

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

S

3

**SENATE BILL 622
Appropriations/Base Budget Committee Substitute Adopted 5/3/05
Pensions & Retirement and Aging Committee Substitute Adopted 5/3/05**

Short Title: 2005 Appropriations Act.

(Public)

Sponsors:

Referred to:

March 17, 2005

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

The General Assembly of North Carolina enacts:

PART I. INTRODUCTION AND TITLE OF ACT

Requested by: Senators Garrou, Dalton, Hagan

INTRODUCTION

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

Requested by: Senators Garrou, Dalton, Hagan

TITLE OF ACT

SECTION 1.2. This act shall be known as the "Current Operations and Capital Improvements Appropriations Act of 2005."

PART II. CURRENT OPERATIONS AND EXPANSION/GENERAL FUND

CURRENT OPERATIONS AND EXPANSION/GENERAL FUND

SECTION 2.1. Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated, are made for the biennium ending June 30, 2007, according to the following schedule:

Current Operations – General Fund	2005-2006	2006-2007
--	------------------	------------------

EDUCATION

1	Community Colleges System Office	\$ 792,784,715	\$ 746,844,357
2			
3	Department of Public Instruction	6,686,828,445	6,694,525,352
4			
5	University of North Carolina – Board of Governors		
6	Appalachian State University	97,985,189	98,017,482
7	East Carolina University		
8	Academic Affairs	163,117,460	165,825,346
9	Health Affairs	45,236,835	45,199,318
10	Elizabeth City State University	27,836,223	27,945,857
11	Fayetteville State University	42,457,022	42,888,221
12	NC Agricultural and Technical University	76,760,995	77,033,079
13	North Carolina Central University	58,670,213	58,651,761
14	North Carolina School of the Arts	19,903,778	19,887,953
15	North Carolina State University		
16	Academic Affairs	298,649,068	303,604,023
17	Agricultural Extension	35,806,488	35,806,688
18	Agricultural Research	45,270,285	45,549,731
19	University of North Carolina at Asheville	28,616,607	29,645,303
20	University of North Carolina at Chapel Hill		
21	Academic Affairs	212,811,809	221,386,937
22	Health Affairs	163,536,496	165,717,793
23	Area Health Education Centers	44,519,506	44,519,506
24	University of North Carolina at Charlotte	125,946,379	132,426,616
25	University of North Carolina at Greensboro	112,494,664	113,358,313
26	University of North Carolina at Pembroke	40,978,831	41,646,390
27	University of North Carolina at Wilmington	74,233,617	76,212,723
28	Western Carolina University	71,221,796	71,938,286
29	Winston-Salem State University	48,827,490	48,923,209
30	General Administration	47,357,834	47,356,334
31	University Institutional Programs	24,985,466	28,970,466
32	Related Educational Programs	112,128,293	113,991,033
33	North Carolina School of Science and Mathematics	13,840,377	13,840,377
34	UNC Hospitals at Chapel Hill	39,231,482	39,231,482
35	Total University of North Carolina –		
36	Board of Governors	2,072,424,203	2,109,574,227

HEALTH AND HUMAN SERVICES

37			
38	HEALTH AND HUMAN SERVICES		
39			
40	Department of Health and Human Services		
41	Office of the Secretary	114,180,919	130,744,045
42	Division of Aging	29,495,139	29,495,139
43	Division of Blind Services/Deaf/HH	9,636,797	9,681,220
44	Division of Child Development	264,750,017	267,356,799
45	Division of Education Services	33,852,267	34,281,895
46	Division of Facility Services	16,045,403	17,795,105
47	Division of Medical Assistance	2,461,281,279	2,606,201,525
48	Division of Mental Health	600,373,655	602,298,655
49	NC Health Choice	62,035,981	62,035,981
50	Division of Public Health	139,796,232	141,314,496
51	Division of Social Services	185,339,061	186,973,442
52	Division of Vocation Rehabilitation	41,755,526	42,142,193
53	Total Health and Human Services	\$ 3,958,542,276	\$ 4,130,320,495

