and



- 1 violent children, as defined in G.S. 122C-3(13a), shall be conducted  
2 pursuant to the provisions outlined in G.S. 122C, Article 4, Part 7.
- 3 (12) The State Health Plan for Teachers and State Employees respect to disputes  
4 involving the performance, terms, or conditions of a contract between the  
5 Plan and an entity under contract with the Plan.
- 6 (13) The State Health Plan for Teachers and State Employees with respect to  
7 determinations by the Executive Administrator and Board of Trustees, the  
8 Plan's designated utilization review organization, or a self-funded health  
9 maintenance organization under contract with the Plan that an admission,  
10 availability of care, continued stay, or other health care service has been  
11 reviewed and, based upon the information provided, does not meet the Plan's  
12 requirements for medical necessity, appropriateness, health care setting, or  
13 level of care or effectiveness, and the requested service is therefore denied,  
14 reduced, or terminated.
- 15 (14) The Department of Crime Control and Public Safety for hearings and  
16 appeals authorized under Chapter 20 of the General Statutes.
- 17 (15) The Wildlife Resources Commission with respect to determinations of  
18 whether to authorize or terminate the authority of a person to sell licenses  
19 and permits as a license agent of the Wildlife Resources Commission.
- 20 ~~(16) The Department of Health and Human Services with respect to contested~~  
21 ~~eases commenced by (i) Medicaid providers appealing a denial or reduction~~  
22 ~~in reimbursement for community support services, and (ii) community~~  
23 ~~support services providers appealing decisions by the LME to deny or~~  
24 ~~withdraw the provider's endorsement.~~
- 25 (17) The Department of Health and Human Services with respect to the review of  
26 North Carolina Health Choice Program determinations regarding delay,  
27 denial, reduction, suspension, or termination of health services, in whole or  
28 in part, including a determination about the type or level of services.
- 29 (f) Exemption for the University of North Carolina. – Except as provided in  
30 G.S. 143-135.3, no Article in this Chapter except Article 4 applies to The University of North  
31 Carolina."

32 **SECTION 10.50.(e)** G.S. 150B-34 reads as rewritten:

33 **"§ 150B-34. Decision of administrative law judge.**

34 (a) Except as provided in G.S. 150B-36(c), and subsection (c) of this section, in each  
35 contested case the administrative law judge shall make a decision that contains findings of fact  
36 and conclusions of law and return the decision to the agency for a final decision in accordance  
37 with G.S. 150B-36. The administrative law judge shall decide the case based upon the  
38 preponderance of the evidence, giving due regard to the demonstrated knowledge and expertise  
39 of the agency with respect to facts and inferences within the specialized knowledge of the  
40 agency. All references in this Chapter to the administrative law judge's decision shall include  
41 orders entered pursuant to G.S. 150B-36(c).

42 (b) Repealed by Session Laws 1991, c. 35, s. 6.

43 ~~(e)(c1)~~ Notwithstanding subsection (a) of this section, in cases arising under Article 9 of  
44 Chapter 131E of the General Statutes, the administrative law judge shall make a recommended  
45 decision or order that contains findings of fact and conclusions of law. A final decision shall be  
46 made by the agency in writing after review of the official record as defined in G.S. 150B-37(a)  
47 and shall include findings of fact and conclusions of law. The final agency decision shall recite  
48 and address all of the facts set forth in the recommended decision. For each finding of fact in  
49 the recommended decision not adopted by the agency, the agency shall state the specific  
50 reason, based on the evidence, for not adopting the findings of fact and the agency's findings  
51 shall be supported by substantial evidence admissible under G.S. 150B-29(a), 150B-30, or

1 150B-31. The provisions of G.S. 150B-36(b), (b1), (b2), (b3), and (d), and G.S. 150B-51 do not  
 2 apply to cases decided under this subsection.

3 (c2) Notwithstanding subsection (a) of this section, in all cases arising from decisions  
 4 made by the North Carolina Department of Health and Human Services in its capacity as the  
 5 Medicaid single State agency as set forth in Subpart A of Part 431 of Title 42 of the Code of  
 6 Federal Regulations, the administrative law judge shall make a recommended decision or order  
 7 that contains findings of fact and conclusions of law. A final decision shall be made by the  
 8 agency in writing after review of the official record as defined in G.S. 150B-37(a) and shall  
 9 include findings of fact and conclusions of law. The provisions of G.S. 150B-36(b), (b1), (b2),  
 10 (b3), and (d), and G.S. 150B-51(a), (b), (c), and (d) do not apply to cases decided under this  
 11 subsection.

12 (d) Except for the exemptions contained in G.S. 150B-1(c) and (e), and subsection (c)  
 13 of this section, the provisions of this section regarding the decision of the administrative law  
 14 judge shall apply only to agencies subject to Article 3 of this Chapter, notwithstanding any  
 15 other provisions to the contrary relating to recommended decisions by administrative law  
 16 judges."

17 **SECTION 10.50.(f)** G.S. 150B-51 is amended to add a new subsection to read:

18 "(e) In reviewing a final decision in a contested case in which an administrative law  
 19 judge made a recommended decision in accordance with G.S. 150B-34(c2), the superior court  
 20 shall examine all the record evidence to determine whether there is substantial evidence to  
 21 justify the final agency decision."

22 **SECTION 10.50.(g)** This section is effective when it becomes law.

23  
 24 **DHHS BLOCK GRANTS**

25 **SECTION 10.51.(a)** Appropriations from federal block grant funds are made for  
 26 the fiscal year ending June 30, 2012, according to the following schedule:

27  
 28 **TEMPORARY ASSISTANCE TO NEEDY FAMILIES**  
 29 **(TANF) FUNDS**

30  
 31 Local Program Expenditures

32  
 33 Division of Social Services

34	01.	Work First Family Assistance	\$ 80,840,356
35			
36	02.	Work First County Block Grants	94,453,315
37			
38	03.	Work First Electing Counties	2,378,213
39			
40	04.	Adoption Services – Special Children's Adoption Fund	3,609,355
41			
42	05.	Family Violence Prevention	2,200,000
43			
44	06.	Child Protective Services – Child Welfare Workers for Local DSS	14,452,391
45			
46	07.	Child Welfare Collaborative	1,129,115
47			

48  
 49  
 50 Division of Child Development  
 51

1	08. Subsidized Child Care Program	61,087,077
2		
3	Division of Public Health	
4		
5	09. Teen Pregnancy Initiatives	450,000
6		
7	Department of Public Instruction	
8		
9	10. More at Four	6,352,644
10		
11	DHHS Administration	
12		
13	11. Division of Social Services	1,093,176
14		
15	12. Office of the Secretary	75,392
16		
17	Transfers to Other Block Grants	
18		
19	Division of Child Development	
20		
21	13. Transfer to the Child Care and Development Fund	82,210,675
22		
23	14. Transfer to Social Services Block Grant for Child	
24	Protective Services – Child Welfare Training in	
25	Counties	1,300,000
26		
27	15. Transfer to Social Services Block Grant for	
28	Foster Care Services	650,829
29		
30	16. Transfer to Social Services Block Grant for Child	
31	Protective Services	5,040,000
32		
33	17. Transfer to Social Services Block Grant for Adult	
34	Protective Services	1,191,925
35		
36	TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES	
37	(TANF) FUNDS	\$358,514,463
38		
39	<b>TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF)</b>	
40	<b>EMERGENCY CONTINGENCY FUNDS RECEIVED THROUGH</b>	
41	<b>THE AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)</b>	
42		
43	Local Program Expenditures	
44		
45	Division of Social Services	
46		
47	01. NC FAST	\$ 1,664,936
48		
49	02. Work First – Boys and Girls Clubs	2,500,000
50		
51	03. Maternity Homes	943,002

1		
2	Division of Public Health	
3		
4	04. Teen Pregnancy Initiatives	3,889,084
5		
6	TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF)	
7	EMERGENCY CONTINGENCY FUNDS RECEIVED THROUGH THE	
8	AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)	\$8,997,022
9		
10	<b>SOCIAL SERVICES BLOCK GRANT</b>	
11		
12	Local Program Expenditures	
13		
14	Divisions of Social Services and Aging and Adult Services	
15		
16	01. County Departments of Social Services	\$ 30,710,585
17		
18	02. Child Protective Services (Transfer from TANF)	5,040,000
19		
20	03. Adult Protective Services (Transfer from TANF)	1,191,925
21		
22	04. State In-Home Services Fund	2,101,113
23		
24	05. State Adult Day Care Fund	2,155,301
25		
26	06. Child Protective Services/CPS Investigative	
27	Services-Child Medical Evaluation Program	609,455
28		
29	07. Foster Care Services	2,147,967
30	(Transfer from TANF \$650,829)	
31		
32	08. Special Children Adoption Incentive Fund	500,000
33		
34	09. Child Protective Services-Child Welfare Training	
35	for Counties (Transfer from TANF)	1,300,000
36		
37	10. Home and Community Care Block Grant (HCCBG)	1,834,077
38		
39	Division of Mental Health, Developmental Disabilities, and Substance	
40	Abuse Services	
41		
42	11. Mental Health Services Program	422,003
43		
44	12. Developmental Disabilities Services Program	5,000,000
45		
46	13. Mental Health Services-Adult and	
47	Child/Developmental Disabilities Program/	
48	Substance Abuse Services-Adult	3,234,601
49		
50	Division of Vocational Rehabilitation	
51		

1	14.	Vocational Rehabilitation Services – Easter Seal Society/UCP	
2		Community Health Program	188,263
3			
4		DHHS Program Expenditures	
5			
6		Division of Aging and Adult Services	
7			
8	15.	UNC-CARES Training Contract	247,920
9			
10		Division of Services for the Blind	
11			
12	16.	Independent Living Program	3,633,077
13			
14		Division of Health Service Regulation	
15			
16	17.	Adult Care Licensure Program	411,897
17			
18	18.	Mental Health Licensure and Certification Program	205,668
19			
20		DHHS Administration	
21			
22	19.	Division of Aging and Adult Services	688,436
23			
24	20.	Division of Social Services	892,624
25			
26	21.	Office of the Secretary/Controller's Office	138,058
27			
28	22.	Office of the Secretary/DIRM	87,483
29			
30	23.	Division of Child Development	15,000
31			
32	24.	Division of Mental Health, Developmental	
33		Disabilities, and Substance Abuse Services	29,665
34			
35	25.	Division of Health Service Regulation	235,625
36			
37	26.	Office of the Secretary-NC Interagency Council	
38		for Coordinating Homeless Programs	250,000
39			
40	27.	Office of the Secretary	48,053
41			
42		Transfers to Other State Agencies	
43			
44		Department of Administration	
45			
46	28.	NC Commission of Indian Affairs In-Home	
47		Services for the Elderly	203,198
48			
49		Transfers to Other Block Grants	
50			
51		Division of Public Health	

1		
2	29. Transfer to Preventive Health Services Block Grant	
3	for HIV/STD Prevention and Community Planning	145,819
4		
5	TOTAL SOCIAL SERVICES BLOCK GRANT	\$ 63,667,813
6		
7	<b>LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT</b>	
8		
9	Local Program Expenditures	
10		
11	Division of Social Services	
12		
13	01. Low-Income Energy Assistance Program (LIEAP)	\$ 41,516,978
14		
15	02. Crisis Intervention Program (CIP)	18,905,645
16		
17	DHHS Program Expenditures	
18		
19	Central Management	
20		
21	03. NC FAST Implementation	4,732,667
22		
23	Local Administration	
24		
25	Division of Social Services	
26		
27	04. County DSS Administration	5,296,962
28		
29	DHHS Administration	
30		
31	05. Division of Social Services	307,987
32		
33	06. Division of Mental Health, Developmental	
34	Disabilities, and Substance Abuse Services	9,218
35		
36	07. Office of the Secretary/DIRM	276,784
37		
38	08. Office of the Secretary/Controller's Office	12,332
39		
40	Transfers to Other State Agencies	
41		
42	Department of Commerce	
43		
44	09. Weatherization Program	500,000
45		
46	10. Heating Air Repair and Replacement	
47	Program (HARRP)	4,744,344
48		
49	11. Local Residential Energy Efficiency Service	
50	Providers – Weatherization	25,000
51		

1	12.	Local Residential Energy Efficiency Service	
2		Providers – HARRP	227,038
3			
4	13.	Department of Commerce Administration –	
5		Weatherization	25,000
6			
7	14.	Department of Commerce Administration –	
8		HARRP	227,038
9			
10	15.	Department of Administration	
11			
12		N.C. State Commission of Indian Affairs	110,638
13			
14		TOTAL LOW-INCOME HOME ENERGY ASSISTANCE	
15		BLOCK GRANT	\$ 76,917,631
16			
17		<b>CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT</b>	
18			
19		Local Program Expenditures	
20			
21		Division of Child Development	
22			
23	01.	Subsidized Child Care Services (CCDF)	\$154,459,810
24			
25	02.	Electronic Tracking System	3,336,345
26			
27	03.	Subsidized Child Care Services	
28		(Transfer from TANF)	82,210,675
29			
30	04.	Quality and Availability Initiatives	25,948,434
31			
32		Division of Social Services	
33			
34	05.	Local Subsidized Child Care Services Support	13,546,397
35			
36		DHHS Administration	
37			
38		Division of Child Development	
39			
40	06.	DCD Administrative Expenses	6,539,277
41			
42		Division of Central Administration	
43			
44	07.	DHHS Central Administration – DIRM	
45		Technical Services	774,317
46			
47		TOTAL CHILD CARE AND DEVELOPMENT FUND	
48		BLOCK GRANT	\$ 286,815,255
49			
50		<b>MENTAL HEALTH SERVICES BLOCK GRANT</b>	
51			

1	Local Program Expenditures	
2		
3	01. Mental Health Services – Adult	\$ 6,656,212
4		
5	02. Mental Health Services – Child	5,121,991
6		
7	03. Administration	100,000
8		
9	TOTAL MENTAL HEALTH SERVICES BLOCK GRANT	\$ 11,878,203
10		
11	<b>SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT</b>	
12		
13	Local Program Expenditures	
14		
15	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	
16		
17	01. Substance Abuse Services – Adult	\$ 20,008,541
18		
19	02. Substance Abuse Treatment Alternative for Women	8,107,303
20		
21	03. Substance Abuse – HIV and IV Drug	5,116,378
22		
23	04. Substance Abuse Prevention – Child	7,186,857
24		
25	05. Substance Abuse Services – Child	4,940,500
26		
27	06. Institute of Medicine	250,000
28		
29	07. Administration	250,000
30		
31	Division of Public Health	
32		
33	08. Risk Reduction Projects	633,980
34		
35	09. Aid-to-Counties	209,576
36		
37	TOTAL SUBSTANCE ABUSE PREVENTION	
38	AND TREATMENT BLOCK GRANT	\$ 46,703,135
39		
40	<b>MATERNAL AND CHILD HEALTH BLOCK GRANT</b>	
41		
42	Local Program Expenditures	
43		
44	Division of Public Health	
45		
46	01. Children's Health Services	9,347,015
47		
48	02. Women's Health	7,691,924
49		
50	03. Oral Health	42,268
51		



1	DHHS Program Expenditures	
2		
3	Division of Public Health	
4		
5	04.    Children's Health Services	1,417,087
6		
7	05.    Women's Health	136,628
8		
9	06.    State Center for Health Statistics	164,318
10		
11	07.    Quality Improvement in Public Health	1,636
12		
13	08.    Health Promotion	89,374
14		
15	09.    Office of Minority Health	40,141
16		
17	DHHS Administration	
18		
19	Division of Public Health	
20		
21	10.    Division of Public Health Administration	631,966
22		
23	TOTAL MATERNAL AND CHILD	
24	HEALTH BLOCK GRANT	\$ 19,562,357
25		
26	<b>PREVENTIVE HEALTH SERVICES BLOCK GRANT</b>	
27		
28	Local Program Expenditures	
29		
30	Division of Public Health	
31		
32	01.    NC Statewide Health Promotion	\$1,730,653
33		
34	02.    Services to Rape Victims	89,152
35		
36	03.    HIV/STD Prevention and Community Planning	
37	(Transfer from Social Services Block Grant)	145,819
38		
39	DHHS Program Expenditures	
40		
41	Division of Public Health	
42		
43	04.    State Center for Health Statistics	55,040
44		
45	05.    NC Statewide Health Promotion	947,056
46		
47	06.    Oral Health	70,000
48		
49	07.    State Laboratory of Public Health	16,600
50		
51	08.    Services to Rape Victims	107,960

1  
2 TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT \$3,162,280

3  
4 **COMMUNITY SERVICES BLOCK GRANT**

5  
6 Local Program Expenditures

7  
8 Office of Economic Opportunity

9  
10 01. Community Action Agencies \$ 18,075,488

11  
12 02. Limited Purpose Agencies 1,004,194

13  
14 DHHS Administration

15  
16 03. Office of Economic Opportunity 1,004,194

17  
18 TOTAL COMMUNITY SERVICES BLOCK GRANT \$ 20,083,876

19  
20 **GENERAL PROVISIONS**

21 **SECTION 10.51.(b)** Information to Be Included in Block Grant Plans. – The  
22 Department of Health and Human Services shall submit a separate plan for each Block Grant  
23 received and administered by the Department, and each plan shall include the following:

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

35 **SECTION 10.51.(c)** Changes in Federal Fund Availability. – If the Congress of the  
36 United States increases the federal fund availability for any of the Block Grants or contingency  
37 funds and other grants related to existing Block Grants administered by the Department of  
38 Health and Human Services from the amounts appropriated in this section, the Department  
39 shall allocate the increase proportionally across the program and activity appropriations  
40 identified for that Block Grant in this section. In allocating an increase in federal fund  
41 availability, the Office of State Budget and Management shall not approve funding for new  
42 programs or activities not appropriated in this section.

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

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

7 **SECTION 10.51.(d)** Appropriations from federal Block Grant funds are made for  
8 the fiscal year ending June 30, 2012, according to the schedule enacted for State fiscal year  
9 2011-2012 or until a new schedule is enacted by the General Assembly.

10 **SECTION 10.51.(e)** All changes to the budgeted allocations to the Block Grants or  
11 contingency funds and other grants related to existing Block Grants administered by the  
12 Department of Health and Human Services that are not specifically addressed in this section  
13 shall be approved by the Office of State Budget and Management, and the Office of State  
14 Budget and Management shall consult with the Joint Legislative Commission on Governmental  
15 Operations for review prior to implementing the changes. The report shall include an itemized  
16 listing of affected programs, including associated changes in budgeted allocations. All changes  
17 to the budgeted allocations to the Block Grants shall be reported immediately to the House of  
18 Representatives Appropriations Subcommittee on Health and Human Services, the Senate  
19 Appropriations Committee on Health and Human Services, and the Fiscal Research Division.  
20 This subsection does not apply to Block Grant changes caused by legislative salary increases  
21 and benefit adjustments.  
22

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

24 **SECTION 10.51.(f)** The sum of one million ninety-three thousand one hundred  
25 seventy-six dollars (\$1,093,176) appropriated in this section in TANF funds to the Department  
26 of Health and Human Services, Division of Social Services, for the 2011-2012 fiscal year shall  
27 be used to support administration of TANF-funded programs.

28 **SECTION 10.51.(g)** The sum of two million two hundred thousand dollars  
29 (\$2,200,000) appropriated under this section in TANF funds to the Department of Health and  
30 Human Services, Division of Social Services, for the 2011-2012 fiscal year shall be used to  
31 provide domestic violence services to Work First recipients. These funds shall be used to  
32 provide domestic violence counseling, support, and other direct services to clients. These funds  
33 shall not be used to establish new domestic violence shelters or to facilitate lobbying efforts.  
34 The Division of Social Services may use up to seventy-five thousand dollars (\$75,000) in  
35 TANF funds to support one administrative position within the Division of Social Services to  
36 implement this subsection.

37 Each county department of social services and the local domestic violence shelter  
38 program serving the county shall develop jointly a plan for utilizing these funds. The plan shall  
39 include the services to be provided and the manner in which the services shall be delivered. The  
40 county plan shall be signed by the county social services director or the director's designee and  
41 the domestic violence program director or the director's designee and submitted to the Division  
42 of Social Services by December 1, 2011. The Division of Social Services, in consultation with  
43 the Council for Women, shall review the county plans and shall provide consultation and  
44 technical assistance to the departments of social services and local domestic violence shelter  
45 programs, if needed.

46 The Division of Social Services shall allocate these funds to county departments of  
47 social services according to the following formula: (i) each county shall receive a base  
48 allocation of five thousand dollars (\$5,000) and (ii) each county shall receive an allocation of  
49 the remaining funds based on the county's proportion of the statewide total of the Work First  
50 caseload as of July 1, 2011, and the county's proportion of the statewide total of the individuals  
51 receiving domestic violence services from programs funded by the Council for Women as of

1 July 1, 2011. The Division of Social Services may reallocate unspent funds to counties that  
2 submit a written request for additional funds.

3 **SECTION 10.51.(h)** The sum of fourteen million four hundred fifty-two thousand  
4 three hundred ninety-one dollars (\$14,452,391) appropriated in this section to the Department  
5 of Health and Human Services, Division of Social Services, in TANF funds for the 2011-2012  
6 fiscal year for child welfare improvements shall be allocated to the county departments of  
7 social services for hiring or contracting staff to investigate and provide services in Child  
8 Protective Services cases; to provide foster care and support services; to recruit, train, license,  
9 and support prospective foster and adoptive families; and to provide interstate and postadoption  
10 services for eligible families.

11 **SECTION 10.51.(i)** The sum of three million six hundred nine thousand three  
12 hundred fifty-five dollars (\$3,609,355) appropriated in this section in TANF funds to the  
13 Department of Health and Human Services, Special Children Adoption Fund, for the  
14 2011-2012 fiscal year shall be used in accordance with G.S. 108A-50.2, as enacted in Section  
15 10.48 of S.L. 2009-451. The Division of Social Services, in consultation with the North  
16 Carolina Association of County Directors of Social Services and representatives of licensed  
17 private adoption agencies, shall develop guidelines for the awarding of funds to licensed public  
18 and private adoption agencies upon the adoption of children described in G.S. 108A-50 and in  
19 foster care. Payments received from the Special Children Adoption Fund by participating  
20 agencies shall be used exclusively to enhance the adoption services program. No local match  
21 shall be required as a condition for receipt of these funds.

22 **SECTION 10.51.(j)** The sum of one million one hundred twenty-nine thousand  
23 one hundred fifteen dollars (\$1,129,115) appropriated in this section to the Department of  
24 Health and Human Services in TANF funds for the 2011-2012 fiscal year shall be used to  
25 continue support for the Child Welfare Collaborative.

#### 26 27 **TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) EMERGENCY** 28 **CONTINGENCY FUNDS**

29 **SECTION 10.51.(k)** The sum of two million five hundred thousand dollars  
30 (\$2,500,000) appropriated in this section to the Department in TANF funds for Boys and Girls  
31 Clubs for the 2011-2012 fiscal year shall be used to make grants for approved programs. The  
32 Department of Health and Human Services, in accordance with federal regulations for the use  
33 of TANF Emergency Contingency funds, shall administer a grant program to award funds to  
34 the Boys and Girls Clubs across the State in order to implement programs that improve the  
35 motivation, performance, and self-esteem of youths and to implement other initiatives that  
36 would be expected to reduce gang participation, school dropout, and teen pregnancy rates. The  
37 Department shall facilitate collaboration between the Boys and Girls Clubs and Support Our  
38 Students, Communities in Schools, and similar programs and encourage them to submit joint  
39 applications for the funds if appropriate.

#### 40 41 **SOCIAL SERVICES BLOCK GRANT**

42 **SECTION 10.51.(l)** The sum of one million three hundred thousand dollars  
43 (\$1,300,000) appropriated in this section in the Social Services Block Grant to the Department  
44 of Health and Human Services, Division of Social Services, for the 2011-2012 fiscal year shall  
45 be used to support various child welfare training projects as follows:

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

49 **SECTION 10.51.(m)** The sum of two million one hundred forty-seven thousand  
50 nine hundred sixty-seven dollars (\$2,147,967) appropriated in this section in the Social

1 Services Block Grant for child caring agencies for the 2011-2012 fiscal year shall be allocated  
2 in support of State foster home children.

3 **SECTION 10.51.(n)** The Department of Health and Human Services is authorized,  
4 subject to the approval of the Office of State Budget and Management, to transfer Social  
5 Services Block Grant funding allocated for departmental administration between divisions that  
6 have received administrative allocations from the Social Services Block Grant.

7 **SECTION 10.51.(o)** Social Services Block Grant funds appropriated for the  
8 Special Children's Adoption Incentive Fund will require a fifty percent (50%) local match.

9 **SECTION 10.51.(p)** The sum of four hundred twenty-two thousand three dollars  
10 (\$422,003) appropriated in this section in the Social Services Block Grant to the Department of  
11 Health and Human Services, Division of Social Services, for the 2011-2012 fiscal year shall be  
12 used to continue a Mental Health Services Program for children.

13 **SECTION 10.51.(q)** The sum of five million forty thousand dollars (\$5,040,000)  
14 appropriated in this section in the Social Services Block Grant for the 2011-2012 fiscal year  
15 shall be allocated to the Department of Health and Human Services, Division of Social  
16 Services. The Division shall allocate these funds to local departments of social services to  
17 replace the loss of Child Protective Services State funds that are currently used by county  
18 government to pay for Child Protective Services staff at the local level. These funds shall be  
19 used to maintain the number of Child Protective Services workers throughout the State. These  
20 SSBG funds shall be used to pay for salaries and related expenses only and are exempt from  
21 10A NCAC 71R .0201(3) requiring a local match of twenty-five percent (25%).  
22

#### 23 **LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT**

24 **SECTION 10.51.(r)** Additional emergency contingency funds received may be  
25 allocated for Energy Assistance Payments or Crisis Intervention Payments without prior  
26 consultation with the Joint Legislative Commission on Governmental Operations. Additional  
27 funds received shall be reported to the Joint Legislative Commission on Governmental  
28 Operations and the Fiscal Research Division upon notification of the award. The Department of  
29 Health and Human Services shall not allocate funds for any activities, including increasing  
30 administration, other than assistance payments, without prior consultation with the Joint  
31 Legislative Commission on Governmental Operations.  
32

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

34 **SECTION 10.51.(s)** Payment for subsidized child care services provided with  
35 federal TANF funds shall comply with all regulations and policies issued by the Division of  
36 Child Development for the subsidized child care program.

37 **SECTION 10.51.(t)** If funds appropriated through the Child Care and  
38 Development Fund Block Grant for any program cannot be obligated or spent in that program  
39 within the obligation or liquidation periods allowed by the federal grants, the Department may  
40 move funds to child care subsidies, unless otherwise prohibited by federal requirements of the  
41 grant, in order to use the federal funds fully.  
42

#### 43 **SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT**

44 **SECTION 10.51.(u)** The sum of two hundred fifty thousand dollars (\$250,000)  
45 appropriated in this section in the Substance Abuse Prevention and Treatment Block Grant to  
46 the Department of Health and Human Services, Division of Mental Health, Developmental  
47 Disabilities, and Substance Abuse Services, for the 2011-2012 fiscal year for the North  
48 Carolina Institute of Medicine (NCIOM) shall be used to continue its Task Force on the mental  
49 health, social, and emotional needs of young children and their families. In addition to the  
50 issues identified in Section 16.1 of S.L. 2010-152, the Task Force shall study the impact of  
51 parents' substance use problems on the mental health and social and emotional well-being of

1 children from conception through age five. The NCIOM shall make an interim report to the  
2 General Assembly no later than January 15, 2012, which may include legislative and other  
3 recommendations, and shall issue its final report with findings, recommendations, and any  
4 proposed legislation to the 2013 General Assembly upon its convening.

#### 5 6 **MATERNAL AND CHILD HEALTH BLOCK GRANT**

7 **SECTION 10.51.(v)** If federal funds are received under the Maternal and Child  
8 Health Block Grant for abstinence education, pursuant to section 912 of Public Law 104-193  
9 (42 U.S.C. § 710), for the 2011-2012 fiscal year, then those funds shall be transferred to the  
10 State Board of Education to be administered by the Department of Public Instruction. The  
11 Department of Public Instruction shall use the funds to establish an abstinence until marriage  
12 education program and shall delegate to one or more persons the responsibility of  
13 implementing the program and G.S. 115C-81(e1)(4) and (4a). The Department of Public  
14 Instruction shall carefully and strictly follow federal guidelines in implementing and  
15 administering the abstinence education grant funds.

16 **SECTION 10.51.(w)** The Department of Health and Human Services shall ensure  
17 that there will be follow-up testing in the Newborn Screening Program.

#### 18 19 **PART XI. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

#### 20 21 **TRANSFER FARMLAND PRESERVATION TRUST FUND**

22 **SECTION 11.1.(a)** The North Carolina Agricultural Development and Farmland  
23 Preservation Trust Fund, a program that supports the purchase of agricultural conservation  
24 easements and promotes the development and sustainability of farming and assists in the  
25 transition of existing farms to new farm families, is transferred from the Department of  
26 Agriculture and Consumer Services to the Division of Soil and Water Conservation of the  
27 Department of Environment and Natural Resources. This transfer has all the elements of a Type  
28 I transfer as defined in G.S. 143A-6.

29 **SECTION 11.1.(b)** The Department of Environment and Natural Resources shall  
30 delegate to the Agricultural Advancement Consortium of the North Carolina Rural Economic  
31 Development Center the responsibility of implementing the public and private enterprise  
32 programs that promote profitable and sustainable family farms as defined in  
33 G.S. 106-744(c)(2).

#### 34 35 **TRANSFER THE RESEARCH STATIONS DIVISION TO NORTH CAROLINA LAND** 36 **GRANT UNIVERSITY**

37 **SECTION 11.2.(a)** The Research Stations Division is transferred from the North  
38 Carolina Department of Agriculture and Consumer Services to the Board of Governors of The  
39 University of North Carolina to be managed by North Carolina State University.

40 This transfer shall comprise all of the elements of a Type I transfer as defined by  
41 G.S. 143A-6 including (i) the ownership, possession, and control of its properties, including  
42 buildings, grounds, personal property, vehicles, and equipment and (ii) the resources, assets,  
43 liabilities, and operations maintained, possessed, or controlled by the Research Stations  
44 Division of North Carolina Department of Agriculture and Consumer Services prior to the  
45 transfer, except for the five management tracts owned and managed under the Forest  
46 Management Program.

47 The five management tracts, totaling 3,150 acres, owned and managed by the North  
48 Carolina Department of Agriculture and Consumer Services under the Forest Management  
49 Program shall be transferred to the Division of Forest Resources of the North Carolina  
50 Department of Environment and Natural Resources as a Type I transfer as defined by  
51 G.S. 143A-6 including (i) the ownership, possession, and control of its properties, including

1 buildings, grounds, personal property, vehicles, and equipment and (ii) the resources, assets,  
2 liabilities, and operations maintained, possessed, or controlled by the Forest Management  
3 Program of the Research Stations Division of North Carolina Department of Agriculture and  
4 Consumer Services prior to the transfer.

5 **SECTION 11.2.(b)** There is created a multidisciplinary, multiagency Agricultural  
6 Research Facilities System Advisory Board (Board) to provide ongoing vision and leadership  
7 for the system of agricultural research facilities. Board members are charged with representing  
8 statewide interests, including the practical, applied concerns of local farmers and the  
9 perspectives of commodity associations as well as the broader citizenry. At a minimum, the  
10 Board shall perform the following functions:

- 11 (1) Conduct a thorough, comprehensive review of the system and formulate a  
12 strategic plan for the management of system within budgeted resources. The  
13 review shall include, at a minimum, an assessment of the scientific merit of  
14 all agricultural research facilities, an examination of current research needs  
15 and anticipated future research trends, and the evaluation of the capacity for  
16 teaching and extension activities. The review shall also contain  
17 recommendations on land that might be sold, purchased, or transferred out of  
18 the system and the related potential cost effects.
- 19 (2) Periodically review the strategic plan and modify as needed to meet the  
20 needs of stakeholders, including scientists, farmers, and commodity  
21 associations.
- 22 (3) Ensure the concerns of stakeholders concerning ongoing facility operations,  
23 activities, and future planning, as well as holding public hearings as needed  
24 to gather input.
- 25 (4) Review the role of receipts in supporting research facilities and operations.

26 The Board should report all findings and recommendations to the Dean of the College of  
27 Agriculture and Life Sciences at North Carolina State University and the Dean of the School of  
28 Agriculture and Environmental Sciences at North Carolina Agricultural and Technical State  
29 University.

30 **SECTION 11.2.(c)** To assure the continued representation of the interests of  
31 production agriculture as well as basic research at the facilities, the Board shall consist of 10  
32 voting members as follows:

- 33 (1) The Commissioner of Agriculture or a designee.
- 34 (2) The Director of NCSU Agricultural Research and Cooperative Extension  
35 Service from the College of Agriculture and Life Sciences.
- 36 (3) The Director of NC A&T Agricultural Research and Cooperative Extension  
37 Service from the School of Agriculture and Environmental Sciences.
- 38 (4) One department head from the NCSU College of Agriculture and Life  
39 Sciences.
- 40 (5) One department head from the NC A&T College of Agriculture and  
41 Environmental Sciences.
- 42 (6) Five members representing wide agricultural interests to be appointed by the  
43 following:
  - 44 a. The Commissioner of Agriculture (3 members).
  - 45 b. The Dean of NCSU College of Agriculture and Life Sciences (1  
46 member).
  - 47 c. The Dean of NC A&T School of Agriculture and Environmental  
48 Sciences (1 member).

49 Board members shall elect their own chair.

50 **SECTION 11.2.(d)** The Board shall meet regularly at the direction of Dean of the  
51 College of Agriculture and Life Sciences at North Carolina State University and the Dean of

1 the School of Agriculture and Environmental Sciences at North Carolina Agricultural and  
2 Technical State University to ensure the system of agricultural research facilities fulfills the  
3 needs of stakeholders who rely on rigorous research, far-reaching cooperative extension, and  
4 accessible academic opportunities.

5 **SECTION 11.2.(e)** The Board shall be in place no later than October 1, 2011.

6 **SECTION 11.2.(f)** Any research station facility and associated land managed by  
7 North Carolina State University (NCSU) that is recommended for sale shall be sold as surplus  
8 property by the Department of Administration (DOA) State Property Office. After allowable  
9 DOA service charges, NCSU may retain twenty-five percent (25%) of sale receipts for  
10 one-time purchases associated with managing the remaining research stations. The remaining  
11 funds shall revert to the General Fund.

12 **SECTION 11.2.(g)** Any forest management tract that is not needed or cannot be  
13 properly managed within existing funds of the Division of Forest Resources (DFR) shall be  
14 sold as surplus property by the DOA State Property Office. After allowable DOA service  
15 charges, DFR may retain twenty-five percent (25%) of sale receipts for one-time purchases  
16 associated with forest management, and remaining funds shall revert to the General Fund.  
17

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

### 19 **AMEND HAZARDOUS WASTE MANAGEMENT PROGRAM**

20 **SECTION 12.1.** G.S. 130A-294.1(b) reads as rewritten:

21 "(b) Funds collected pursuant to this section shall be used for personnel and other  
22 resources necessary to:

- 23 (1) Provide a high level of technical assistance and waste minimization effort  
24 for the hazardous waste management program;
- 25 (2) Provide timely review of permit applications;
- 26 (3) Insure that permit decisions are made on a sound technical basis and that  
27 permit decisions incorporate all conditions necessary to accomplish the  
28 purposes of this Part;
- 29 (4) Improve monitoring and compliance of the hazardous waste management  
30 program;
- 31 (5) Increase the frequency of inspections;
- 32 (6) Provide chemical, biological, toxicological, and analytical support for the  
33 hazardous waste management program; ~~and~~
- 34 (7) Provide resources for emergency response to imminent hazards associated  
35 with the hazardous waste management ~~program-program~~;
- 36 (8) Provide implementation and oversight of activities involving actions  
37 necessary to respond to inactive hazardous substance or waste disposal sites;  
38 and
- 39 (9) Provide compliance and prevention activities within the solid waste program  
40 to ensure hazardous waste is not disposed in solid waste management  
41 facilities."  
42  
43

### 44 **OYSTER SANCTUARY PROGRAM**

45 **SECTION 12.2.** G.S. 113-175.1(c) reads as rewritten:

46 "(c) The Marine Fisheries Commission and the Wildlife Resources Commission may  
47 authorize the disbursement of the principal of the Marine Resources Fund and marine resources  
48 investment income only to manage, protect, restore, develop, cultivate, conserve, and enhance  
49 the marine resources of the State. The Marine Fisheries Commission and the Wildlife  
50 Resources Commission are encouraged to consider supporting the Oyster Sanctuary Program  
51 managed by the Division of Marine Fisheries. The Marine Fisheries Commission and the



1 Wildlife Resources Commission may not authorize the disbursement of the principal of the  
 2 Marine Resources Fund and marine resources investment income to establish positions without  
 3 specific authorization from the General Assembly. All proposals to the Marine Fisheries  
 4 Commission and the Wildlife Resources Commission for the disbursement of funds from the  
 5 Marine Resources Fund shall be made by and through the Fisheries Director. Expenditure of  
 6 the assets of the Marine Resources Fund shall be made through the State budget accounts of the  
 7 Division of Marine Fisheries in accordance with the provisions of the Executive Budget Act.  
 8 The Marine Resources Fund is subject to the oversight of the State Auditor pursuant to Article  
 9 5A of Chapter 147 of the General Statutes."