NATURAL AND ECONOMIC RESOURCES

1			
2	Department of Agriculture and Consumer Services	49,829,113	49,456,901
3			
4	Department of Commerce		
5	Commerce	44,407,935	36,759,201
6	Commerce State-Aid	11,222,085	11,222,085
7	NC Biotechnology Center	12,083,395	10,583,395
8	Rural Economic Development Center	24,802,607	24,802,607
9			
10	Department of Environment and Natural Resources	171,187,401	163,712,105
11			
12	Department of Labor	14,154,785	14,169,511
13			
14	JUSTICE AND PUBLIC SAFETY		
15			
16	Department of Correction	\$ 1,023,193,451	\$ 1,041,825,169
17			
18	Department of Crime Control and Public Safety	33,509,206	33,899,206
19			
20	Judicial Department	338,914,267	341,627,255
21	Judicial Department – Indigent Defense	90,879,188	85,879,188
22			
23	Department of Justice	76,555,200	77,190,756
24			
25	Department of Juvenile Justice and		
26	Delinquency Prevention	135,174,503	135,774,503
27			
28	GENERAL GOVERNMENT		
29			
30	Department of Administration	62,419,016	58,783,228
31			
32	Office of Administrative Hearings	2,987,410	2,969,712
33			
34	Department of State Auditor	10,850,737	10,840,918
35			
36	Office of State Controller	10,043,268	10,044,511
37			
38	Department of Cultural Resources		
39	Cultural Resources	63,541,449	61,950,582
40	Roanoke Island Commission	1,783,374	1,783,374
41			
42	State Board of Elections	5,067,543	5,069,307
43			
44	General Assembly	42,984,588	46,965,432
45			
46	Office of the Governor		
47	Office of the Governor	5,324,590	5,344,528
48	Office of State Budget and Management	5,019,735	5,021,795
49	OSBM – Reserve for Special Appropriations	4,430,000	4,180,000
50	Housing Finance Agency	5,750,945	4,750,945
51			
52	Department of Insurance		
53	Insurance	28,088,214	28,110,582
54	Insurance – Volunteer Safety Workers'		
55	Compensation	2,500,000	4,500,000

1			
2	Office of Lieutenant Governor	754,737	753,037
3			
4	Department of Revenue	78,238,895	77,858,775
5			
6	Department of Secretary of State	8,657,943	8,638,857
7			
8	Department of State Treasurer		
9	State Treasurer	8,690,595	8,295,843
10	State Treasurer – Retirement for Fire and Rescue		
11	Squad Workers	8,551,457	8,551,457
12			
13	TRANSPORTATION		
14			
15	Department of Transportation	0	0
16			
17	RESERVES, ADJUSTMENTS AND DEBT SERVICE		
18			
19	Reserve for Compensation Increases	192,876,000	499,876,000
20			
21	Salary Adjustment Fund: 2005-2007 Biennium	4,500,000	4,500,000
22			
23	Salary Adjustment Fund: 2004-2005 Fiscal Year	4,500,000	4,500,000
24			
25	Reserve for Teachers' and State Employees'		
26	Retirement Contribution	14,617,000	14,617,000
27			
28	Reserve for Retirement System Payback	25,000,000	0
29			
30	Reserve for Death Benefit Trust	12,899,200	12,899,200
31			
32	Reserve for Disability Income Plan	6,586,500	6,586,500
33			
34	Reserve for State Health Plan	125,000,000	167,000,000
35			
36	Contingency and Emergency Fund	5,000,000	5,000,000
37			
38	Reserve for Information Technology		
39	Rate Adjustments	(2,300,000)	(2,300,000)
40			
41	Information Technology Fund	24,375,000	8,025,000
42			
43	MH/DD/SAS Trust Fund	5,000,000	0
44			
45	Health and Wellness Trust Fund	10,000,000	0
46			
47	Reserve for Job Development Investment Grants (JDIG)	8,000,000	12,400,000
48			
49	Reserve for Healthy NC	2,000,000	0
50			
51	Reserve for Increased Fuel Costs	3,000,000	0
52			
53	Debt Service		
54	General Debt Service	489,544,211	619,291,140
55	Federal Reimbursement	1,616,380	1,616,380

1
2 **TOTAL CURRENT OPERATIONS –**
3 **GENERAL FUND**

\$ 16,824,391,562 \$ 17,416,590,416

4
5 Requested by: Senators Garrou, Dalton, Hagan
6 **GENERAL FUND AVAILABILITY STATEMENT**

7 **SECTION 2.2.(a)** The General Fund availability used in developing the
8 2005-2007 biennial budget is shown below:

	FY 2005-2006	FY 2006-2007
9		
10		
11 Unappropriated Balance Remaining		
12 from Previous Year	\$ 0	\$ 247,722,490
13 Projected Over Collections FY 2004-2005	428,400,000	0
14 Projected Reversions FY 2004-2005	75,000,000	0
15 Less Earmarkings of Year End Credit Balance	0	0
16 Savings Reserve Account	(125,850,000)	0
17 Repairs and Renovations	(50,000,000)	0
18 Beginning Unreserved Credit Balance	\$ 327,550,000	\$ 247,722,490
19		
20 Revenues Based on Existing Tax Structure	\$ 15,250,100,000	\$ 15,903,000,000
21		
22 Nontax Revenues		
23 Investment Income	75,300,000	78,500,000
24 Judicial Fees	142,200,000	147,900,000
25 Disproportionate Share	100,000,000	100,000,000
26 Insurance	56,600,000	58,800,000
27 Other Nontax Revenues	150,400,000	161,800,000
28 Highway Trust Fund/Use Tax Reimbursement		
29 Transfer	252,558,117	252,663,009
30 Highway Fund Transfer	16,200,000	16,200,000
31 Subtotal Nontax Revenues	793,258,117	815,863,009
32		
33 Total General Fund Availability	\$ 16,370,908,117	\$ 16,966,585,499
34		
35 Adjustments to Availability: 2005 Session		
36 Streamlined Sales Tax Changes	72,200,000	87,800,000
37 Maintain 4.5% Sales Tax Rate	413,400,000	458,700,000
38 Other Sales Tax Changes		
39 Apply Sales Tax to Service Contracts and		
40 Warranties	9,100,000	16,800,000
41 Apply Sales Tax to Candy	11,000,000	15,800,000
42 Exempt Potting Soil for Farmers	(200,000)	(300,000)
43 Tobacco Tax Rate Changes	201,300,000	229,900,000
44 Reduce Highest Marginal Individual		
45 Income Tax Rate to 7.75% Over Two Years	20,100,000	24,600,000
46 Continue Use Tax Line on Individual Returns	3,200,000	3,200,000
47 Conform Estate Tax to Federal Sunset	30,700,000	121,600,000
48 Reduce Corporate Income Tax Rate	0	0
49 Corporate Tax "Throwout" Rule	9,800,000	10,300,000
50 Film Industry Jobs Incentives	(4,800,000)	(4,800,000)
51 IRC Update – Partial Conformance	(8,000,000)	(10,700,000)
52 Increase Earmarking for NC Grape Growers Council	(150,000)	(150,000)
53 Justice and Public Safety Fees	20,428,271	20,428,271
54 Transfer from Tobacco Trust Fund	34,000,000	30,000,000
55 Transfers from Special Revenue and Other Funds	8,953,950	0

1			
2	Reimburse Debt Service for Certain Capital Facilities		
3	and Land Acquisition per SL 2004-179	5,958,723	21,060,827
4	Adjust Transfer from Insurance Regulatory Fund	256,513	243,813
5	Adjust Transfer from Treasurer's Office	68,478	67,478
6	Subtotal Adjustments to Availability:		
7	2005 Session	\$ 827,315,935	\$ 1,024,550,389
8			
9	Revised General Fund Availability	\$ 17,198,224,052	\$ 17,991,135,888
10			
11	Less: General Fund Appropriations		
12	SB 622 (2005 Appropriations Act)	(16,850,501,562)	(17,416,590,416)
13	G.S. 143-15.3B: Clean Water Management		
14	Trust Fund	(100,000,000)	(100,000,000)
15	Total General Fund Appropriations 2005-2007		
16	Biennium	(\$16,950,501,562)	(\$17,516,590,416)
17			
18	Unappropriated Balance Remaining	\$ 247,722,490	\$ 474,545,472
19			

20 **SECTION 2.2.(b)** Notwithstanding G.S. 143-16.4(a2), of the funds credited
21 to the Tobacco Trust Account from the Master Settlement Agreement pursuant to
22 Section 6(2) of S.L. 1999-2 during the 2005-2007 fiscal biennium, the sum of
23 thirty-four million dollars (\$34,000,000) for the 2005-2006 fiscal year and the sum of
24 thirty million dollars (\$30,000,000) for the 2006-2007 fiscal year shall be transferred
25 from the Department of Agriculture and Consumer Services, Budget Code 23703
26 (Tobacco Trust Fund) to the State Controller to be deposited in Nontax Budget Code
27 19978 (Intrastate Transfers) to support General Fund appropriations for the 2005-2006
28 and 2006-2007 fiscal years.

29 **SECTION 2.2.(c)** G.S. 143-15.3 is amended by adding a new subsection to
30 read:

31 "(a2) The transfer of funds to the Savings Reserve Account in accordance with this
32 section or any other provision of law is not an "appropriation made by law", as that
33 phrase is used in Article V, Section 7(1) of the North Carolina Constitution."

34 This subsection becomes effective June 30, 2005.

35 **SECTION 2.2.(d)** Notwithstanding G.S. 143-15.2 and G.S. 143-15.3A, the
36 State Controller shall transfer fifty million dollars (\$50,000,000) from the unreserved
37 credit balance to the Repairs and Renovations Reserve Account on June 30, 2005.
38 Funds transferred under this section to the Repairs and Renovations Reserve Account
39 are appropriated for the 2005-2006 fiscal year to be used in accordance with
40 G.S. 143-15.3A. This subsection becomes effective June 30, 2005.