## 11 GRASSROOTS SCIENCE PROGRAM

12 **SECTION 12.4.(a)** Of the funds appropriated in this act to the Department of  
 13 Environment and Natural Resources for the Grassroots Science Program, the sum of three  
 14 million seventy thousand five hundred forty-two dollars (\$3,070,542) for the 2011-2012 fiscal  
 15 year and the sum of three million seventy thousand five hundred forty-two dollars (\$3,070,542)  
 16 for the 2012-2013 fiscal year is allocated as grants-in-aid for each fiscal year as follows:

	2011-2012	2012-2013
20 Aurora Fossil Museum	\$ 52,088	\$ 52,088
21 Cape Fear Museum	142,008	142,008
22 Carolina Raptor Center	98,938	98,938
23 Catawba Science Center	129,086	129,086
24 Colburn Earth Science Museum, Inc.	65,749	65,749
25 Core Sound Waterfowl Museum	44,100	44,100
26 Discovery Place	584,647	584,647
27 Eastern NC Regional Science Center	44,100	44,100
28 Fascinate-U	71,506	71,506
29 Granville County Museum Commission, 30 Inc. – Harris Gallery	49,765	49,765
31 Greensboro Children's Museum	119,137	119,137
32 The Health Adventure Museum of Pack 33 Place Education, Arts and Science Center, Inc.	137,249	137,249
34 Highlands Nature Center	69,915	69,915
35 Imagination Station	75,882	75,882
36 The Iredell Museums, Inc.	54,072	54,072
37 Kidsenses	71,690	71,690
38 Museum of Coastal Carolina	68,814	68,814
39 The Natural Science Center of Greensboro, Inc.	164,364	164,364
40 NC Museum of Life and Science	335,006	335,006
41 Pisgah Astronomical Research Institute	44,100	44,100
42 Port Discover: Northeastern North Carolina's 43 Center for Hands-On Science, Inc.	44,100	44,100
44 Rocky Mount Children's Museum	63,728	63,728
45 Schiele Museum of Natural History and 46 Planetarium, Inc.	202,460	202,460
47 Sci Works Science Center and 48 Environmental Park of Forsyth County	129,212	129,212
49 Sylvan Heights Waterfowl Park and Eco-Center	44,100	44,100
50 Western North Carolina Nature Center	99,559	99,559
51 Wilmington Children's Museum	65,167	65,167

1  
2 **Total** **\$ 3,070,542**      **\$ 3,070,542**

3       **SECTION 12.4.(b)** No later than March 1, 2012, the Department of Environment  
4 and Natural Resources shall report to the Fiscal Research Division all of the following  
5 information for each museum that receives funds under this section:

- 6           (1) The actual operating budget for the 2010-2011 fiscal year.  
7           (2) The proposed operating budget for the 2011-2012 fiscal year.  
8           (3) The total attendance at the museum during the 2011 calendar year.

9       **SECTION 12.4.(c)** No later than March 1, 2013, the Department of Environment  
10 and Natural Resources shall report to the Fiscal Research Division all of the following  
11 information for each museum that receives funds under this section:

- 12           (1) The actual operating budget for the 2011-2012 fiscal year.  
13           (2) The proposed operating budget for the 2012-2013 fiscal year.  
14           (3) The total attendance at the museum during the 2012 calendar year.

## 15 16 **PART XIII. DEPARTMENT OF COMMERCE**

### 17 18 **INDUSTRIAL COMMISSION FEES/COMPUTER SYSTEM REPLACEMENT**

19       **SECTION 13.1.** The North Carolina Industrial Commission may retain the  
20 additional revenue generated as a result of an increase in the fee charged to parties for the filing  
21 of compromised settlements. These funds shall be used for the purpose of replacing existing  
22 computer hardware and software used for the operations of the Commission. These funds may  
23 also be used to prepare any assessment of hardware and software needs prior to purchase and to  
24 develop and administer the needed databases and new Electronic Case Management System.  
25 The Commission may not retain any fees under this section unless they are in excess of the  
26 former two hundred dollar (\$200.00) fee charged by the Commission for filing a compromised  
27 settlement.

### 28 29 **REPEAL E-NC SUNSET**

30       **SECTION 13.2.** The sunset provision pertaining to the e-NC Authority, as  
31 described in Section 4 of S.L. 2003-425, and as amended by Section 12.3(a) of S.L. 2006-66, is  
32 hereby repealed.

### 33 34 **SET REGULATORY FEE FOR UTILITIES COMMISSION**

35       **SECTION 13.3.(a)** The percentage rate to be used in calculating the public utility  
36 regulatory fee under G.S. 62-302(b)(2) is fifteen one-hundredths of one percent (0.15%) for  
37 each public utility's North Carolina jurisdictional revenues earned during each quarter that  
38 begins on or after July 1, 2011.

39       **SECTION 13.3.(b)** The electric membership corporation regulatory fee imposed  
40 under G.S. 62-302(b1) for the 2011-2012 fiscal year is two hundred thousand dollars  
41 (\$200,000).

42       **SECTION 13.3.(c)** This section becomes effective July 1, 2011.

### 43 44 **ONE NORTH CAROLINA FUND**

45       **SECTION 13.5.** Of the funds appropriated in this act to the One North Carolina  
46 Fund for the 2011-2012 fiscal year, the Department of Commerce may use up to three hundred  
47 thousand dollars (\$300,000) to cover its expenses in administering the One North Carolina  
48 Fund and other economic development incentive grant programs during the 2011-2012 fiscal  
49 year.

### 50 51 **RURAL ECONOMIC DEVELOPMENT CENTER**

1           **SECTION 13.6.(a)** Of the funds appropriated in this act to the North Carolina  
 2 Rural Economic Development Center, Inc. (Rural Center), the sum of three million five  
 3 hundred eighty-three thousand six hundred seventy-eight dollars (\$3,583,678) for each year in  
 4 the 2011-2013 biennium shall be allocated as follows:

	<b>2011-2012</b>	<b>2012-2013</b>
5		
6 Center Administration, Technical Assistance, & Oversight	\$ 1,302,165	\$ 1,302,165
7 Research and Demonstration Grants	294,120	294,120
8 Institute for Rural Entrepreneurship	114,570	114,570
9 Community Development Grants	844,258	844,258
10 Microenterprise Loan Program	155,610	155,610
11 Water/Sewer/Business Development		
12 Matching Grants	701,955	701,955
13 Statewide Water/Sewer Database	79,515	\$79,515
14 Agricultural Advancement Consortium	91,485	\$91,485
15		

16           **SECTION 13.6.(b)** Funds allocated in subsection (a) of this section for community  
 17 development grants shall support development projects and activities within the State's  
 18 minority communities. Any new or previously funded community development corporation, as  
 19 that term is defined in subsection (c) of this section, is eligible to apply for community  
 20 development grant funds. However, no community development grant funds shall be released  
 21 to a community development corporation unless the corporation can demonstrate that there are  
 22 no outstanding or proposed assessments or other collection actions against the corporation for  
 23 any State or federal taxes, including related penalties, interest, and fees.

24           **SECTION 13.6.(c)** For purposes of this section, the term "community development  
 25 corporation" means a nonprofit corporation:

- 26           (1) Chartered pursuant to Chapter 55A of the General Statutes;
- 27           (2) Tax-exempt pursuant to section 501(c)(3) of the Internal Revenue Code of  
 28 1986;
- 29           (3) Whose primary mission is to develop and improve low-income communities  
 30 and neighborhoods through economic and related development;
- 31           (4) Whose activities and decisions are initiated, managed, and controlled by the  
 32 constituents of those local communities; and
- 33           (5) Whose primary function is to act as deal maker and packager of projects and  
 34 activities that will increase their constituencies' opportunities to become  
 35 owners, managers, and producers of small businesses, affordable housing,  
 36 and jobs designed to produce positive cash flow and curb blight in the  
 37 targeted community.

38           **SECTION 13.6.(d)** The Rural Center shall provide a report containing detailed  
 39 budget, personnel, and salary information to the Office of State Budget and Management in the  
 40 same manner as State departments and agencies in preparation for biennium budget requests.

41           **SECTION 13.6.(e)** By September 1 of each year, and more frequently as  
 42 requested, the Rural Center shall report to the Joint Legislative Commission on Governmental  
 43 Operations and the Fiscal Research Division on prior State fiscal year program activities,  
 44 objectives, and accomplishments and prior State fiscal year itemized expenditures and fund  
 45 sources.

#### 46 **RURAL ECONOMIC DEVELOPMENT CENTER/INFRASTRUCTURE PROGRAM**

47           **SECTION 13.7.(a)** Of the funds appropriated in this act to the North Carolina  
 48 Rural Economic Development Center, Inc. (Rural Center), the sum of sixteen million five  
 49 hundred five thousand seven hundred seventy-five dollars (\$16,505,775) for each year in the  
 50 2011-2013 biennium shall be allocated as follows:  
 51

- 1 (1) To continue the North Carolina Infrastructure Program. The purpose of the  
2 Program is to provide grants to local governments to construct critical water  
3 and wastewater facilities and to provide other infrastructure needs, including  
4 technology needs, to sites where these facilities will generate private  
5 job-creating investment. The grants under this Program shall not be subject  
6 to the provisions of G.S. 143-355.4.
- 7 (2) To provide matching grants and/or loans to local governments in distressed  
8 areas that will productively reuse vacant buildings and properties, with  
9 priority given to towns or communities with populations of less than 5,000.
- 10 (3) To provide grants and technical assistance to reinvigorate the economies of  
11 towns with populations of less than 7,500 and to invest in economic  
12 innovation that stimulates business and job growth in distressed areas.
- 13 (4) Recipients of grant funds appropriated under this section shall contribute a  
14 cash match for the grant that is equivalent to at least five percent (5%) of the  
15 grant amount. The cash match shall come from local resources and may not  
16 be derived from other State or federal grant funds or from funds provided by  
17 the Rural Center.

18 **SECTION 13.7.(b)** During each year of the 2011-2013 biennium, the Rural Center  
19 may use up to three hundred twenty-nine thousand one hundred seventy-five dollars (\$329,175)  
20 of the funds appropriated in this act to cover its expenses in administering the North Carolina  
21 Economic Infrastructure Program.

22 **SECTION 13.7.(c)** By September 1 of each year, and more frequently as  
23 requested, the Rural Center shall report to the Joint Legislative Commission on Governmental  
24 Operations and the Fiscal Research Division concerning the progress of the North Carolina  
25 Economic Infrastructure Program in the prior State fiscal year.

## 26 **OPPORTUNITIES INDUSTRIALIZATION CENTERS FUNDS**

27 **SECTION 13.8.(a)** Of the funds appropriated in this act to the North Carolina  
28 Rural Economic Development Center, Inc. (Rural Center), the sum of two hundred  
29 eighty-seven thousand two hundred eighty dollars (\$287,280) for each year in the 2011-2013  
30 biennium shall be equally distributed among the certified Opportunities Industrialization  
31 Centers (OI Centers).

32 **SECTION 13.8.(b)** By September 1 of each year, and more frequently as  
33 requested, the Rural Center shall report to the Joint Legislative Commission on Governmental  
34 Operations and the Fiscal Research Division on OI Centers receiving funds pursuant to  
35 subsection (a) of this section. The report shall include data for each OI Center on all itemized  
36 expenditures and all fund sources for the prior State fiscal year. The report shall also contain a  
37 written narrative on prior fiscal year program activities, objectives, and accomplishments that  
38 were funded with funds appropriated in subsection (a) of this section.

39 **SECTION 13.8.(c)** The Rural Center shall ensure that each OI Center complies  
40 with the audit and reporting requirements prescribed by G.S. 143C-6-23 and 09 NCAC 03M  
41 .0101.

42 **SECTION 13.8.(d)** No funds appropriated under this act shall be released to an OI  
43 Center listed in subsection (a) of this section if the OI Center has any overdue tax debts, as that  
44 term is defined in G.S. 105-243.1, at the federal or State level.

## 45 **RURAL CENTER/AGRICULTURAL DEVELOPMENT FUNDS**

46 **SECTION 13.9.** Of the funds appropriated in this act to the North Carolina Rural  
47 Economic Development Center, Inc. (Rural Center), the sum of two hundred fifty thousand  
48 dollars (\$250,000) for each year in the 2011-2013 biennium shall be allocated to the  
49 Agricultural Advancement Consortium to provide grants for agricultural development projects  
50  
51

1 in North Carolina's farm communities designed to reduce the costs of producing agricultural  
2 products or increase the market for North Carolina agricultural products.

3  
4 **NER BLOCK GRANTS**

5 **SECTION 13.10.(a)** Appropriations from federal block grant funds are made for  
6 the fiscal year ending June 30, 2012, according to the following schedule:

7  
8 **COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)**

9			
10	01. State Administration	\$	1,000,000
11			
12	02. Scattered Site Housing		16,500,000
13			
14	03. Economic Development		7,210,000
15			
16	04. Small Business/Entrepreneurship		3,000,000
17			
18	05. NC Catalyst		7,240,000
19			
20	06. State Technical Assistance		450,000
21			
22	07. Infrastructure		8,000,000
23			
24	08. Capacity Building		1,600,000
25			

26 **TOTAL COMMUNITY DEVELOPMENT**  
27 **BLOCK GRANT – 2012 Program Year** **\$ 45,000,000**

28  
29 **SECTION 13.10.(b)** Decreases in Federal Fund Availability. – If federal funds are  
30 reduced below the amounts specified above after the effective date of this act, then every  
31 program in each of these federal block grants shall be reduced by the same percentage as the  
32 reduction in federal funds.

33 **SECTION 13.10.(c)** Increases in Federal Fund Availability for Community  
34 Development Block Grant. – Any block grant funds appropriated by the Congress of the United  
35 States in addition to the funds specified in this section shall be expended with each program  
36 category under the Community Development Block Grant increasing by the same percentage as  
37 the increase in federal funds.

38 **SECTION 13.10.(d)** Limitations on Community Development Block Grant Funds.  
39 – Of the funds appropriated in this section for the Community Development Block Grant, the  
40 following shall be allocated in each category for each program year: up to one million dollars  
41 (\$1,000,000) may be used for State Administration; up to sixteen million five hundred thousand  
42 dollars (\$16,500,000) may be used for Scattered Site Housing; up to seven million two hundred  
43 ten thousand dollars (\$7,210,000) may be used for Economic Development; up to three million  
44 dollars (\$3,000,000) may be used for Small Business/Entrepreneurship; up to seven million two  
45 hundred forty thousand dollars (\$7,240,000) shall be used for NC Catalyst; up to four hundred  
46 fifty thousand dollars (\$450,000) may be used for State Technical Assistance; up to eight  
47 million dollars (\$8,000,000) may be used for Infrastructure; up to one million six hundred  
48 thousand dollars (\$1,600,000) may be used for Capacity Building. If federal block grant funds  
49 are reduced or increased by the Congress of the United States after the effective date of this act,  
50 then these reductions or increases shall be allocated in accordance with subsection (b) or (c) of  
51 this section, as applicable.

1           **SECTION 13.10.(e)** Increase Capacity for Nonprofit Organizations. – Assistance  
2 to nonprofit organizations to increase their capacity to carry out CDBG-eligible activities in  
3 partnership with units of local government is an eligible activity under any program category in  
4 accordance with federal regulations. Capacity building grants may be made from funds  
5 available within program categories, program income, or unobligated funds.

6           **SECTION 13.10.(f)** The Department of Commerce shall consult with the Joint  
7 Legislative Commission on Governmental Operations prior to reallocating Community  
8 Development Block Grant Funds. Notwithstanding the provisions of this subsection, whenever  
9 the Director of the Budget finds that:

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

#### 24 25 **PRIVATIZE WELCOME CENTERS**

26           **SECTION 13.11.** The Department of Commerce shall work collaboratively with  
27 the Department of Transportation to develop an implementation plan to privatize the State's  
28 Welcome Center and Visitor Centers. At a minimum, the plan shall identify all barriers to  
29 privatizing the Centers and propose solutions to overcome all barriers, including all necessary  
30 federal waivers, and recommend an implementation time frame that has as a goal the  
31 privatization of the Welcome and Visitor Centers for the 2012-2013 fiscal year. If privatization  
32 is not possible, the Departments shall jointly propose a plan for future funding of the Welcome  
33 and Visitor Centers that minimizes the use of State funds. The Department of Commerce and  
34 Department of Transportation shall submit the joint plan to the Office of the Governor and the  
35 Office of State Budget and Management no later than January 31, 2012.

#### 36 37 **PART XIV. JUDICIAL DEPARTMENT**

##### 38 39 **COLLECTION OF WORTHLESS CHECKS FUND**

40           **SECTION 14.1.(a)** Notwithstanding the provisions of G.S. 7A-308(c), the Judicial  
41 Department may use any balance remaining in the Collection of Worthless Checks Fund on  
42 June 30, 2011, for the purchase or repair of office or information technology equipment during  
43 the 2011-2012 fiscal year. Prior to using any funds under this section, the Judicial Department  
44 shall report to the Joint Legislative Commission on Governmental Operations and the Chairs of  
45 the House of Representatives and Senate Appropriations Subcommittees on Justice and Public  
46 Safety on the equipment to be purchased or repaired and the reasons for the purchases.

47           **SECTION 14.1.(b)** This section becomes effective June 30, 2011.

#### 48 49 **PART XV. DEPARTMENT OF JUSTICE**

##### 50 51 **REDUCE SEX OFFENDER POSTAGE BUDGET**

1           **SECTION 15.1.(a)** Part 2 of Article 27A of Chapter 14 of the General Statutes  
2 reads as rewritten:

3           "Part 2. Sex Offender and Public Protection Registration Program.

4       **"§ 14-208.7. Registration.**

5       (a) A person who is a State resident and who has a reportable conviction shall be  
6 required to maintain registration with the sheriff of the county where the person resides. If the  
7 person moves to North Carolina from outside this State, the person shall register within three  
8 business days of establishing residence in this State, or whenever the person has been present in  
9 the State for 15 days, whichever comes first. If the person is a current resident of North  
10 Carolina, the person shall register:

- 11           (1) Within three business days of release from a penal institution or arrival in a  
12 county to live outside a penal institution; or
- 13           (2) Immediately upon conviction for a reportable offense where an active term  
14 of imprisonment was not imposed.

15 Registration shall be maintained for a period of at least 30 years following the date of initial  
16 county registration unless the person, after 10 years of registration, successfully petitions the  
17 superior court to shorten his or her registration time period under G.S. 14-208.12A.

18       (a1) A person who is a nonresident student or a nonresident worker and who has a  
19 reportable conviction, or is required to register in the person's state of residency, is required to  
20 maintain registration with the sheriff of the county where the person works or attends school. In  
21 addition to the information required under subsection (b) of this section, the person shall also  
22 provide information regarding the person's school or place of employment as appropriate and  
23 the person's address in his or her state of residence.

24       (b) The Division shall provide each sheriff with forms for registering persons as  
25 required by this Article. The registration form shall require all of the following:

- 26           (1) The person's full name, each alias, date of birth, sex, race, height, weight,  
27 eye color, hair color, drivers license number, and ~~home address~~home and  
28 mailing addresses.
- 29           (2) The type of offense for which the person was convicted, the date of  
30 conviction, and the sentence imposed.
- 31           (3) A current photograph taken by the sheriff, without charge, at the time of  
32 registration.
- 33           (4) The person's fingerprints taken by the sheriff, without charge, at the time of  
34 registration.
- 35           (5) A statement indicating whether the person is a student or expects to enroll as  
36 a student within a year of registering. If the person is a student or expects to  
37 enroll as a student within a year of registration, then the registration form  
38 shall also require the name and address of the educational institution at  
39 which the person is a student or expects to enroll as a student.
- 40           (6) A statement indicating whether the person is employed or expects to be  
41 employed at an institution of higher education within a year of registering. If  
42 the person is employed or expects to be employed at an institution of higher  
43 education within a year of registration, then the registration form shall also  
44 require the name and address of the educational institution at which the  
45 person is or expects to be employed.
- 46           (7) Any online identifier that the person uses or intends to use.

47       (c) When a person registers, the sheriff with whom the person registered shall  
48 immediately send the registration information to the Division in a manner determined by the  
49 Division. The sheriff shall retain the original registration form and other information collected  
50 and shall compile the information that is a public record under this Part into a county registry.

1 (d) Any person required to register under this section shall report in person at the  
2 appropriate sheriff's office to comply with the registration requirements set out in this section.  
3 The sheriff shall provide the registrant with written proof of registration at the time of  
4 registration."

5 SECTION 15.1.(b) G.S. 14-208.9A reads as rewritten:

6 "**§ 14-208.9A. Verification of registration information.**

7 (a) ~~The information in the county registry shall be verified semiannually for each~~  
8 ~~registrant as follows:~~A person required to register under G.S. 14-208.7 shall have a verification  
9 date every six months following the date of initial county registration. The offender's  
10 verification dates will be the same two calendar dates every calendar year until the person's  
11 registration requirements are terminated. During the initial registration and each subsequent  
12 verification process, the sheriff will notify the offender of his or her next verification date.

13 (1) ~~Every year on the anniversary of a person's initial registration date, and~~  
14 ~~again six months after that date, the Division shall mail a nonforwardable~~  
15 ~~verification form to the last reported address of the person.~~Within three  
16 business days of each verification date, a person required to register must  
17 report in person at the appropriate sheriff's office and complete and sign a  
18 verification form approved by the State Bureau of Investigation. Except as  
19 provided below, the verification form shall require the person to provide all  
20 of the information required for registration under G.S. 14-208.7.

21 a. New photographs do not have to be taken if it appears to the sheriff  
22 that the record photograph provides a true and accurate likeness of  
23 the offender.

24 b. New fingerprints do not have to be taken if a set of the offender's  
25 fingerprints has previously been accepted and entered into the State's  
26 fingerprint database as a result of the Sex Offender and Public  
27 Protection registration process.

28 c. If information on the type of offense for which the person was  
29 convicted, the date of conviction, and the sentence imposed has  
30 previously been provided to the sheriff, the offender does not have to  
31 provide this information during verification.

32 (2) ~~The person shall return the verification form in person to the sheriff within~~  
33 ~~three business days after the receipt of the form.~~If a person required to  
34 register fails to report in person to the sheriff and complete and sign the  
35 verification forms within three business days after any of his or her  
36 verification dates, the person is subject to the penalties provided in  
37 G.S. 14-208.11 unless he or she has complied with one of the following  
38 exceptions:

39 a. If a registrant is unable to report in person to the sheriff due to  
40 medical reasons, the registrant must provide written notice to the  
41 sheriff prior to his or her verification date. The registrant must also  
42 provide a letter from a medical care provider stating that due to  
43 medical reasons the registrant is unable to report to the sheriff's  
44 office. The sheriff shall make reasonable efforts to have a law  
45 enforcement officer make an in-person visit to the registrant so the  
46 registrant can complete the verification forms in the presence of a  
47 law enforcement officer. Once the registrant is medically able to  
48 report in-person to the sheriff, the registrant must report in-person to  
49 the sheriff within three business days and complete a verification  
50 form. The fact that a registrant is exempt from reporting in-person to  
51 the sheriff's office for medical reasons is public record, but



- 1 information about the registrant's specific medical diagnosis or  
2 condition is not public record.
- 3 b. If a registrant will be out-of-state during the entire three business  
4 days prior to his or her verification date, on his or her verification  
5 date, and the entire three business days after his or her verification  
6 date, the registrant must report in-person to the sheriff's office prior  
7 to leaving the State. The registrant must complete a verification form  
8 and provide the sheriff with a written itinerary including a  
9 description of any motor vehicle the registrant will be traveling in  
10 while out-of-state, the vehicle identification numbers, the license tag  
11 number, the registration number, and a description, including color  
12 scheme, of each motor vehicle; temporary lodging information,  
13 including the physical address of each location the registrant will be  
14 spending the night at while out-of-state, the dates the registrant will  
15 be staying at each location, and any known telephone numbers,  
16 including cellular phone numbers, at which the registrant may be  
17 reached while out-of-state. The registrant's itinerary information,  
18 except for phone numbers, vehicle registration numbers, and vehicle  
19 identification numbers, is public record. The registrant must report  
20 in-person to the sheriff within three business days of reentering the  
21 State and complete a verification form.
- 22 (3) The verification form shall be signed by the person and shall indicate the  
23 following:
- 24 a. Whether the person still resides at the address last reported to the  
25 sheriff. If the person has a different address, then the person shall  
26 indicate that fact and the new address.
- 27 b. Whether the person still uses or intends to use any online identifiers  
28 last reported to the sheriff. If the person has any new or different  
29 online identifiers, then the person shall provide those online  
30 identifiers to the sheriff.
- 31 At least 10 days prior to each of his or her verification dates, the Division  
32 shall mail to the last reported mailing address of the person required to  
33 register, a reminder of the person's verification date and the person's  
34 responsibility to report in person to the registering sheriff. Nonreceipt of  
35 notice does not constitute a defense to failure to comply with this Article.  
36 The Division shall not mail notice to the following:
- 37 a. Persons who are reported to be incarcerated.
- 38 b. Persons, except nonresident students and nonresident workers, who  
39 have reported they reside out-of-state.
- 40 (3a) If it appears to the sheriff that the record photograph of the sex offender no  
41 longer provides a true and accurate likeness of the sex offender, then the  
42 sheriff shall take a photograph of the offender to include with the  
43 verification form.
- 44 (4) If the person fails to return the verification form in person to the sheriff  
45 within three business days after receipt of the form, the person is subject to  
46 the penalties provided in G.S. 14-208.11. If the person fails to report in  
47 person and provide the written verification as provided by this section, the  
48 sheriff shall make a reasonable attempt to verify that the person is residing at  
49 the registered address. If the person cannot be found at the registered address  
50 and has failed to report a change of address, the person is subject to the  
51 penalties provided in G.S. 14-208.11, unless the person reports in person to

1 ~~the sheriff and proves that the person has not changed his or her residential~~  
2 ~~address.~~If the person fails to report in person and provide the written  
3 verification as provided by this section, the sheriff shall make a reasonable  
4 attempt to verify that the person is residing at the registered address. If the  
5 person cannot be found at the registered address and has failed to report a  
6 change of address, the person is subject to the penalties provided in  
7 G.S. 14-208.11, unless the person reports in person to the sheriff and proves  
8 that the person has not changed his or her residential address.

9 (b) Additional Verification May Be Required. – During the period that an offender is  
10 required to be registered under this Article, the sheriff is authorized to attempt to verify that the  
11 offender continues to reside at the address last registered by the offender.

12 (c) Additional Photograph May Be Required. – If it appears to the sheriff that the  
13 current photograph of the sex offender no longer provides a true and accurate likeness of the  
14 sex offender, upon in-person notice from the sheriff, the sex offender shall allow the sheriff to  
15 take another photograph of the sex offender at the time of the sheriff's request. If requested by  
16 the sheriff, the sex offender shall appear in person at the sheriff's office during normal business  
17 hours within three business days of being requested to do so and shall allow the sheriff to take  
18 another photograph of the sex offender. A person who willfully fails to comply with this  
19 subsection is guilty of a Class 1 misdemeanor."

20 **SECTION 15.1.(c)** G.S. 14-208.11 reads as rewritten:

21 **"§ 14-208.11. Failure to register; falsification of verification notice; failure to return**  
22 **verification form; order for arrest.**

23 (a) A person required by this Article to register who willfully does any of the following  
24 is guilty of a Class F felony:

- 25 (1) Fails to register as required by this Article.
- 26 (2) Fails to notify the last registering sheriff of a change of address as required  
27 by this Article.
- 28 (3) Fails to ~~return~~complete and sign a verification notice as required under  
29 G.S. 14-208.9A.
- 30 (4) Forges or submits under false pretenses the information or verification  
31 notices required under this Article.
- 32 (5) Fails to inform the registering sheriff of enrollment or termination of  
33 enrollment as a student.
- 34 (6) Fails to inform the registering sheriff of employment at an institution of  
35 higher education or termination of employment at an institution of higher  
36 education.
- 37 (7) Fails to report in person to the sheriff's office as required by G.S. 14-208.7,  
38 14-208.9, and 14-208.9A.
- 39 (8) Reports his or her intent to reside in another state or jurisdiction but remains  
40 in this State without reporting to the sheriff in the manner required by  
41 G.S. 14-208.9.
- 42 (9) Fails to notify the registering sheriff of out-of-county employment if  
43 temporary residence is established as required under G.S. 14-208.8A.
- 44 (10) Fails to inform the registering sheriff of any new or changes to existing  
45 online identifiers that the person uses or intends to use.

46 (a1) If a person commits a violation of subsection (a) of this section, the probation  
47 officer, parole officer, or any other law enforcement officer who is aware of the violation shall  
48 immediately arrest the person in accordance with G.S. 15A-401, or seek an order for the  
49 person's arrest in accordance with G.S. 15A-305.

50 (b) Before a person convicted of a violation of this Article is due to be released from a  
51 penal institution, an official of the penal institution shall conduct the prerelease notification

1 procedures specified under G.S. 14-208.8(a)(2) and (3). If upon a conviction for a violation of  
2 this Article, no active term of imprisonment is imposed, the court pronouncing sentence shall,  
3 at the time of sentencing, conduct the notification procedures specified under  
4 G.S. 14-208.8(a)(2) and (3).

5 (c) A person who is unable to meet the registration or verification requirements of this  
6 Article shall be deemed to have complied with its requirements if:

- 7 (1) The person is incarcerated in, or is in the custody of, a local, State, private,  
8 or federal correctional facility,
- 9 (2) The person notifies the official in charge of the facility of their status as a  
10 person with a legal obligation or requirement under this Article and
- 11 (3) The person meets the registration or verification requirements of this Article  
12 no later than 10 days after release from confinement or custody."

13 **SECTION 15.1.(d)** G.S. 14-208.24 reads as rewritten:

14 "**§ 14-208.24. Verification of registration information.**

15 (a) ~~The information in the county registry shall be verified by the sheriff for each~~  
16 ~~registrant who is a recidivist, who is convicted of an aggravated offense, or who is classified as~~  
17 ~~a sexually violent predator every 90 days after the person's initial registration date. Each~~  
18 registrant who is a recidivist, who is convicted of an aggravated offense, or who is classified as  
19 a sexually violent predator shall have a verification date every 90 days following the date of  
20 initial county registration. The registrant's verification dates will be the same four calendar  
21 dates every calendar year.

22 (b) The procedure for verifying the information in the criminal offender registry is the  
23 same as under G.S. 14-208.9A, except that verification shall be every 90 days as provided by  
24 subsection (a) of this section."  
25

## 26 **PART XVI. DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY** 27 **PREVENTION**

### 29 **ANNUAL EVALUATION OF COMMUNITY PROGRAMS**

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

31 "**SECTION 18.1.** The Department of Juvenile Justice and Delinquency Prevention shall  
32 conduct an evaluation of the ~~Eekerd and Camp Woodson~~ wilderness camp programs and of  
33 multipurpose group homes.

34 In conducting the evaluation of each of these programs, the Department shall consider  
35 whether participation in each program results in a reduction of court involvement among  
36 juveniles. The Department also shall identify whether the programs are achieving the goals and  
37 objectives of the Juvenile Justice Reform Act, S.L. 1998-202. The Department shall report the  
38 results of the evaluation to the Joint Legislative Corrections, Crime Control, and Juvenile  
39 Justice Oversight Committee, the chairs of the Senate and House of Representatives  
40 Appropriations Committees and the chairs of the Subcommittees on Justice and Public Safety  
41 of the Senate and House of Representatives Appropriations Committees by March 1 of each  
42 year."  
43

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

45 **SECTION 16.2.** Funds appropriated in this act to the Department of Juvenile  
46 Justice and Delinquency Prevention for the 2011-2012 fiscal year may be used as matching  
47 funds for the Juvenile Accountability Incentive Block Grants. If North Carolina receives  
48 Juvenile Accountability Incentive Block Grants or a notice of funds to be awarded, the Office  
49 of State Budget and Management and the Governor's Crime Commission shall consult with the  
50 Department of Juvenile Justice and Delinquency Prevention regarding the criteria for awarding  
51 federal funds. The Office of State Budget and Management, the Governor's Crime

1 Commission, and the Department of Juvenile Justice and Delinquency Prevention shall report  
2 to the Appropriations Committees of the Senate and House of Representatives and the Joint  
3 Legislative Commission on Governmental Operations prior to allocation of the federal funds.  
4 The report shall identify the amount of funds to be received for the 2011-2012 fiscal year, the  
5 amount of funds anticipated for the 2011-2012 fiscal year, and the allocation of funds by  
6 program and purpose.

## 8 **PART XVIII. DEPARTMENT OF CORRECTION**

### 10 **INMATE MEDICAL COST CONTAINMENT**

11 **SECTION 18.1.(a)** The Department of Correction shall reimburse those providers  
12 and facilities providing approved inmate medical services outside the correctional facility the  
13 lesser amount of either a rate of seventy percent (70%) of the provider's then current prevailing  
14 charge or two times the then current Medicaid rate for any given service. The DOC shall have  
15 the right to audit any given provider to determine actual prevailing charge to ensure compliance  
16 with this provision.

17 The provisions above shall not apply to vendors providing services that are not  
18 billed on a fee-for-service basis (e.g., temporary staffing). Nothing in this section shall preclude  
19 the Department from contracting with a provider for services at rates that provide greater  
20 documentable cost avoidance for the State than do the rates contained herein or at rates that are  
21 less favorable to the State but will ensure the continued access to care.

22 **SECTION 18.1.(b)** The Department of Correction shall make every effort to  
23 contain inmate medical costs by making use of its own hospital and health care facilities to  
24 provide health care services to inmates. To the extent that the Department of Correction must  
25 utilize other facilities and services to provide health care services to inmates, the Department  
26 shall make reasonable efforts to make use of hospitals or other providers with which it has a  
27 contract or, if none is reasonably available, hospitals with available capacity or other health  
28 care facilities in a region to accomplish that goal. The Department shall make reasonable  
29 efforts to equitably distribute inmates among all hospitals or other appropriate health care  
30 facilities. With respect to any single hospital, the Department of Correction shall continue to  
31 make its best effort to seek admission of the number of inmates representing no more than nine  
32 percent (9%) of all inmates requiring hospitalization or hospital services on an annual basis  
33 beginning in fiscal year 2011-2012, unless the failure to do so would jeopardize the health of an  
34 inmate or unless a higher level is agreed to by contract. The Department shall also give  
35 preference to those hospitals or other health care facilities in the same county or an adjoining  
36 county to the correctional facility where an inmate requiring hospitalization is incarcerated.  
37 The Department will continue these efforts until it has reached a number which represents no  
38 more than five percent (5%) of all inmates requiring hospitalization or hospital services on an  
39 annual basis at any single hospital by July 1, 2013, unless the failure to do so would jeopardize  
40 the health of an inmate or unless a higher level is agreed to by contract.

41 **SECTION 18.1.(c)** The Department of Correction shall consult with the  
42 Department of Health and Human Services, Division of Medical Assistance, to determine the  
43 feasibility of applying for a Medicaid waiver to cover the inmate population. Inasmuch as a  
44 waiver is available to Department of Correction inmates, the medical care provided to those  
45 inmates covered by said waiver will be reimbursed at the rates set forth by Medicaid.

46 **SECTION 18.1.(d)** The Department of Correction, in consultation with the Office  
47 of State Budget and Management, shall study the impact on inmate medical costs resulting  
48 from the measures set forth in subsections (a), (b), (c), and (d) of this section. The Department  
49 shall present its findings by March 1, 2012, to the Chairs of the House of Representatives and  
50 Senate Appropriations Subcommittees on Justice and Public Safety and to the Joint Legislative  
51 Corrections, Crime Control, and Juvenile Justice Oversight Committee.

1           **SECTION 18.1.(e)** The Department of Correction shall make every effort to  
2 explore other cost containment methods not expressly outlined in this section. These methods  
3 may include contracting with a private third party to manage and provide all inmate medical  
4 services. The Department of Correction shall study the impact of any such methods that are  
5 implemented and present its findings by May 1, 2012, to the Chairs of the House of  
6 Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to  
7 the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee.

8           **SECTION 18.1.(f)** The Department of Correction shall report to the Joint  
9 Legislative Commission on Governmental Operations no later than November 1, 2011, and  
10 quarterly thereafter on the following:

- 11           (1) The volume of services provided by community medical providers that can  
12 be scheduled in advance and, of that volume, the percentage of those  
13 services that are provided by contracted providers.
- 14           (2) The volume of services provided by community medical providers that  
15 cannot be scheduled in advance and, of that volume, the percentage of those  
16 services that are provided by contracted providers.