41 **SECTION 2.2.(e)** When the Highway Trust Fund was created in 1989, the
42 revenue from the sales tax on motor vehicles was transferred from the General Fund to
43 the Highway Trust Fund. To offset this loss of revenue from the General Fund, the
44 Highway Trust Fund was required to transfer one hundred seventy million dollars
45 (\$170,000,000) to the General Fund each year, an amount equal to the revenue in 1989
46 from the sales tax on motor vehicles. This transfer did not, however, make the General
47 Fund whole after the transfer of the sales tax revenue because no provision has been
48 made to adjust the amount for the increased volume of transactions and increased
49 vehicle prices. The additional eighty million dollars (\$80,000,000) transferred from the
50 Highway Trust Fund to the General Fund by this act is an effort to recover a portion of
51 the sales tax revenues that would have gone to the General Fund over the last 16 years.

52 **SECTION 2.2.(f)** Notwithstanding G.S. 105-187.9(b)(1), the sum to be
53 transferred under that subdivision for the 2005-2006 fiscal year and for the 2006-2007
54 fiscal year is two hundred fifty million dollars (\$250,000,000).

55 **SECTION 2.2.(g)** Section 2.2(g) of S.L. 2002-126 is repealed.

SECTION 2.2.(h) Notwithstanding any other provision of law to the contrary, effective July 1, 2005, cash balances remaining in special funds on June 30, 2005, shall be transferred to the State Controller to be deposited in Nontax Budget Code 19978 (Intrastate Transfers) according to the schedule that follows. These funds shall be used to support General Fund appropriations for the 2005-2006 fiscal year.

Fund	Amount Transferred
Department of Environment and Natural Resources	
Budget Code 24300, Fund Code 2338 (DAQ-Inspections and Maintenance – Air Pollution)	\$ 300,000
Budget Code 24300, Fund Code 2106 (DEH – Sleep Products)	200,000
Budget Code 24300, Fund Code 2735 (DLR – Sedimentation Fees)	200,000
Budget Code 24306, Fund Code 2127 (DWQ – Clean-Up Dry Cleaning Solvent)	3,000,000
Budget Code 24300, Fund Code 2130 (DWQ – Well Construction Fund)	100,000
Budget Code 24300, Fund Code 2335 (DWQ – Lab Certification Fees)	100,000
Budget Code 24300, Fund Code 2341 (DWQ – Water Permits)	500,000
Budget Code 64306, Fund Code 6341 (DWQ – WW Treatment Maintenance and Repair)	100,000
Budget Code 24304, Fund Code 2982 (DWQ – Riparian Buffer Restoration)	2,000,000
Department of Commerce	
Budget Code 24600, Fund Code 2711 (Industrial Development Fund)	500,000
Department of Corrections	
Budget Code 24502, (Inmate Canteen/Welfare Fund)	440,000
Judicial Department	
Budget Code 22005, Fund Code 2263 (Worthless Check Fund)	100,000
Department of Administration	
Budget Code 24160, Fund Code 2000 (NC Flex)	913,950

SECTION 2.2.(i) The transfer of cash from Department of Correction, Budget Code 74500, Fund Code 7100 (Prison Enterprises) to Nontax Budget Code 19978 (Intrastate Transfers) shall be increased by five hundred thousand dollars (\$500,000), effective July 1, 2005, for the 2005-2006 fiscal year.

PART III. CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND

Requested by: Senators Jenkins, Garrou, Dalton, Hagan

CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND

SECTION 3.1. Appropriations from the State Highway Fund for the maintenance and operation of the Department of Transportation and for other purposes as enumerated, are made for the biennium ending June 30, 2007, according to the following schedule:

Current Operations – Highway Fund	2005-2006	2006-2007
Department of Transportation Administration	\$ 93,888,317	\$ 95,100,980
Division of Highways Administration	30,621,612	30,632,164

1	Construction	140,470,000	143,080,000
2	Maintenance	715,895,029	665,722,211
3	Planning and Research	4,280,000	4,280,000
4	OSHA Program	425,000	425,000
5			
6	Ferry Operations	21,264,811	21,264,811
7			
8	State Aid		
9	Municipalities	93,370,000	95,980,000
10	Public Transportation	66,466,447	89,866,447
11	Railroads	16,531,153	15,531,153
12			
13	Governor's Highway Safety	293,118	293,118
14			
15	Division of Motor Vehicles	95,447,914	95,268,137
16			
17	Other State Agencies	237,392,745	230,530,729
18			
19	Reserves and Transfers	20,798,052	36,958,052
20			
21	TOTAL	\$1,537,144,198	\$ 1,524,932,802