## 17 18 **FEDERAL GRANT MATCHING FUNDS**

19           **SECTION 18.2.** Notwithstanding the provisions of G.S. 143C-6-9, the Department  
20 of Correction may use up to the sum of one million two hundred thousand dollars (\$1,200,000)  
21 during the 2011-2012 fiscal year from funds available to the Department to provide the State  
22 match needed in order to receive federal grant funds. Prior to using funds for this purpose, the  
23 Department shall report to the Chairs of the House of Representatives and Senate  
24 Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative  
25 Commission on Governmental Operations on the grants to be matched using these funds.

## 26 27 **PART XIX. OFFICE OF ADMINISTRATIVE HEARINGS**

### 28 29 **OFFICE OF ADMINISTRATIVE HEARINGS**

30           **SECTION 19.1.** G.S. 150B-21.24 reads as rewritten:

#### 31 **"§ 150B-21.24. Access to Register and Code.**

32           (a) Register. – The Codifier of Rules shall make available the North Carolina Register  
33 on the Internet at no charge. Upon request the Codifier shall provide a free copy of the current  
34 volume of the Register to any person who receives a free copy of the North Carolina  
35 Administrative Code or any member of the General Assembly.

36           (b) Code. – The Codifier of Rules shall make available the North Carolina  
37 Administrative Code on the Internet at no charge. The Codifier shall distribute copies of the  
38 North Carolina Administrative Code as soon after publication as practical, without charge, to  
39 the following:

- 40           ~~(1) One copy to the board of commissioners of each county that specifically~~  
41 ~~requests a printed copy, to be placed at the county clerk of court's office or at~~  
42 ~~another place selected by the board of commissioners. The Codifier of Rules~~  
43 ~~is not required to provide a copy of the Administrative Code to any board of~~  
44 ~~county commissioners unless a request is made.~~
- 45           (2) One copy to the Commission.
- 46           ~~(3) One copy to the Clerk of the Supreme Court and to the Clerk of the Court of~~  
47 ~~Appeals of North Carolina.~~
- 48           (4) One copy to the Supreme Court Library and one copy to the library of the  
49 Court of Appeals.
- 50           ~~(5) One copy to the Administrative Office of the Courts.~~
- 51           (6) One copy to the Governor.

- 1 (7) One copy to the Legislative Services Commission for the use of the General  
2 Assembly.  
3 (8) Repealed by Session Laws 2002-97, s. 1, effective August 29, 2002.  
4 (9) One copy to the Division of State Library of the Department of Cultural  
5 Resources pursuant to G.S. 125-11.7."  
6

## 7 PART XIX-A. OFFICE OF STATE BUDGET AND MANAGEMENT

### 8 TRANSFER STATE FIRE PROTECTION GRANT FUND

9 SECTION 19A.1. Article 85A of Chapter 58 of the General Statutes reads as  
10 rewritten:  
11

12 "Article 85A.

13 "State Fire Protection Grant Fund.

#### 14 "§ 58-85A-1. Creation of Fund; allocation to local fire districts and political subdivisions 15 of the State.

16 (a) There is created in the ~~Office of State Budget and Management~~ Department of  
17 Insurance the State Fire Protection Grant Fund. The purpose of the Fund is to compensate local  
18 fire districts and political subdivisions of the State for providing local fire protection to  
19 State-owned buildings and their contents.

20 (b) The ~~Office of State Budget and Management~~ Department of Insurance shall develop  
21 and implement an equitable and uniform statewide method for distributing any funds to the  
22 State's local fire districts and political subdivisions.

23 ~~Upon the request of the Director of the Budget, the Department of Insurance shall provide~~  
24 ~~the Office of State Budget and Management all information necessary to develop and~~  
25 ~~implement the formula.~~

26 (c) It is the intent of the General Assembly to appropriate annually to the State Fire  
27 Protection Grant Fund up to ~~four million one hundred eighty thousand dollars (\$4,180,000)~~ four  
28 million sixty-eight thousand one hundred twenty-five dollars (\$4,068,125) from the General  
29 Fund, one hundred fifty-eight thousand dollars (\$158,000) from the Highway Fund, and one  
30 million three hundred forty-five thousand dollars (\$1,345,000) from University of North  
31 Carolina receipts. Funds received from the General Fund shall be allocated only for providing  
32 local fire protection for State-owned property supported by the General Fund; funds received  
33 from the Highway Fund shall be allocated only for providing local fire protection for  
34 State-owned property supported by the Highway Fund; and funds received from University of  
35 North Carolina receipts shall be allocated only for providing local fire protection for  
36 State-owned property supported by University of North Carolina receipts."  
37

### 38 CONSOLIDATION AND EFFICIENCY INCENTIVE FUND

39 SECTION 19A.2.(a) There is established in the Office of State Budget and  
40 Management a General Fund reserve for the purpose of providing one-time incentive payments  
41 to local governments and State-funded nonprofit organizations that consolidate, streamline, and  
42 make more efficient the public functions and services conducted on behalf of the State. This  
43 may include Local Education Agencies in the public school system; Local Management  
44 Entities in mental health, public health, and public safety services; and regional economic  
45 development partnerships.

46 SECTION 19A.2.(b) The Director of the Budget shall allocate funds appropriated  
47 in this act to the Consolidation and Efficiency Incentive Fund to local governments and  
48 State-funded nonprofit organizations as an incentive to encourage the voluntary reorganization,  
49 consolidation, or regionalization of public functions and services where the State, local  
50 governments, and nonprofit groups have shared responsibilities. A one-time payment will be  
51 made based on the savings generated by the consolidating agencies. Savings may be generated

1 through the reduction of positions and layers of management or through reduced operating  
2 costs due to more efficient practices and use of existing office space and resources. Prior to any  
3 disbursement of funds, savings must be verified by the Office of State Budget and  
4 Management.

5 **SECTION 19A.2.(c)** The Office of State Budget and Management can utilize up to  
6 one percent (1%) of these funds to hire contracted staff to perform the following duties:

- 7 (1) Develop policies and procedures for implementation of the Consolidation  
8 and Efficiency Incentive Fund as set forth above.
- 9 (2) Verify savings submitted by local governments and State-funded nonprofit  
10 entities.

11 **SECTION 19A.2.(d)** Funds appropriated in this act shall remain available for the  
12 2011-2013 fiscal biennium. Funds not encumbered by June 30, 2013, shall revert to the General  
13 Fund.

#### 14 15 **INTERNAL AUDITING ACT**

16 **SECTION 19A.3.** Article 79 of Chapter 143 of the General Statutes reads as  
17 rewritten:

#### 18 **"§ 143-745. Definitions; intent; applicability.**

19 (a) For the purposes of this section:

- 20 (1) "Agency head" means the Governor, a Council of State member, a cabinet  
21 secretary, a director, an executive director, the President of The University  
22 of North Carolina, the Chairman of the Employment Security Commission,  
23 the State Controller, the Chief Information Officer, the Executive  
24 Administrator of the State Health Plan for Teachers and State Employees,  
25 and the Superintendent of Public Instruction.
- 26 (2) "State agency" means each department or entity created pursuant to Chapter  
27 143A or 143B of the General Statutes, The University of North Carolina, the  
28 North Carolina State Board of Elections, the State Health Plan for Teachers  
29 and State Employees, the Office of Information Technology Services, the  
30 Employment Security Commission of North Carolina, the North Carolina  
31 Housing Finance Agency, the North Carolina Education Lottery, and the  
32 Department of Public Instruction.

33 (b) This Article applies only to a State agency that:

- 34 (1) Has an annual operating budget that exceeds ten million dollars  
35 (\$10,000,000);
- 36 (2) Has more than 100 full-time equivalent employees; or
- 37 (3) Receives and processes more than ten million dollars (\$10,000,000) in cash  
38 in a fiscal year.

#### 39 **"§ 143-746. Internal auditing required.**

40 (a) Requirements. – A State agency shall establish a program of internal auditing that:

- 41 (1) ~~Implements~~ Promotes an effective system of internal controls that safeguards  
42 public funds and assets and minimizes incidences of fraud, waste, and abuse.
- 43 (2) ~~Ensures~~ Determines whether programs and business operations are  
44 administered in compliance with federal and state laws, regulations, and  
45 other requirements.
- 46 (3) Reviews the effectiveness and efficiency of agency and program operations  
47 and service delivery.
- 48 (4) Periodically audits the agency's major systems and controls, including:
  - 49 a. Accounting systems and controls.
  - 50 b. Administrative systems and controls.

1 c. ~~Electronic data processing~~ Information technology systems and  
2 controls.

3 (b) Internal Audit Standards. – Internal audits shall comply with current Standards for  
4 the Professional Practice of Internal Auditing issued by the Institute for Internal Auditors or, if  
5 appropriate, Government Auditing Standards issued by the Comptroller General of the United  
6 States.

7 (c) Appointment and Qualifications of Internal Auditors. – ~~Any internal auditor~~  
8 ~~employed by a State agency shall at a minimum have a bachelor's degree from an accredited~~  
9 ~~college or university and:~~ Any State employee who performs the internal audit function shall  
10 meet the minimum qualifications for internal auditors established by the Office of State  
11 Personnel.

12 (1) ~~Certification or licensure as a certified public accountant, certified internal~~  
13 ~~auditor, certified fraud examiner, certified information systems auditor,~~  
14 ~~professional engineer, or attorney; or~~

15 (2) ~~A minimum of five years' experience in internal or external auditing,~~  
16 ~~management consulting, program evaluation, management analysis,~~  
17 ~~economic analysis, industrial engineering, or operations research.~~

18 (d) Director of Internal Auditing. – The agency head shall appoint a Director of Internal  
19 Auditing who shall report to the agency head ~~and shall not report to any employee subordinate~~  
20 ~~to the agency head;~~ head; deputy agency head; or the agency governing board, or subcommittee  
21 thereof, if such a governing board exists. The Director of Internal Auditing shall be  
22 organizationally situated in a manner that avoids impairments to independence as defined in the  
23 Standards referenced in G.S. 143-746(b).

24 **"§ 143-747. Council of Internal Auditing.**

25 (a) The Council of Internal Auditing is created, consisting of the following members:

26 (1) The State Controller who shall serve as Chair.

27 (2) The State Budget Officer.

28 (3) The Secretary of Administration.

29 (4) The Attorney General.

30 (5) The Secretary of Revenue.

31 ~~(6) The State Auditor who shall serve as a nonvoting member. The State~~  
32 ~~Auditor may appoint a designee.~~

33 (6) The President of The University of North Carolina, who may appoint a  
34 designee.

35 (7) The State Auditor, who shall serve as a nonvoting member. The State  
36 Auditor may appoint a designee.

37 (b) The Council shall be supported by the Office of State Budget and Management.

38 (c) The Council shall:

39 (1) Hold its first meeting before November 1, 2007, and thereafter at the call of  
40 the Chair or upon written request to the Chair by two members of the  
41 Council.

42 (2) Keep minutes of all proceedings.

43 (3) Promulgate guidelines for the uniformity and quality of State agency internal  
44 audit activities.

45 (4) Recommend the number of internal audit employees required by each State  
46 agency.

47 (5) Develop internal audit guides, technical manuals, and suggested best internal  
48 audit practices.

49 (6) Administer an independent peer review system for each State agency  
50 internal audit activity; specify the frequency of such reviews consistent with



- 1 applicable national standards; and assist agencies with selection of  
 2 independent peer reviewers from other State agencies.
- 3 (7) Provide central training sessions, professional development opportunities,  
 4 and recognition programs for internal auditors.
- 5 (8) Administer a program for sharing internal auditors among State agencies  
 6 needing temporary assistance and assembly of interagency teams of internal  
 7 auditors to conduct internal audits beyond the capacity of a single agency.
- 8 (9) Maintain a central database of all annual internal audit plans; topics for  
 9 review proposed by internal audit plans; internal audit reports issued and  
 10 individual findings and recommendations from those reports.
- 11 (10) Require reports in writing from any State agency relative to any internal  
 12 audit matter.
- 13 (11) If determined necessary by a majority vote of the council:  
 14 a. Conduct hearings relative to any attempts to interfere with,  
 15 compromise, or intimidate an internal auditor.  
 16 b. Inquire as to the effectiveness of any internal audit unit.  
 17 c. Authorize the Chair to issue subpoenas for the appearance of any  
 18 person or internal audit working papers, report drafts, and any other  
 19 pertinent document or record regardless of physical form needed for  
 20 the hearing.
- 21 (12) Issue an annual report including, but not limited to, service efforts and  
 22 accomplishments of State agency internal auditors and to propose legislation  
 23 for consideration by the Governor and General Assembly."  
 24

## 25 PART XIX-B. DEPARTMENT OF CULTURAL RESOURCES

### 26 NORTH CAROLINA TRANSPORTATION MUSEUM

27 **SECTION 19B.1.** The North Carolina Transportation Museum Fund is created as a  
 28 special interest-bearing, nonreverting enterprise fund in the Department of Cultural Resources.  
 29 The Fund shall be used to pay all costs associated with the operation and maintenance of the  
 30 North Carolina Transportation Museum.

31 Notwithstanding Chapter 146 of the General Statutes, all receipts derived from the  
 32 lease, rental, or other disposition of structures or products of the land, as well as all admissions  
 33 and fees, gifts, donations, grants, and bequests shall be credited to the Fund. The Fund shall be  
 34 credited with interest by the State Treasurer pursuant to G.S. 147-69.2 and G.S. 147-69.3.

35 The Department of Cultural Resources shall establish, out of existing unobligated  
 36 funds such as lapsed salaries and/or unobligated special funds, an emergency reserve fund in  
 37 the amount of three hundred thousand dollars (\$300,000). Any use of the emergency reserve  
 38 will require reimbursement from museum receipts. The fund shall be subject to the oversight of  
 39 the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes. The fund shall  
 40 reimburse the Office of the State Auditor for the cost of any audit.  
 41  
 42

## 43 PART XX. DEPARTMENT OF TRANSPORTATION

### 44 CASH FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND APPROPRIATIONS

45 **SECTION 20.1.(a)** The General Assembly authorizes and certifies anticipated  
 46 revenues of the Highway Fund as follows:  
 47

48	For Fiscal Year 2013-2014	\$1,996.5 million
49	For Fiscal Year 2014-2015	\$2,021.1 million
50	For Fiscal Year 2015-2016	\$2,040.5 million
51	For Fiscal Year 2016-2017	\$2,069.1 million

1 SECTION 20.1.(b) The General Assembly authorizes and certifies anticipated  
2 revenues of the Highway Trust Fund as follows:

3	For Fiscal Year 2013-2014	\$1,041.0 million
4	For Fiscal Year 2014-2015	\$1,097.5 million
5	For Fiscal Year 2015-2016	\$1,128.7 million
6	For Fiscal Year 2016-2017	\$1,122.8 million

7  
8 **PART XXI. SALARIES AND BENEFITS**

9  
10 **PUBLIC EMPLOYEE SALARIES**

11 SECTION 21.1.(a) The salaries of those officers and employees, whose salaries  
12 for the 2008-2009 fiscal year were set or increased in Sections 26.1, 26.2, 26.3, 26.4, 26.5,  
13 26.6, 26.7, 26.8, 26.9, 26.10, 26.11, 26.11A, 26.12, 26.12D, 26.13, 26.14, 26.18, and 26.19 of  
14 S.L. 2008-107, and in effect on June 30, 2009, or the last date in pay status during the  
15 2008-2009 fiscal year if earlier, shall remain in effect and shall not increase for the 2011-2012  
16 and 2012-2013 fiscal years, except:

- 17 (1) As provided for by Section 29.20A of S.L. 2005-276.
- 18 (2) For Community College faculty as otherwise provided in Section 8.1 of S.L.  
19 2009-451.
- 20 (3) For University of North Carolina faculty as otherwise provided by the  
21 Faculty Recruiting and Retention Fund, the Distinguished Professors  
22 Endowment Fund, or retention adjustments funded from available non-State  
23 funding sources.
- 24 (3a) For Judicial Department employees for local supplementation as authorized  
25 under G.S. 7A-300.1
- 26 (4) Salaries may be increased for reallocations or promotions, in-range  
27 adjustments for job change, career progression adjustments for demonstrated  
28 competencies, or any other adjustment related to an increase in job duties or  
29 responsibilities, none of which are subject to the salary freeze otherwise  
30 provided by this subsection. All other salary increases are prohibited.

31 SECTION 21.1.(b) The automatic salary step increases for assistant and deputy  
32 clerks of superior court and magistrates are suspended for the 2011-2012 and 2012-2013 fiscal  
33 years.

34 SECTION 21.1.(c) The salary increase provisions of G.S. 20-187.3 are suspended  
35 for the 2011-2012 and 2012-2013 fiscal years.

36 SECTION 21.1.(d) For the 2011-2012 and 2012-2013 fiscal years, the salaries of  
37 members and officers of the General Assembly shall remain the amounts set under G.S. 120-3  
38 in 1994 by the 1993 General Assembly.

39  
40 **TEACHER SALARY SCHEDULES**

41 SECTION 21.2.(a) The following monthly salary schedules shall apply for the  
42 2011-2012 fiscal year to certified personnel of the public schools who are classified as teachers.  
43 The schedules contain 35 steps, with each step corresponding to one year of teaching  
44 experience. Public school employees paid according to this salary schedule and receiving  
45 NBPTS certification or obtaining a master's degree shall not be prohibited from receiving the  
46 appropriate increase in salary. Provided, however, teachers employed during the 2010-2011  
47 school year who did not work the required number of months to acquire an additional year of  
48 experience shall not receive a decrease in salary as otherwise would be required by the salary  
49 schedule below.