22
23 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

24 **HIGHWAY FUND AVAILABILITY STATEMENT**

25 **SECTION 3.2.** The Highway Fund availability used in developing the
26 2005-2007 biennial budget is shown below:

27	Highway Fund Availability Statement	2005-2006	2006-2007
28			
29			
30	Beginning Credit Balance	-	-
31	Estimated Revenue	\$ 1,631,640,000	\$ 1,661,240,000
32	Estimated Reversions	-	-
33			
34	Total Highway Fund Availability	\$ 1,631,640,000	\$ 1,661,240,000

35
36 **PART IV. HIGHWAY TRUST FUND APPROPRIATIONS**

37
38 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

39 **HIGHWAY TRUST FUND APPROPRIATIONS**

40 **SECTION 4.1.** Appropriations from the State Highway Trust Fund for the
41 maintenance and operation of the Department of Transportation and for other purposes
42 as enumerated, are made for the biennium ending June 30, 2007 according to the
43 following schedule:

44	Current Operations – Highway Trust Fund	2005-2006	2006-2007
45			
46			
47	Intrastate System	\$469,925,196	\$486,590,730
48	Urban Loops	190,018,179	196,757,026
49	Aid to Municipalities	49,306,114	51,054,717
50	Secondary Roads	86,596,114	89,274,717
51	Program Administration	41,156,280	42,259,800
52	Transfer to General Fund	252,558,117	252,663,009
53			
54	GRAND TOTAL CURRENT OPERATIONS		
55	AND EXPANSION	\$1,089,560,000	\$1,118,600,000

1
2 **PART V. BLOCK GRANTS**
3

4 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

5 **DHHS BLOCK GRANTS**

6 **SECTION 5.1.(a)** Appropriations from federal block grant funds are made
7 for the fiscal year ending June 30, 2006, according to the following schedule:
8

9 **COMMUNITY SERVICES BLOCK GRANT**

10			
11	01.	Community Action Agencies	\$ 15,071,666
12			
13	02.	Limited Purpose Agencies	837,315
14			
15	03.	Department of Health and Human Services	
16		to administer and monitor	
17		the activities of the	
18		Community Services Block Grant	837,315
19			

20 **TOTAL COMMUNITY SERVICES BLOCK GRANT** \$ 16,746,296

21
22 **SOCIAL SERVICES BLOCK GRANT**
23

24	01.	County departments of social services	\$ 28,868,189
25		(Transfer from TANF – \$4,500,000)	
26			
27	02.	Allocation for in-home services provided	
28		by county departments of	
29		social services	2,101,113
30			
31	03.	Adult day care services	2,155,301
32			
33	04.	Child Protective Services/CPS Investigative	
34		Services/Child Medical Evaluation Program	238,321
35			
36	05.	Foster Care Services – CCIS	1,500,000
37			
38	06.	Division of Aging and Adult Services – Home and Community	
39		Care Block Grant	1,834,077
40			
41	07.	UNC-CH CARES Program for training and	
42		consultation services	247,920
43			
44	08.	Mental Health Services Program	422,003
45			
46	09.	Division of Mental Health, Developmental Disabilities, and	
47		Substance Abuse Services – Developmentally Disabled	
48		Services Program	5,000,000
49			
50	10.	Division of Mental Health, Developmental Disabilities,	
51		and Substance Abuse Services	3,234,601
52			
53	11.	Division of Services for the Blind – Independent	
54		Living Program	3,182,987
55			

1	12.	Division of Vocational Rehabilitation Services –	
2		Easter Seals Society/UCP	188,263
3			
4	13.	Office of the Secretary – Office of Economic	
5		Opportunity for N.C. Senior Citizens'	
6		Federation for outreach services to	
7		low-income elderly persons	41,302
8			
9	14.	Child Care Subsidies	3,356,063
10			
11	15.	Division of Facility Services –	
12		Adult Care Licensure Program	411,897
13			
14	16.	Division of Facility Services –	
15		Mental Health Licensure	205,668
16			
17	17.	State administration	1,706,017
18			
19	18.	Division of Mental Health, Developmental	
20		Disabilities, and Substance Abuse Services –	
21		Administration	18,098
22			
23	19.	Division of Facility Services	37,204
24			
25	20.	Office of the Secretary – NC Interagency Council	
26		for Coordinating Homeless Programs	250,000
27			
28	21.	Department of Administration	
29		for the N.C. State Commission of Indian Affairs	
30		In-Home Services Program for the Elderly	203,198
31			
32	22.	Transfer to Preventative Health Services Block	
33		Grant for HIV/AIDS education, counseling, and	
34		testing	145,819
35			
36	TOTAL SOCIAL SERVICES BLOCK GRANT		\$ 55,348,041
37			
38	LOW-INCOME ENERGY BLOCK GRANT		
39			
40	01.	Energy Assistance Programs	\$ 13,208,740
41			
42	02.	Crisis Intervention	9,592,387
43			
44	03.	Administration	3,186,258
45		County DSS \$1,930,734	
46		Division of Social Services \$300,000	
47		Division of Mental Health, Developmental	
48		Disabilities, and Substance Abuse	
49		Services \$7,146	
50		Local Residential Energy Efficiency	
51		Service Providers \$353,820	
52		Office of the Secretary \$594,558	
53			
54	04.	Weatherization Program	4,343,072
55			

1	05.	Department of Administration –	
2		N.C. State Commission of Indian Affairs	54,840
3			
4	06.	Heating Air Repair and Replacement Program	2,025,687
5			
6		TOTAL LOW-INCOME ENERGY BLOCK GRANT	\$ 32,410,984
7			
8		MENTAL HEALTH SERVICES BLOCK GRANT	
9			
10	01.	Provision of community-based	
11		services for severe and persistently	
12		mentally ill adults	\$ 6,983,202
13			
14	02.	Provision of community-based	
15		services to children	3,921,991
16			
17	03.	Comprehensive Treatment Services	
18		Program for Children	1,500,000
19			
20	04.	Administration	568,911
21			
22		TOTAL MENTAL HEALTH SERVICES BLOCK GRANT	\$ 12,974,104
23			
24		SUBSTANCE ABUSE PREVENTION	
25		AND TREATMENT BLOCK GRANT	
26			
27	01.	Provision of community-based	
28		alcohol and drug abuse services,	
29		tuberculosis services, and services	
30		provided by the Alcohol and Drug Abuse	
31		Treatment Centers	\$ 20,441,082
32			
33	02.	Continuation of services for	
34		pregnant women and women	
35		with dependent children	8,069,524
36			
37	03.	Continuation of services to	
38		IV drug abusers and others at risk	
39		for HIV diseases	4,816,378
40			
41	04.	Child Substance Abuse Prevention	5,835,701
42			
43	05.	Provision of services to children	
44		and adolescents	4,940,500
45			
46	06.	Juvenile Services – Family Focus	851,156
47			
48	07.	Allocation to the Division of Public Health	
49		for HIV/STD Risk Reduction Projects	383,980
50			
51	08.	Allocation to the Division of Public Health	
52		for HIV/STD Prevention by County Health	
53		Departments	209,576
54			
55	09.	Allocation to the Division of Public Health	

1	for the Maternal and Child Health Hotline	37,779
2		
3	10. Administration	2,596,307
4		
5	TOTAL SUBSTANCE ABUSE PREVENTION	
6	AND TREATMENT BLOCK GRANT	\$ 48,181,983
7		
8	CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT	
9		
10	01. Child care subsidies	\$158,708,393
11		
12	02. Quality and availability initiatives	33,059,644
13		
14	03. Administrative expenses	7,163,654
15		
16	04. Transfer from TANF Block Grant for	
17	child care subsidies	81,292,880
18		
19	TOTAL CHILD CARE AND DEVELOPMENT FUND	
20	BLOCK GRANT	\$280,224,571
21		
22	TEMPORARY ASSISTANCE TO NEEDY FAMILIES	
23	(TANF) BLOCK GRANT	
24		
25	01. Work First Cash Assistance	\$107,794,365
26		
27	02. Work First County Block Grants	94,653,315
28		
29	03. Child Protective Services –	
30	Child Welfare Workers for local DSS	12,452,391
31		
32	04. Support Our Students – Department of	
33	Juvenile Justice and Delinquency	
34	Prevention	2,749,642
35		
36	05. Family Violence Prevention	1,200,000
37		
38	06. Work First – After-School Services for	
39	At-Risk Children	2,249,642
40		
41	07. Division of Social Services –	
42	Administration	356,291
43		
44	08. Office of the Secretary –	
45	Administration	60,249
46		
47	09. Child Welfare Training	2,550,000
48		
49	10. Boys and Girls Clubs	1,000,000
50		
51	11. Work Central Career Advancement Center	550,000
52		
53	12. Special Children's Adoption Fund	3,000,000
54		
55	13. Maternity Homes	838,000