50  
51 2011-2012 Monthly Salary Schedule

	"A" Teachers		
	Years of Experience	"A" Teachers	NBPTS Certification
1			
2			
3	0	\$3,043	N/A
4	1	\$3,043	N/A
5	2	\$3,043	N/A
6	3	\$3,043	N/A
7	4	\$3,085	\$3,455
8	5	\$3,129	\$3,504
9	6	\$3,264	\$3,656
10	7	\$3,404	\$3,812
11	8	\$3,538	\$3,963
12	9	\$3,667	\$4,107
13	10	\$3,771	\$4,224
14	11	\$3,819	\$4,277
15	12	\$3,868	\$4,332
16	13	\$3,918	\$4,388
17	14	\$3,967	\$4,443
18	15	\$4,018	\$4,500
19	16	\$4,069	\$4,557
20	17	\$4,122	\$4,617
21	18	\$4,176	\$4,677
22	19	\$4,231	\$4,739
23	20	\$4,286	\$4,800
24	21	\$4,345	\$4,866
25	22	\$4,403	\$4,931
26	23	\$4,461	\$4,996
27	24	\$4,523	\$5,066
28	25	\$4,584	\$5,134
29	26	\$4,650	\$5,208
30	27	\$4,714	\$5,280
31	28	\$4,779	\$5,352
32	29	\$4,845	\$5,426
33	30	\$4,913	\$5,503
34	31	\$4,984	\$5,582
35	32	\$5,055	\$5,662
36	33	\$5,153	\$5,771
37	34+	\$5,255	\$5,886

2011-2012 Monthly Salary Schedule

	"M" Teachers		
	Years of Experience	"M" Teachers	NBPTS Certification
38			
39			
40			
41			
42	0	\$3,347	N/A
43	1	\$3,347	N/A
44	2	\$3,347	N/A
45	3	\$3,347	N/A
46	4	\$3,394	\$3,801
47	5	\$3,442	\$3,855
48	6	\$3,590	\$4,021
49	7	\$3,744	\$4,193
50	8	\$3,892	\$4,359
51	9	\$4,034	\$4,518

1	10	\$4,148	\$4,646
2	11	\$4,201	\$4,705
3	12	\$4,255	\$4,766
4	13	\$4,310	\$4,827
5	14	\$4,364	\$4,888
6	15	\$4,420	\$4,950
7	16	\$4,476	\$5,013
8	17	\$4,534	\$5,078
9	18	\$4,594	\$5,145
10	19	\$4,654	\$5,212
11	20	\$4,715	\$5,281
12	21	\$4,780	\$5,354
13	22	\$4,843	\$5,424
14	23	\$4,907	\$5,496
15	24	\$4,975	\$5,572
16	25	\$5,042	\$5,647
17	26	\$5,115	\$5,729
18	27	\$5,185	\$5,807
19	28	\$5,257	\$5,888
20	29	\$5,330	\$5,970
21	30	\$5,404	\$6,052
22	31	\$5,482	\$6,140
23	32	\$5,561	\$6,228
24	33	\$5,668	\$6,348
25	34+	\$5,781	\$6,475

26 **SECTION 21.2.(b)** Annual longevity payments for teachers shall be at the rate of  
 27 one and one-half percent (1.5%) of base salary for 10 to 14 years of State service, two and  
 28 twenty-five hundredths percent (2.25%) of base salary for 15 to 19 years of State service, three  
 29 and twenty-five hundredths percent (3.25%) of base salary for 20 to 24 years of State service,  
 30 and four and one-half percent (4.5%) of base salary for 25 or more years of State service. The  
 31 longevity payment shall be paid in a lump sum once a year.

32 **SECTION 21.2.(c)** Certified public schoolteachers with certification based on  
 33 academic preparation at the six-year degree level shall receive a salary supplement of one  
 34 hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided for  
 35 certified personnel of the public schools who are classified as "M" teachers. Certified public  
 36 schoolteachers with certification based on academic preparation at the doctoral degree level  
 37 shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per month in  
 38 addition to the compensation provided for certified personnel of the public schools who are  
 39 classified as "M" teachers.

40 **SECTION 21.2.(d)** The first step of the salary schedule for school psychologists  
 41 shall be equivalent to Step 6, corresponding to six years of experience, on the salary schedule  
 42 established in this section for certified personnel of the public schools who are classified as  
 43 "M" teachers. Certified psychologists shall be placed on the salary schedule at an appropriate  
 44 step based on their years of experience. Certified psychologists shall receive longevity  
 45 payments based on years of State service in the same manner as teachers.

46 Certified psychologists with certification based on academic preparation at the  
 47 six-year degree level shall receive a salary supplement of one hundred twenty-six dollars  
 48 (\$126.00) per month in addition to the compensation provided for certified psychologists.  
 49 Certified psychologists with certification based on academic preparation at the doctoral degree  
 50 level shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per month  
 51 in addition to the compensation provided for certified psychologists.

1           **SECTION 21.2.(e)** Speech pathologists who are certified as speech pathologists at  
 2 the master's degree level and audiologists who are certified as audiologists at the master's  
 3 degree level and who are employed in the public schools as speech and language specialists and  
 4 audiologists shall be paid on the school psychologist salary schedule.

5           Speech pathologists and audiologists with certification based on academic  
 6 preparation at the six-year degree level shall receive a salary supplement of one hundred  
 7 twenty-six dollars (\$126.00) per month in addition to the compensation provided for speech  
 8 pathologists and audiologists. Speech pathologists and audiologists with certification based on  
 9 academic preparation at the doctoral degree level shall receive a salary supplement of two  
 10 hundred fifty-three dollars (\$253.00) per month in addition to the compensation provided for  
 11 speech pathologists and audiologists.

12           **SECTION 21.2.(f)** Certified school nurses who are employed in the public schools  
 13 as nurses shall be paid on the "M" salary schedule.

14           **SECTION 21.2.(g)** As used in this section, the term "teacher" shall also include  
 15 instructional support personnel.

16  
 17 **SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE**

18           **SECTION 21.3.(a)** The following base salary schedule for school-based  
 19 administrators shall apply only to principals and assistant principals. This base salary schedule  
 20 shall apply for the 2011-2012 fiscal year, commencing July 1, 2011. Provided, however,  
 21 school-based administrators (i) employed during the 2010-2011 school year who did not work  
 22 the required number of months to acquire an additional year of experience and (ii) employed  
 23 during the 2011-2012 school year in the same classification shall not receive a decrease in  
 24 salary as otherwise would be required by the salary schedule below.

25  
 26                                   2011-2012 Principal and Assistant Principal Salary Schedules  
 27                                   Classification

28	Years of Exp	Assistant	Prin I	Prin II	Prin III	Prin IV
29		Principal	(0-10)	(11-21)	(22-32)	(33-43)
30	0-7	\$3,781	-	-	-	-
31	8	\$3,931	-	-	-	-
32	9	\$4,074	-	-	-	-
33	10	\$4,189	-	-	-	-
34	11	\$4,243	\$4,243	-	-	-
35	12	\$4,298	\$4,298	-	-	-
36	13	\$4,353	\$4,353	\$4,408	-	-
37	14	\$4,408	\$4,408	\$4,464	-	-
38	15	\$4,464	\$4,464	\$4,521	\$4,579	-
39	16	\$4,521	\$4,521	\$4,579	\$4,640	\$4,701
40	17	\$4,579	\$4,579	\$4,640	\$4,701	\$4,762
41	18	\$4,640	\$4,640	\$4,701	\$4,762	\$4,828
42	19	\$4,701	\$4,701	\$4,762	\$4,828	\$4,891
43	20	\$4,762	\$4,762	\$4,828	\$4,891	\$4,956
44	21	\$4,828	\$4,828	\$4,891	\$4,956	\$5,025
45	22	\$4,891	\$4,891	\$4,956	\$5,025	\$5,092
46	23	\$4,956	\$4,956	\$5,025	\$5,092	\$5,166
47	24	\$5,025	\$5,025	\$5,092	\$5,166	\$5,237
48	25	\$5,092	\$5,092	\$5,166	\$5,237	\$5,310
49	26	\$5,166	\$5,166	\$5,237	\$5,310	\$5,383
50	27	\$5,237	\$5,237	\$5,310	\$5,383	\$5,458
51	28	\$5,310	\$5,310	\$5,383	\$5,458	\$5,537

1	29	\$5,383	\$5,383	\$5,458	\$5,537	\$5,617
2	30	\$5,458	\$5,458	\$5,537	\$5,617	\$5,725
3	31	\$5,537	\$5,537	\$5,617	\$5,725	\$5,839
4	32	\$5,617	\$5,617	\$5,725	\$5,839	\$5,956
5	33	\$5,725	\$5,725	\$5,839	\$5,956	\$6,075
6	34	\$5,839	\$5,839	\$5,956	\$6,075	\$6,197
7	35	-	\$5,956	\$6,075	\$6,197	\$6,321
8	36	-	-	\$6,197	\$6,321	\$6,447
9	37	-	-	\$6,321	\$6,447	\$6,576
10	38	-	-	-	\$6,576	\$6,708
11	39	-	-	-	\$6,708	\$6,842
12	40	-	-	-	-	\$6,979

2011-2012 Principal and Assistant Principal Salary Schedules  
Classification

16	Years of Exp	Prin V (44-54)	Prin VI (55-65)	Prin VII (66-100)	Prin VIII (101+)
17					
18	0-17	\$4,828	-	-	-
19	18	\$4,891	-	-	-
20	19	\$4,956	\$5,025	-	-
21	20	\$5,025	\$5,092	\$5,237	-
22	21	\$5,092	\$5,166	\$5,310	\$5,383
23	22	\$5,166	\$5,237	\$5,383	\$5,458
24	23	\$5,237	\$5,310	\$5,458	\$5,537
25	24	\$5,310	\$5,383	\$5,537	\$5,617
26	25	\$5,383	\$5,458	\$5,617	\$5,725
27	26	\$5,458	\$5,537	\$5,725	\$5,839
28	27	\$5,537	\$5,617	\$5,839	\$5,956
29	28	\$5,617	\$5,725	\$5,956	\$6,075
30	29	\$5,725	\$5,839	\$6,075	\$6,197
31	30	\$5,839	\$5,956	\$6,197	\$6,321
32	31	\$5,956	\$6,075	\$6,321	\$6,447
33	32	\$6,075	\$6,197	\$6,447	\$6,576
34	33	\$6,197	\$6,321	\$6,576	\$6,708
35	34	\$6,321	\$6,447	\$6,708	\$6,842
36	35	\$6,447	\$6,576	\$6,842	\$6,979
37	36	\$6,576	\$6,708	\$6,979	\$7,119
38	37	\$6,708	\$6,842	\$7,119	\$7,261
39	38	\$6,842	\$6,979	\$7,261	\$7,406
40	39	\$6,979	\$7,119	\$7,406	\$7,554
41	40	\$7,119	\$7,261	\$7,554	\$7,705
42	41	\$7,261	\$7,406	\$7,705	\$7,859
43	42	-	\$7,554	\$7,859	\$8,016
44	43	-	\$7,705	\$8,016	\$8,176
45	44	-	-	\$8,176	\$8,340

SECTION 21.3.(b) The appropriate classification for placement of principals and assistant principals on the salary schedule, except for principals in alternative schools and in cooperative innovative high schools, shall be determined in accordance with the following schedule:

Number of Teachers

	Classification	Supervised
1		
2		
3	Assistant Principal	
4	Principal I	Fewer than 11 Teachers
5	Principal II	11-21 Teachers
6	Principal III	22-32 Teachers
7	Principal IV	33-43 Teachers
8	Principal V	44-54 Teachers
9	Principal VI	55-65 Teachers
10	Principal VII	66-100 Teachers
11	Principal VIII	More than 100 Teachers
12		

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

16 The beginning classification for principals in alternative schools and in cooperative  
17 innovative high school programs shall be the Principal III level. Principals in alternative  
18 schools who supervise 33 or more teachers shall be classified according to the number of  
19 teachers supervised.

20 **SECTION 21.3.(c)** A principal shall be placed on the step on the salary schedule  
21 that reflects total number of years of experience as a certificated employee of the public schools  
22 and an additional step for every three years of experience as a principal. Provided, however, a  
23 principal who acquires an additional step for the 2011-2012 or 2012-2013 fiscal years shall not  
24 receive a corresponding increase in salary during the 2011-2013 fiscal biennium. A principal or  
25 assistant principal shall also continue to receive any additional State-funded percentage  
26 increases earned for the 1997-1998, 1998-1999, and 1999-2000 school years for improvement  
27 in student performance or maintaining a safe and orderly school.

28 **SECTION 21.3.(d)** Principals and assistant principals with certification based on  
29 academic preparation at the six-year degree level shall be paid a salary supplement of one  
30 hundred twenty-six dollars (\$126.00) per month and at the doctoral degree level shall be paid a  
31 salary supplement of two hundred fifty-three dollars (\$253.00) per month.

32 **SECTION 21.3.(e)** Longevity pay for principals and assistant principals shall be as  
33 provided for State employees under the State Personnel Act.

34 **SECTION 21.3.(f)** If a principal is reassigned to a higher job classification because  
35 the principal is transferred to a school within a local school administrative unit with a larger  
36 number of State-allotted teachers, the principal shall be placed on the salary schedule as if the  
37 principal had served the principal's entire career as a principal at the higher job classification.

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

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

46 **SECTION 21.3.(g)** Participants in an approved full-time master's in school  
47 administration program shall receive up to a 10-month stipend at the beginning salary of an  
48 assistant principal during the internship period of the master's program. For the 2006-2007  
49 fiscal year and subsequent fiscal years, the stipend shall not exceed the difference between the  
50 beginning salary of an assistant principal plus the cost of tuition, fees, and books and any  
51 fellowship funds received by the intern as a full-time student, including awards of the Principal

1 Fellows Program. The Principal Fellows Program or the school of education where the intern  
2 participates in a full-time master's in school administration program shall supply the  
3 Department of Public Instruction with certification of eligible full-time interns.

4 **SECTION 21.3.(h)** During the 2011-2012 fiscal year, the placement on the salary  
5 schedule of an administrator with a one-year provisional assistant principal's certificate shall be  
6 at the entry-level salary for an assistant principal or the appropriate step on the teacher salary  
7 schedule, whichever is higher.

#### 8 **MONITOR COMPLIANCE WITH FREEZE ON MOST SALARY INCREASES**

9 **SECTION 21.4.(a)** The Office of State Budget and Management and the Office of  
10 State Personnel shall monitor jointly the compliance of the following units of government with  
11 the provisions of Section 26.1A of S.L. 2009-451, and shall continue to submit quarterly  
12 reports of their monitoring activities to the President Pro Tempore of the Senate, the Speaker of  
13 the House of Representatives, and the Fiscal Research Division: (i) State agencies,  
14 departments, and institutions, including authorities, boards, and commissions; (ii) the judicial  
15 branch; and (iii) The University of North Carolina and its constituent institutions.

16 The quarterly reports required by this section shall include the following  
17 information:

- 18 (1) For agencies reporting through the BEACON HR/Payroll system, (i) a  
19 breakdown by action type (including promotion, reallocation, career  
20 progression, salary adjustment, and any similar actions increasing employee  
21 pay) of the number and annual amount of those increases and (ii) a  
22 breakdown by action reason (including in-range higher level, acting pay,  
23 trainee adjustment, and other similar action reasons) of the number and  
24 annual amount of those action types coded as salary adjustment.
- 25 (2) For The University of North Carolina and its constituent institutions, a  
26 breakdown of the number and annual amount of those increases categorized  
27 by the University as promotions, changes in job duties or responsibilities,  
28 Distinguished Professorships, retention pay, career progression, and any  
29 similar actions increasing employee pay.
- 30 (3) A summary of actions taken by the Office of State Budget and Management  
31 and the Office of State Personnel with respect to unauthorized salary  
32 increases.

33 **SECTION 21.4.(b)** Beginning September 1, 2010, and quarterly thereafter, the  
34 Legislative Services Officer shall report to the President Pro Tempore of the Senate and the  
35 Speaker of the House of Representatives on compliance with Section 26.1A of S.L. 2009-451.

#### 36 **SALARY-RELATED CONTRIBUTIONS/EMPLOYER**

37 **SECTION 21.5.(a)** Effective July 1, 2011, the State's employer contribution rates  
38 budgeted for retirement and related benefits as percentage of covered salaries for the 2011-2012  
39 fiscal year are: (i) eleven and sixty-two hundredths percent (11.62%) – Teachers and State  
40 Employees; (ii) sixteen and sixty-two hundredths percent (16.62%) – State Law Enforcement  
41 Officers; (iii) twelve and twenty-six hundredths percent (12.26%) – University Employees'  
42 Optional Retirement System; (iv) twelve and twenty-six hundredths percent (12.26%) –  
43 Community College Optional Retirement Program; (v) twenty and one hundredths percent  
44 (20.01%) – Consolidated Judicial Retirement System; and (vi) four and ninety hundredths  
45 percent (4.90%) – Legislative Retirement System. Each of the foregoing contribution rates  
46 includes four and ninety hundredths percent (4.90%) for hospital and medical benefits. The rate  
47 for Teachers and State Employees, State Law Enforcement Officers, Community College  
48 Optional Retirement Program, and for the University Employees' Optional Retirement Program  
49 includes fifty-two hundredths percent (0.52%) for the Disability Income Plan. The rates for  
50  
51



1 Teachers and State Employees and State Law Enforcement Officers include sixteen hundredths  
2 percent (0.16%) for the Death Benefits Plan. The rate for State Law Enforcement Officers  
3 includes five percent (5%) for Supplemental Retirement Income."

4 **SECTION 21.5.(b)** Effective July 1, 2012, the State's employer contribution rates  
5 budgeted for retirement and related benefits as percentage of covered salaries for the 2012-2013  
6 fiscal year are: (i) twelve and seventy-three hundredths percent (12.73%) – Teachers and State  
7 Employees; (ii) seventeen and seventy-three hundredths percent (17.73%) – State Law  
8 Enforcement Officers; (iii) twelve and twenty-six hundredths percent (12.26%) – University  
9 Employees' Optional Retirement System; (iv) twelve and twenty-six hundredths percent  
10 (12.26%) – Community College Optional Retirement Program; (v) twenty and one hundredths  
11 percent (20.01%) – Consolidated Judicial Retirement System; and (vi) four and ninety  
12 hundredths percent (4.90%) – Legislative Retirement System. Each of the foregoing  
13 contribution rates includes four and ninety hundredths percent (4.90%) for hospital and medical  
14 benefits. The rate for Teachers and State Employees, State Law Enforcement Officers,  
15 Community College Optional Retirement Program, and for the University Employees' Optional  
16 Retirement Program includes fifty-two hundredths percent (0.52%) for the Disability Income  
17 Plan. The rates for Teachers and State Employees and State Law Enforcement Officers include  
18 sixteen hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law  
19 Enforcement Officers includes five percent (5%) for Supplemental Retirement Income.

20 **SECTION 21.5.(c)** Effective July 1, 2011, the maximum annual employer  
21 contributions, payable monthly, by the State for each covered employee or retiree for the  
22 2011-2012 fiscal year to the State Health Plan for Teachers and State Employees are: (i)  
23 Medicare-eligible employees and retirees – three thousand twenty-nine dollars (\$3,929) and (ii)  
24 non-Medicare-eligible employees and retirees – five thousand one hundred sixty-one dollars  
25 (\$5,161).

26 **SECTION 21.5.(d)** Effective July 1, 2012, the maximum annual employer  
27 contributions, payable monthly, by the State for each covered employee or retiree for the  
28 2012-2013 fiscal year to the State Health Plan for Teachers and State Employees are: (i)  
29 Medicare-eligible employees and retirees – four thousand one hundred fourteen dollars  
30 (\$4,114) and (ii) non-Medicare-eligible employees and retirees – five thousand four hundred  
31 four dollars (\$5,404).