1			
2	14.	After-School Programs for At-Risk Youth in	
3		Middle Schools	500,000
4			
5	15.	Teen Pregnancy Prevention Initiatives	2,500,000
6			
7	16.	Subsidized Child Care Program	36,601,205
8			
9	17.	TANF Automation Projects	592,500
10			
11	18.	NC FAST Implementation	1,447,640
12			
13	19.	Transfer to the Child Care and	
14		Development Fund Block Grant	
15		for child care subsidies	81,292,880
16			
17	20.	Transfer to Social Services Block Grant for	
18		County Departments of Social Services for	
19		Children's Services	4,500,000
20			
21	TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES		
22	(TANF) BLOCK GRANT		\$356,888,120
23			
24	MATERNAL AND CHILD HEALTH BLOCK GRANT		
25			
26	01.	Healthy Mothers/Healthy Children	
27		Block Grants to Aid-to-County	9,359,236
28			
29	02.	Children's Health Services Aid-to-County	7,364,216
30			
31	03.	Healthy Beginnings Aid-to-County	404,559
32			
33	04.	Maternal Health Aid-to-County	397,761
34			
35	05.	Children's Health Services	2,878,883
36			
37	06.	Office of Women's Health and	
38		Maternal Health Activities	114,063
39			
40	07.	State Center for Health Statistics	28,874
41			
42	08.	Local Technical Assistance & Training	46,866
43			
44	09.	Injury and Violence Prevention	149,438
45			
46	10.	Office of Minority Health	99,352
47			
48	11.	Special Supplemental Nutrition Program	
49		for Women, Infants and Children (WIC)	25,713
50			
51	12.	Immunization Program – Vaccine Distribution	819,997
52			
53	13.	Administration	518,137
54			
55	TOTAL MATERNAL AND CHILD		

1	HEALTH BLOCK GRANT	\$ 22,207,095
2		
3	PREVENTIVE HEALTH SERVICES BLOCK GRANT	
4		
5	01. Statewide Health Promotion Programs	\$3,637,771
6		
7	02. Rape Crisis/Victims' Services	
8	Program – Council for Women	197,112
9		
10	03. Transfer from Social Services	
11	Block Grant – HIV/AIDS education,	
12	counseling, and testing	145,819
13		
14	04. Adolescent Pregnancy Prevention Coalition of NC	150,000
15		
16	05. Administration and Program Support	121,271
17		
18	06. Osteoporosis Task Force Operating Costs	150,000
19		
20	TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT	\$4,401,973

GENERAL PROVISIONS

23 **SECTION 5.1.(b)** Information to Be Included in Block Grant Plans. – The
 24 Department of Health and Human Services shall submit a separate plan for each Block
 25 Grant received and administered by the Department, and each plan shall include the
 26 following:

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

40 **SECTION 5.1.(c)** Changes in Federal Fund Availability. – If the United
 41 States Congress reduces or increases the federal fund availability for any of the Block
 42 Grants administered by the Department of Health and Human Services from the
 43 amounts appropriated in this section, the Department shall allocate the increase or
 44 decrease proportionally across the program and activity appropriations identified for
 45 that Block Grant in this section. In allocating a decrease in federal fund availability, the
 46 Department shall not eliminate the funding for a program or activity appropriated in this
 47 section. In allocating an increase in federal fund availability, the Department shall not
 48 propose funding for new programs or activities not appropriated in this section or
 49 increase administrative expenditures.

50 Prior to allocating the change in federal fund availability, the proposed
 51 allocation must be approved by the Office of State Budget and Management. If the
 52 Department adjusts the allocation of any Block Grant due to changes in federal fund
 53 availability, then a report shall be made to the Joint Legislative Committee on
 54 Governmental Operations, the House of Representatives Appropriations Subcommittee

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

3 **SECTION 5.1.(d)** All changes to the budgeted allocations to the Block
4 Grants administered by the Department of Health and Human Services that are not
5 specifically addressed in this section shall be approved by the Office of State Budget
6 and Management, and a report shall be submitted to the Joint Legislative Commission
7 on Governmental Operations for review prior to implementing the changes. All changes
8 to the budgeted allocations to the Block Grant shall be reported immediately to the
9 House of Representatives Appropriations Subcommittee on Health and Human
10 Services, the Senate Appropriations Committee on Health and Human Services, and the
11 Fiscal Research Division.

12 **SECTION 5.1.(e)** The Department of Health and Human Services shall
13 develop a monitoring and oversight plan for all recipients, both public and private, and
14 subrecipients of the federal Block Grant funding. The plan shall be modeled after the
15 Department's performance contracting initiative and include the following:

- 16 (1) Performance standards for recipients.
- 17 (2) Financial audit standards for non-State entities equivalent to the
18 requirements in G.S. 143-6.1 for non-State entities receiving State
19 funds.
- 20 (3) Means for collecting performance data from recipients.
- 21 (4) Any other information necessary for monitoring and overseeing the
22 use of Block Grant funding.