32 **SECTION 21.5.(e)** Effective July 1, 2012, monthly payments made to the State  
33 Health Plan in accordance with subsections 6(d) and 6(e) shall be reduced by the amount of  
34 monthly premiums charged in subsection 1(a) of this section for employee and retiree-only tiers  
35 in the PPO Standard 80/20 Plan.

## 36 37 **HEALTH BENEFIT CHANGES**

38 **SECTION 21.6.** Effective July 1, 2011, (i) non-Medicare-eligible employees and  
39 retirees who remain in the PPO Standard 80/20 Plan shall pay a monthly premium of  
40 twenty-one dollars and fifty cents (\$21.50) for individual coverage and (ii) Medicare-eligible  
41 employees and retirees who remain in the PPO Standard Plan shall pay a monthly premium of  
42 sixteen dollars (\$16.00) for individual coverage.

## 43 44 **EMPLOYEE RETIREMENT INCENTIVE PROGRAM**

45 **SECTION 21.7.(a)** Except as provided by subsections (g), (h), and (i) of this  
46 section, any person (i) who is a full-time permanent employee of the State, UNC System,  
47 community college institution, or a local board of education between July 1, 2011, and January  
48 1, 2012; (ii) who is a member of the Teachers' and State Employees' Retirement System,  
49 Consolidated Judicial Retirement System, or Optional Retirement Program (ORP); and (iii)  
50 who no later than September 1, 2011, submits an application to the Office of State Treasurer,  
51 Retirement Systems Division, and notifies his or her employing entity of his or her intent to

1 retire by no later than an effective date of January 1, 2012, may be eligible to receive a onetime  
2 incentive as described in subsections (b) through (i) of this section.

3 **SECTION 21.7.(b)** Those employees who are eligible to retire with unreduced  
4 benefits as defined by the statutes administered by the Retirement Systems Division (RSD)  
5 between July 1, 2011, and January 1, 2012, may receive a onetime ten thousand dollar  
6 (\$10,000) incentive.

7 **SECTION 21.7.(c)** Those employees who are eligible to retire with reduced  
8 benefits as defined by statutes administered by the RSD between July 1, 2011, and January 1,  
9 2012, may receive a onetime twenty thousand dollar (\$20,000) incentive.

10 **SECTION 21.7.(d)** The onetime incentive shall not be included in the calculation  
11 of an employee's average final contribution for retirement purposes.

12 **SECTION 21.7.(e)** Retirees who participate in this program may not be  
13 reemployed by any unit participating in the Teachers' and State Employees' Retirement System,  
14 Consolidated Judicial Retirement System, or ORP within two years of retiring under the  
15 provisions of this program.

16 **SECTION 21.7.(f)** Savings reserves achieved by State agencies and institutions  
17 through this program (i) shall be used to meet salary and associated benefit reduction  
18 allocations, with priority placed on eliminating the estimated number of positions vacated  
19 through this program and (ii) must be fully met by June 30, 2012.

20 **SECTION 21.7.(g)** Incentive benefits for employees shall be paid from the same  
21 funding source as the source of the employees' salary, to the extent allowed by such funding  
22 source. If an employee's salary is paid in part from the General Fund or Highway Fund and in  
23 part from department, office, institution, or agency receipts, the incentive benefit may be paid  
24 from the General Fund or Highway Fund only to the extent of the proportionate part paid from  
25 the General Fund or Highway Fund in support of the salary of the employee, and the remainder  
26 of the incentive benefit shall be paid from the source that supplies the remainder of the  
27 employee's salary.

28 **SECTION 21.7.(h)** Participation in the program is subject to funding availability:

- 29 (1) Agencies and institutions may limit participation in the program by  
30 demonstrating that the agency has achieved the necessary salary and position  
31 reduction targets identified by the Office of State Budget and Management.
- 32 (2) Incentive benefits shall be paid from personal service line items unless the  
33 agency or institution has requested an exception from the Office of State  
34 Budget and Management.

35 **SECTION 21.7.(i)** The following persons are not eligible for the Employee  
36 Retirement Incentive Program authorized by this section:

- 37 (1) Any employee or officer who is not currently a member of the Teachers' and  
38 State Employees' Retirement System, Consolidated Judicial Retirement  
39 System, or ORP.
- 40 (2) Any employee whose effective retirement date is after January 1, 2012.
- 41 (3) Any employee whose effective retirement or other separation date is on or  
42 before July 1, 2011.
- 43 (4) Any employee whose position will no longer be funded on or after July 1,  
44 2011.
- 45 (5) Any employee who will receive salary continuation payments under a  
46 Reduction in Force (RIF) or who receives a Discontinued Service  
47 Retirement or other severance agreement between July 1, 2011, and January  
48 1, 2012.
- 49 (6) Individuals who have already retired from an employing entity participating  
50 in the Teachers' and State Employees' Retirement System, Consolidated  
51 Judicial Retirement System, or ORP.

1           **SECTION 21.7.(j)** Notwithstanding any other provision of law, The University of  
 2 North Carolina may use funds from any available source in the 2011-2012 fiscal year and the  
 3 2012-2013 fiscal year to implement a voluntary faculty separation incentive program. All  
 4 savings realized by this program shall be retained by The University of North Carolina.

5  
 6 **PART XXII. CAPITAL APPROPRIATIONS**

7  
 8 **GENERAL FUND CAPITAL APPROPRIATIONS/INTRODUCTION**

9           **SECTION 22.1.** The appropriations made by the 2011 General Assembly for  
 10 capital improvements are for constructing, repairing, or renovating State buildings, utilities, and  
 11 other capital facilities, for acquiring sites for them where necessary, and acquiring buildings  
 12 and land for State government purposes.

13  
 14 **CAPITAL APPROPRIATIONS/GENERAL FUND**

15           **SECTION 22.2.** There is appropriated from the General Fund for the 2011-2012  
 16 fiscal year the following amount for capital improvements:

17	<b>Capital Improvements – General Fund</b>	<b>2011-2012</b>
18		
19	Department of Environment and Natural Resources	
20	Water Resources Development Projects	\$ 4,535,000
21		
22		
23	<b>TOTAL CAPITAL IMPROVEMENTS – GENERAL FUND</b>	<b>\$ 4,535,000</b>

24  
 25 **WATER RESOURCES DEVELOPMENT PROJECT FUNDS**

26           **SECTION 22.3.(a)** The Department of Environment and Natural Resources shall  
 27 allocate the funds appropriated in this act for water resources development projects in  
 28 accordance with the schedule that follows. These funds will provide a State match for an  
 29 estimated twenty-three million four hundred forty-nine thousand dollars (\$23,449,000) in  
 30 federal funds.

31	<b>Name of Project</b>	<b>2011-2012</b>
32		
33		
34	(1) B. Everett Jordan Lake Water Supply Storage	\$ 200,000
35	(2) Wilmington Harbor Maintenance	0
36	(3) Morehead City Harbor Maintenance	50,000
37	(4) Water Resources Planning in support of S.L. 2010-143	0
38	(5) John H. Kerr Dam and Reservoir Sec. 216	50,000
39	(6) Planning Assistance to Communities	50,000
40	(7) Aquatic Plant Control, Statewide, and Lake Gaston	100,000
41	(8) Wilmington Harbor Improvements Feasibility	250,000
42	(9) Belhaven Harbor – CAP-Sec. 1135	0
43	(10) Concord Streams, NC, Sec. 206	0
44	(11) Manteo Old House Channel – CAP – Sec. 204	1,225,000
45	(12) Wilmington Harbor Deepening	300,000
46	(13) Bogue Banks Coastal Storm Damage Reduction Study	50,000
47	(14) West Onslow Beach (Topsail Beach) – PED	0
48	(15) Surf City/NTB Coastal Storm Damage Reduction Study – PED	85,000
49	(16) Neuse River Basin Restoration Feasibility Study	300,000
50	(17) Currituck Sound Environmental Restoration Study	275,000
51	(18) Princeville Flood Damage Reduction	100,000

1	(19) State – Local projects	1,500,000
2	<b>TOTALS</b>	<b>\$4,535,000</b>

3  
4 **SECTION 22.3.(b)** Where the actual costs are different from the estimated costs  
5 under subsection (a) of this section, the Department may adjust the allocations among projects  
6 as needed. If any projects funded under subsection (a) of this section are delayed and the  
7 budgeted State funds cannot be used during the 2011-2012 fiscal year, or if the projects funded  
8 under subsection (a) of this section are accomplished at a lower cost, the Department may use  
9 the resulting fund availability to fund any of the following:

- 10 (1) U.S. Army Corps of Engineers project feasibility studies.
- 11 (2) U.S. Army Corps of Engineers projects, the schedules for which have  
12 advanced and require State-matching funds in fiscal year 2011-2012.
- 13 (3) State-local water resources development projects.

14 However, fund availability shall not be used to fund the North Carolina  
15 International Terminal. Funds not expended or encumbered for these purposes shall revert to  
16 the General Fund at the end of the 2012-2013 fiscal year.

17 **SECTION 22.3.(c)** The Department shall make semiannual reports on the use of  
18 these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal  
19 Research Division, and the Office of State Budget and Management. Each report shall include  
20 all of the following:

- 21 (1) All projects listed in this section.
- 22 (2) The estimated cost of each project.
- 23 (3) The date that work on each project began or is expected to begin.
- 24 (4) The date that work on each project was completed or is expected to be  
25 completed.
- 26 (5) The actual cost of each project.

27 The semiannual reports shall also show those projects advanced in schedule, those  
28 projects delayed in schedule, and an estimate of the amount of funds expected to revert to the  
29 General Fund.

## 30 31 **PROCEDURES FOR DISBURSEMENT OF CAPITAL FUNDS**

32 **SECTION 22.4.** The appropriations made by the 2011 General Assembly for  
33 capital improvements shall be disbursed for the purposes provided by this act. Expenditure of  
34 funds shall not be made by any State department, institution, or agency until an allotment has  
35 been approved by the Governor as Director of the Budget. The allotment shall be approved  
36 only after full compliance with the State Budget Act, Chapter 143C of the General Statutes.  
37 Prior to the award of construction contracts for projects to be financed in whole or in part with  
38 self-liquidating appropriations, the Director of the Budget shall approve the elements of the  
39 method of financing of those projects, including the source of funds, interest rate, and  
40 liquidation period. Provided, however, that if the Director of the Budget approves the method  
41 of financing a project, the Director shall report that action to the Joint Legislative Commission  
42 on Governmental Operations at its next meeting.

43 Where direct capital improvement appropriations include the purpose of furnishing  
44 fixed and movable equipment for any project, those funds for equipment shall not be subject to  
45 transfer into construction accounts except as authorized by the Director of the Budget. The  
46 expenditure of funds for fixed and movable equipment and furnishings shall be reviewed and  
47 approved by the Director of the Budget prior to commitment of funds.

48 Capital improvement projects authorized by the 2011 General Assembly shall be  
49 completed, including fixed and movable equipment and furnishings, within the limits of the  
50 amounts of the direct or self-liquidating appropriations provided, except as otherwise provided  
51 in this act.

1  
2 **NON-GENERAL FUND CAPITAL IMPROVEMENT AUTHORIZATIONS**

3 **SECTION 22.7.** The General Assembly authorizes the following capital projects to  
4 be funded with receipts or from other non-General Fund sources available to the appropriate  
5 department:

6  
7 **Name of Project** **Amount of Non-General Fund**  
8 **Funding Authorized for**  
9 **Fiscal Year 2011-2012**

10 Department of Correction

11	OSDT and DCC Search Trailer	\$ 45,400
12	Statewide Emergency Fund for Small Storage Buildings	85,000
13	Statewide Emergency Fund for Visitors Registration Buildings	500,000

14  
15 Department of Crime Control and Public Safety

16	High Point Readiness Center – Addition/Alteration	1,551,000
17	Greensboro Readiness Center – Addition/Alteration	306,000
18	Murphy Firefighting Team Support Facility	2,946,000
19	Morrisville Flight Facility Fixed Wing Hangar	8,815,000
20	Statewide Master Planning Support Services – Ph III	125,000
21	Statewide Master Planning Support Services – Ph IV	100,000
22	Statewide Master Planning Support Services – Ph V	100,000
23	Camp Butner Operations Readiness Training Center – Ph I	1,612,000

24  
25 Department of Cultural Resources

26	USS North Carolina Battleship Major Hull Repairs	1,914,000
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27  
28 Department of Environment and Natural Resources

29	Zoo – New Restrooms at Elephant/Rhino Exhibit	300,000
30	Aquarium – Roanoke Island Turtle Rehabilitation Center	500,000

31  
32 Wildlife Resources Commission

33	Agency Land Purchases	7,500,000
34	Watha Hatchery Replacement of 3 Residences	150,000
35	Fishing Access Areas – New Construction	240,000
36	Boating Access Areas – New Construction	800,000
37	Repair & Renovations	1,105,000

38  
39 **TOTAL AMOUNT OF NON-GENERAL FUND CAPITAL**  
40 **PROJECTS AUTHORIZED**

**\$ 28,694,400**

41  
42 **AGRICULTURE PLANT CONSERVATION**

43 **SECTION 22.8.** From funds deposited with the State Treasurer in a capital  
44 improvement account to the credit of the Department of Agriculture and Consumer Services  
45 pursuant to G.S. 146-30, the sum of thirty thousand dollars (\$30,000) for the 2011-2012 fiscal  
46 year shall be transferred to the Department of Agriculture and Consumer Services to be used,  
47 notwithstanding G.S. 146-30, by the Department for its plant conservation program under  
48 Article 19B of Chapter 106 of the General Statutes for costs incidental to the acquisition of  
49 land, such as land appraisals, land surveys, title searches, environmental studies, and for the  
50 management of the plant conservation program preserves owned by the Department.  
51

1 **CHANGE IN JOINT LEGISLATIVE COMMISSION ON GOVERNMENT**  
2 **OPERATIONS CONSULTATION**

3 **SECTION 22.10.** G.S. 120-76.1 reads as rewritten:

4 **"§ 120-76.1. Prior consultation with the Commission.**

5 (a) Notwithstanding the provisions of G.S. 120-76(8) or any other provision of law  
6 requiring prior consultation by the Governor with the Commission, whenever an expenditure is  
7 required because of an emergency that poses an imminent threat to public health or public  
8 safety, and is either the result of a natural event, such as a hurricane or a flood, or an accident,  
9 such as an explosion or a wreck, the Governor may take action without consulting the  
10 Commission if the action is determined by the Governor to be related to the emergency. The  
11 Governor shall report to the Commission on any expenditures made under this subsection no  
12 later than 30 days after making the expenditure and shall identify in the report the emergency,  
13 the type of action taken, and how it was related to the emergency.

14 (b) Any agency, board, commission, or other entity required under G.S. 120-76(8) or  
15 any other provision of law to consult with the Commission prior to taking an action shall  
16 submit a detailed report of the action under consideration to the Chairs of the Commission, the  
17 Commission Assistant, and the Fiscal Research Division of the General Assembly. If the  
18 Commission does not hold a meeting to hear the consultation within 90 days of receiving the  
19 submission of the detailed report, the consultation requirement is satisfied. With regard to  
20 capital improvement ~~projects of The University of North Carolina, projects,~~ if the Commission  
21 does not hold a meeting to hear the consultation within 30 days of receiving the submission of  
22 the detailed report, the consultation requirement of G.S. 120-76(8)e. is satisfied.

23 (c) Consultations regarding the establishment of new fees and charges and the increase  
24 of existing fees and charges are governed by G.S. 12-3.1, and this section does not apply to  
25 those consultations."  
26

27 **REPAIRS AND RENOVATION RESERVE ALLOCATION**

28 **SECTION 22.11.** Of the funds in the Reserve for Repairs and Renovations for the  
29 2011-2012 fiscal year, fifty percent (50%) shall be allocated to the Board of Governors of The  
30 University of North Carolina for repairs and renovations pursuant to G.S. 143C-4-3, in  
31 accordance with guidelines developed in The University of North Carolina Funding Allocation  
32 Model for Reserve for Repairs and Renovations, as approved by the Board of Governors of The  
33 University of North Carolina, and fifty percent (50%) shall be allocated to the Office of State  
34 Budget and Management for repairs and renovations pursuant to G.S. 143C-4-3.  
35 Notwithstanding G.S. 143C-4-3, the Board of Governors may allocate funds for the repair and  
36 renovation of facilities not supported from the General Fund if the Board determines that  
37 sufficient funds are not available from other sources and that conditions warrant General Fund  
38 assistance. Any such finding shall be included in the Board's submission to the Joint Legislative  
39 Commission on Governmental Operations on the proposed allocation of funds. The Board of  
40 Governors and the Office of State Budget and Management shall report to the Joint Legislative  
41 Commission on Governmental Operations on the allocation or reallocation of these funds.  
42

43 **INFORMAL LETTING OF CONTRACTS**

44 **SECTION 22.12.** Chapter 143 of the General Statutes is amended by adding a new  
45 section to read as follows:

46 **"§ 143-131.1. Informal letting of repair and renovation projects.**

47 (a) Notwithstanding any other provisions of law, for projects estimated to cost two  
48 million dollars (\$2,000,000) or less providing for repairs or renovations to State facilities and  
49 related infrastructure that are supported from the General Fund, and where the majority of the  
50 funding for such project is to be furnished out of the Repairs and Renovations Reserve Account  
51 as otherwise provided by statute, contracts shall be let informally pursuant to procedures

1 adopted by the North Carolina Office of State Construction after consultation with the State  
2 Building Commission.

3 (b) The procedures adopted by the Office of State Construction shall include, but are  
4 not limited to, the following minimum requirements:

5 (1) That the awarding authority for such contracts, including the Board of  
6 Governors of The University of North Carolina and their designees, shall  
7 solicit written quotes from at least three contractors that possess such  
8 experience, expertise, and reputation in the contracting community as the  
9 awarding authority deems sufficient in order to successfully complete the  
10 project, and such solicitations shall be directed to at least two contractors  
11 that also meet the qualifications for Resident Small Contractors set forth  
12 below.

13 (2) That the awarding authority shall first negotiate with the contractor  
14 furnishing the lowest written quote, provided, however, that for purposes of  
15 selecting the contractor with which to first negotiate, any quote provided by  
16 a Resident Small Contractor that is within five percent (5%) of the lowest  
17 quote received shall be deemed to have submitted a quote equal to that low  
18 quote, and the awarding authority shall first negotiate with any such  
19 Resident Small Contractor that, in the opinion of the awarding authority,  
20 presents the best qualifications to complete the project.

21 (3) That if a contract cannot be negotiated with the contractor first selected, the  
22 awarding authority shall next negotiate with any other Resident Small  
23 Contractor whose quote has been deemed equal to the lowest quote received  
24 and thereafter with any other contractor furnishing quotes, lowest first.

25 (4) An illustrative description of circumstances in which the North Carolina  
26 Office of State Construction may, in its discretion, waive the use of the  
27 procedures provided in this section for other competitive procedures  
28 provided elsewhere in the General Statutes.

29 (5) Provide for a waiver, in whole or in part, of Article 3 of Chapter 44A of the  
30 General Statutes regarding performance and payment of surety bonds,  
31 including such alternative provisions as may seem practicable to the North  
32 Carolina Office of State Construction aimed at providing performance and  
33 payment security to the State and to the suppliers and subcontractors on the  
34 project similar to the protections furnished pursuant to Article 3 of Chapter  
35 44A of the General Statutes regarding sureties and bonds.

36 (6) Such other and further provisions as the North Carolina Office of State  
37 Construction deems necessary.

38 (c) As used in this section, the term "Resident Small Contractor" shall mean a  
39 contractor that meets all of the following requirements:

40 (1) Is a properly licensed contractor that has been in business in North Carolina  
41 since its establishment and for at least 36 consecutive months.

42 (2) Had gross revenues from operations less than ten million dollars  
43 (\$10,000,000) during its most recent accounting year.

44 (3) Has at least fifty-one percent (51%) of the ownership of the enterprise  
45 owned by one or more natural persons, some or all of whom participate in  
46 the enterprise as follows:

47 a. Exercise operational authority over daily affairs of the enterprise.

48 b. Retain the power to direct policies and management.

49 c. Receive a beneficial interest from the enterprise, including, without  
50 limitation, a share of the profit or loss of the enterprise.

1 The procedures adopted by the North Carolina Office of State Construction after consultation  
 2 with the State Building Commission described above shall set forth the proofs necessary to  
 3 establish qualification as a Resident Small Contractor, and decisions on such qualification shall  
 4 be in the sole discretion of the State Construction Director or the Director's designee.

5 (d) The adoption of procedures provided for in this section shall not be subject to the  
 6 rule-making provisions of Chapter 150B of the General Statutes, and any claims by contractors  
 7 shall be presented pursuant to the provisions of G.S. 143-135.3, except such claims shall be  
 8 finally and conclusively resolved by the State Construction Director without recourse to the  
 9 General Court of Justice or the contested case provisions of Chapter 150B of the General  
 10 Statutes."

## 11 **PART XXIII. REVENUE LAW CHANGES**

### 12 **REDUCE CORPORATE INCOME TAX**

13 **SECTION 23.1.(a)** G.S. 105-130.3 reads as rewritten:

#### 14 **"§ 105-130.3. Corporations.**

15 A tax is imposed on the State net income of every C Corporation doing business in this  
 16 State. An S Corporation is not subject to the tax levied in this section. The tax is ~~a percentage~~  
 17 four and nine-tenths percent (4.9%) of the taxpayer's State net ~~income computed as~~  
 18 follows:income.

19 <del>Income Years Beginning</del>	20 <del>Tax</del>
21 <del>In 1997</del>	22 <del>7.5%</del>
23 <del>In 1998</del>	24 <del>7.25%</del>
25 <del>In 1999</del>	26 <del>7%</del>
27 <del>After 1999</del>	28 <del>6.9%."</del>

29 **SECTION 23.1.(b)** This section is effective for taxable years beginning on or after  
 30 January 1, 2011.

### 31 **ELIMINATE PUBLIC SCHOOL BUILDING CAPITAL FUND TRANSFER** 32 **PERMANENTLY**

33 **SECTION 23.2.(a)** G.S. 115C-546.1(b) is repealed.

34 **SECTION 23.2.(b)** This section is effective for taxable years beginning on or after  
 35 January 1, 2011.

### 36 **RAISE CAP ON QUALIFIED BUSINESS VENTURE CREDIT**

37 **SECTION 23.3.(a)** G.S. 105-163.012(b) reads as rewritten:

38 "(b) The total amount of all tax credits allowed to taxpayers under G.S. 105-163.011 for  
 39 investments made in a calendar year may not exceed ~~seven million five hundred thousand~~  
 40 ~~dollars (\$7,500,000)-~~nine million five hundred thousand dollars (\$9,500,000). The Secretary of  
 41 Revenue shall calculate the total amount of tax credits claimed from the applications filed  
 42 pursuant to G.S. 105-163.011(c). If the total amount of tax credits claimed for investments  
 43 made in a calendar year exceeds this maximum amount, the Secretary shall allow a portion of  
 44 the credits claimed by allocating the maximum amount in tax credits in proportion to the size of  
 45 the credit claimed by each taxpayer."

46 **SECTION 23.3.(b)** This section is effective for investments made on or after  
 47 January 1, 2011.

### 48 **SMALL BUSINESS TAX RELIEF**

49 **SECTION 23.4.(a)** G.S. 105-129.16J reads as rewritten:

50 **"§ 105-129.16J. Temporary unemployment insurance refundable tax credit.**



1 (a) Credit. – A small business that makes contributions during the taxable year to the  
2 State Unemployment Insurance Fund with respect to wages paid for employment in this State is  
3 allowed a credit equal to ~~twenty-five percent (25%)~~ fifty percent (50%) of the contributions. A  
4 small business is a business whose cumulative gross receipts from business activity for the  
5 taxable year do not exceed ~~one million dollars (\$1,000,000)~~ two million five hundred thousand  
6 dollars (\$2,500,000).

7 (b) Refundable. – Notwithstanding G.S. 105-129.17, the credit allowed by this section  
8 is subject to the following:

9 (1) The credit may only be claimed against the income taxes imposed by Article  
10 4 of this Chapter.

11 (2) If the credit exceeds the amount of tax imposed by Article 4 of this Chapter  
12 for the taxable year reduced by the sum of all credits allowable, the excess is  
13 refundable. The refundable excess is governed by the provisions governing a  
14 refund of an overpayment by the taxpayer of the tax imposed in that Article.  
15 In computing the amount of tax against which multiple credits are allowed,  
16 nonrefundable credits are subtracted before refundable credits.

17 (c) Applicability. – This section applies only to taxable years ~~2010 and 2011~~ year  
18 2011."

19 **SECTION 23.4.(b)** This section is effective for taxes imposed for taxable years  
20 beginning on or after January 2, 2011.

## 21 **REDUCE SALES TAX TO 5.5%**

22 **SECTION 23.5.(a)** G.S. 105-164.4(a) reads as rewritten:

23 "(a) A privilege tax is imposed on a retailer at the following percentage rates of the  
24 retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is ~~four and~~  
25 ~~three-quarters percent (4.75%)~~ five and one-half percent (5.5%)."

26 **SECTION 23.5.(b)** G.S. 105-164.4(a), as rewritten by Section 23.5(a) of this act,  
27 reads as rewritten:

28 "(a) A privilege tax is imposed on a retailer at the following percentage rates of the  
29 retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is ~~five and~~  
30 ~~one-half percent (5.5%)~~ four and seventy-five hundredths percent (4.75%)."

31 **SECTION 23.5.(c)** Subsection (a) of this section becomes effective July 1, 2011,  
32 and applies to sales made on or after that date. Subsection (b) of this section becomes effective  
33 July 1, 2013, and applies to sales made on or after that date. The remainder of this section is  
34 effective when it becomes law.  
35

## 36 **SMALL BUSINESS START-UP TAX RELIEF**

37 **SECTION 23.6.(a)** G.S. 105-130.5(b) is amended by adding a new subdivision to  
38 read:

39 "(b) The following deductions from federal taxable income shall be made in determining  
40 State net income:

41 ...

42 (26) The amount of any exclusion of gain for qualified businesses allowed under  
43 Part 5 of this Article, to the extent included in federal taxable income, less  
44 the amount of the credits recaptured pursuant to G.S. 105-163.021; provided,  
45 however, that a taxpayer is not required to claim this exclusion."

46 **SECTION 23.6.(b)** G.S. 105-134.6(b) is amended by adding a new subdivision to  
47 read:

48 "(b) Deductions. – The following deductions from taxable income shall be made in  
49 calculating North Carolina taxable income, to the extent each item is included in taxable  
50 income:  
51

1 ...  
2 (21) The amount of the exclusion of gain for qualified businesses allowed under  
3 Part 5 of this Article, less the amount of the credits recaptured pursuant to  
4 G.S. 105-163.021; provided, however, that a taxpayer is not required to  
5 claim this exclusion."

6 SECTION 23.6.(c) Part 5 of Article 4 of Chapter 105 of the General Statutes is  
7 amended by adding the following new sections to read:

8 **"§ 105-163.020. Exclusion of gain allowed.**

9 (a) Election. – A taxpayer may elect to exclude from the taxpayer's income taxable  
10 under this Article any gain or other taxable income recognized for federal income tax purposes  
11 from the sale or exchange of qualified securities.

12 (b) Pass-Through Entity. – Except as provided in subsection (c) of this section, a  
13 taxpayer that is an owner of a pass-through entity may exclude from the taxpayer's income  
14 taxable under this Article an amount equal to the taxpayer's allocated share of the exclusion for  
15 which the pass-through entity is eligible under subsection (a) of this section.

16 (c) Qualified Grantee Pass-Through Entity. – If a taxpayer is an owner of a  
17 pass-through entity that was a qualified grantee business at the time of the taxpayer's  
18 investment in the pass-through entity, the taxpayer may exclude from the taxpayer's income  
19 taxable under this Article an amount equal to the gain or other taxable income recognized as a  
20 result of the taxpayer's ownership in the pass-through entity, multiplied by a fraction, the  
21 numerator of which is the total amount invested by the pass-through entity in qualified  
22 businesses and the denominator of which is the total amount invested by the pass-through  
23 entity. For purposes of this subsection, the amounts invested by a pass-through entity shall be  
24 the amounts invested immediately before the pass-through entity's sale or exchange producing  
25 the gain or taxable income excluded under this subsection.

26 **"§ 105-163.021. Recapture of credit.**

27 If a taxpayer claims an exclusion of gain from income pursuant to G.S. 105-163.020, the  
28 income tax of the taxpayer for the tax year for which the exclusion is claimed shall be increased  
29 by the amount of all credits previously claimed by the taxpayer pursuant to G.S. 105-163.011  
30 with respect to qualified securities that (i) have been sold or exchanged and (ii) the gain from  
31 which has been excluded pursuant to G.S. 105-163.020.

32 **"§ 105-163.022. Qualified securities.**

33 (a) Qualified Security. – Except as otherwise provided in this section, any equity  
34 security or subordinated debt instrument issued by a qualified business is a qualified security if  
35 it satisfies all of the following conditions:

36 (1) It is originally issued by the business on or after January 1, 2012.

37 (2) As of the date of issuance, the issuing business is a qualified business.

38 (3) The security or instrument is acquired by the taxpayer at its original issue in  
39 exchange for any tangible or intangible property or benefit to the business,  
40 including cash, promissory notes, services performed, contracts for services  
41 to be performed, or other equity securities of the business.

42 (4) It is held by the taxpayer for a continuous period of more than one year.

43 (5) No broker's fee or commission or other similar remuneration is paid or given  
44 directly or indirectly for soliciting the purchase.

45 (6) If the security or instrument was purchased by a pass-through entity, the  
46 entity met the requirements of G.S. 105-163.011(b1) at the time of purchase.

47 (b) Registration. – Securities of a qualified business acquired before the effective date  
48 of its registration are not qualified securities. Revocation of the registration of a qualified  
49 business pursuant to G.S. 105-163.010A does not affect the exclusion of gain from qualified  
50 securities acquired while the registration was in effect if all conditions for registration are  
51 satisfied.

1       (c) Effect of Redemptions and Other Distributions. – An equity security or subordinated  
2 debt instrument is not a qualified security to the extent the taxpayer purchased it with the  
3 proceeds of a redemption, dividend, or distribution made by the business that issued the  
4 security or instrument. For the purpose of this subsection, when a business makes a redemption,  
5 dividend, or distribution during the four-year period beginning two years before the issuance of  
6 securities or instruments to a taxpayer, the taxpayer is considered to have used the proceeds of  
7 the redemption, dividend, or distribution toward the purchase of the securities or instruments. A  
8 redemption, dividend, or distribution occurs when the business issuing the security or  
9 instrument does either of the following:

- 10           (1) Purchases, directly or indirectly, any of its outstanding equity securities or  
11 subordinated debt, other than qualified securities, from the taxpayer or a  
12 related person.
- 13           (2) Declares a dividend or makes a distribution with respect to any of its  
14 outstanding equity securities or subordinated debt, other than qualified  
15 securities, to the taxpayer or a related person. This subdivision does not  
16 apply, however, to a distribution in connection with one of the following:
- 17           a. The reimbursement to the taxpayer of the reasonable costs of  
18 forming, syndicating, managing, and operating the business.
- 19           b. An increase in the taxpayer's taxes, penalties, or interest to the extent  
20 the increase is caused by the allocation to the taxpayer of income of  
21 the business.

22       The repayment of principal on subordinated debt is a purchase of the debt except to the  
23 extent the repayment is repayment of principal due on the subordinated debt at its maturity  
24 pursuant to the terms of the subordinated debt instrument. If a transaction is treated under  
25 section 304(a) of the Code as a distribution in redemption of the equity securities of a business,  
26 that business has, for the purpose of this subsection, purchased an amount of its equity  
27 securities equal to the amount treated as such a distribution under section 304(a) of the Code.

28       (d) Exception for Certain Transactions. – The following transactions are not treated as a  
29 redemption or distribution for the purposes of subsection (c) of this section:

- 30           (1) Any deemed liquidation of a business pursuant to section 708(b)(1)(A) of  
31 the Code by reason of the business becoming a disregarded entity for federal  
32 tax purposes, to the extent there is not actual distribution of money or other  
33 property to the taxpayer or a related person.
- 34           (2) Any deemed distribution or redemption by reason of a technical termination  
35 of a business pursuant to section 708(b)(1)(B) of the Code to the extent there  
36 is no actual distribution of money or other property to the taxpayer or a  
37 related person.

38       (e) Conversion of Other Securities. – Any equity security or subordinated debt  
39 instrument issued by a business and acquired by the taxpayer solely through the conversion of  
40 another equity security or subordinated debt instrument that was issued by the business and was  
41 a qualified security in the hands of the taxpayer is considered, for the purpose of this section, a  
42 qualified security in the hands of the taxpayer and acquired by the taxpayer on the date the  
43 taxpayer acquired the converted qualified security.

44       (f) Transfers. – In the case of a transfer by gift, by death, or from a pass-through entity  
45 to one of its owners, the transferee is considered, for the purpose of this section, to have  
46 acquired the qualified security in the same manner as the transferor and to have held it during  
47 any continuous period immediately preceding the transfer during which it was held or treated as  
48 held by the transferor.

49       In the case of a transaction described in section 351 or 721 of the Code or a reorganization  
50 described in section 368 of the Code, if qualified securities are exchanged for other securities,  
51 the other securities are considered, for the purpose of this section, qualified securities acquired

1 on the date the exchanged qualified securities were acquired. In the case of a transaction  
2 described in section 351 or 721 of the Code, the newly acquired securities are considered  
3 qualified securities, however, only if, immediately after the transaction, the business issuing the  
4 securities owns, directly or indirectly, securities representing control, within the meaning of  
5 section 368(c) of the Code, of the business whose securities were exchanged.

6 **"§ 105-163.023. Limitations.**

7 (a) Contributions and Exchanges of Property. – In the case of a transaction described in  
8 section 351 or 721 of the Code or a reorganization described in section 368 of the Code, if a  
9 taxpayer contributes property to or exchanges property with a qualified business, the following  
10 rules apply:

11 (1) Qualified securities exchanged for property. – Except as otherwise provided  
12 in subdivision (3) of this subsection, a taxpayer who transfers property to a  
13 business in exchange for qualified securities in the business must, for  
14 purposes of determining North Carolina taxable income, recognize gain  
15 equal to the amount by which the fair market value of the property exceeded  
16 the taxpayer's basis in the property on the date the property was exchanged  
17 for the qualified securities. This gain must be recognized for the years for  
18 which the taxpayer claims an exclusion of gain under this Part with respect  
19 to the disposition of qualified securities received in exchange for the  
20 property.

21 (2) Contributions to capital. – Except as otherwise provided in subdivision (3) of  
22 this subsection, if the adjusted basis of a qualified security is adjusted due to  
23 a contribution to capital after the date the qualified security was issued  
24 originally, for purposes of determining North Carolina taxable income, the  
25 taxpayer must recognize gain equal to the amount by which the fair market  
26 value of the contributed property exceeded the taxpayer's basis in the  
27 property on the date the property was contributed. This gain must be  
28 recognized for the years for which the taxpayer claims an exclusion of gain  
29 under this Part with respect to the disposition of the qualified securities.

30 (3) Disposition of contributed property. – If a qualified business disposes of  
31 property contributed to it, the disposition occurs before the taxpayer who  
32 contributed the property claims an exclusion of gain pursuant to this Part  
33 with respect to qualified securities affected by the contribution, and the  
34 taxpayer recognizes gain from the disposition, then for purposes of  
35 subdivisions (1) and (2) of this subsection, the taxpayer's basis in the  
36 contributed property is increased by any gain the taxpayer recognized from  
37 the disposition.

38 (b) Transactions That Substantially Reduce the Risk of Loss. – If a taxpayer has entered  
39 into any transaction that substantially reduces the risk of loss from holding the qualified  
40 securities, there is no exclusion of gain under this Part from the sale or exchange of the  
41 qualified securities unless the taxpayer entered into the transaction on or after January 1, 2012,  
42 and elects to recognize gain as if the qualified securities were sold at fair market value on the  
43 date the taxpayer first entered into that transaction. The following are examples of a transaction  
44 that substantially reduces the risk of loss from holding the qualified securities:

45 (1) The taxpayer or a related person has made a short sale of substantially  
46 identical property.

47 (2) The taxpayer or a related person has acquired an option to sell substantially  
48 identical property at a fixed price."

49 **SECTION 23.6.(d)** This section is effective for taxable years beginning on or after  
50 January 1, 2011.

**PART XXIV. MISCELLANEOUS PROVISIONS****STATE BUDGET ACT APPLIES**

**SECTION 24.1.** The provisions of the State Budget Act, Chapter 143C of the General Statutes, are reenacted and shall remain in full force and effect and are incorporated in this act by reference.

**MOST TEXT APPLIES ONLY TO THE 2011-2013 FISCAL BIENNIUM**

**SECTION 24.2.** Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2011-2013 fiscal biennium, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2011-2013 fiscal biennium.

**EFFECT OF HEADINGS**

**SECTION 24.3.** The headings to the Parts and sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act, except for effective dates referring to a Part.

**SEVERABILITY CLAUSE**

**SECTION 24.4.** If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

**EFFECTIVE DATE**

**SECTION 24.5.** Except as otherwise provided, this act becomes effective July 1, 2011.