23 The Department shall provide the plan to the Fiscal Research Division by January 1,
24 2006.

25 **SECTION 5.1.(f)** The Department of Health and Human Services shall
26 report to the House of Representatives Appropriations Subcommittee on Health and
27 Human Services, the Senate Appropriations Committee on Health and Human Services,
28 and the Fiscal Research Division on positions funded from federal Block Grants. The
29 report shall include the following for each Block Grant:

- 30 (1) All State positions currently funded through the Block Grant,
31 including permanent, temporary, and time-limited positions.
- 32 (2) Budgeted salary and fringe benefits for each position.
- 33 (3) Identify the percentage of Block Grant funds used to fund each
34 position.

35 The report shall be submitted no later than December 1, 2005.

36 **SOCIAL SERVICES BLOCK GRANT**

37 **SECTION 5.1.(g)** Social Services Block Grant funds appropriated to the
38 North Carolina Inter-Agency Council for Coordinating Homeless Program are exempt
39 from the provisions of 10A NCAC 71R.0201(3).

40 **LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM**

41 **SECTION 5.1.(h)** Additional emergency contingency funds received may
42 be allocated for Energy Assistance Payments or Crisis Intervention Payments without
43 prior consultation with the Joint Legislative Commission on Governmental Operations.
44 Additional funds received shall be reported to the Joint Legislative Commission on
45 Governmental Operations and the Fiscal Research Division upon notification of the
46 award. The Department of Health and Human Services shall not allocate funds for any
47 activities, including increasing administration, other than assistance payments, without
48 prior consultation with the Joint Legislative Commission on Governmental Operations.

49 **MENTAL HEALTH BLOCK GRANT**

50 **SECTION 5.1.(i)** The sum of one million five hundred thousand dollars
51 (\$1,500,000) appropriated in this section in the Mental Health Block Grant to the
52 Department of Health and Human Services, Division of Mental Health, Developmental
53 Disabilities, and Substance Abuse Services, for the 2005-2006 fiscal year, and the sum
54 of four hundred twenty-two thousand three dollars (\$422,003) appropriated in this
55 section in the Social Services Block Grant to the Department of Health and Human

1 Services, Division of Social Services, for the 2005-2006 fiscal year shall be used to
2 continue a Comprehensive Treatment Services Program for Children in accordance with
3 Section 10.25 of this act.

4 **SECTION 5.1.(j)** The Department of Health and Human Services shall
5 contract with the University of North Carolina at Chapel Hill for the purpose of
6 providing psychology student stipends in the amount of fifty thousand dollars (\$50,000)
7 for the 2005-2006 fiscal year. Twenty-five thousand dollars (\$25,000) of this contract
8 shall be paid from the Mental Health Block Grant.

9 **CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT**

10 **SECTION 5.1.(k)** The sum of four hundred thousand dollars (\$400,000)
11 appropriated in this section to the Department of Health and Human Services in the
12 Child Care and Development Fund Block Grant shall be used for the operations of the
13 Medical Child Care Pilot.

14 **SECTION 5.1.(l)** Payment for subsidized child care services provided with
15 federal TANF funds shall comply with all regulations and policies issued by the
16 Division of Child Development and School Readiness for the subsidized child care
17 program.

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

23 **TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT**
24 **(TANF)**

25 **SECTION 5.1.(n)** The sum of four hundred sixteen thousand five hundred
26 forty dollars (\$416,540) appropriated in this section in the TANF Block Grant to the
27 Department of Health and Human Services, Division of Social Services, for the
28 2005-2006 fiscal year shall be used to support administration of TANF-funded
29 programs.

30 **SECTION 5.1.(o)** The sum of two million seven hundred forty-nine
31 thousand six hundred forty-two dollars (\$2,749,642) appropriated in this section in the
32 TANF Block Grant to the Department of Health and Human Services and transferred to
33 the Department of Juvenile Justice and Delinquency Prevention for the 2005-2006 fiscal
34 year shall be used to support the existing Support Our Students Program and to expand
35 the Program statewide, focusing on low-income communities in unserved areas. These
36 funds shall not be used for administration of the Program.

37 **SECTION 5.1.(p)** The sum of one million two hundred thousand dollars
38 (\$1,200,000) appropriated under this section in the TANF Block Grant to the
39 Department of Health and Human Services, Division of Social Services, for the
40 2005-2006 fiscal year shall be used to provide domestic violence services to Work First
41 recipients. These funds shall be used to provide domestic violence counseling, support,
42 and other direct services to clients. These funds shall not be used to establish new
43 domestic violence shelters or to facilitate lobbying efforts. The Division of Social
44 Services may use up to seventy-five thousand dollars (\$75,000) in TANF funds to
45 support one administrative position within the Division of Social Services to implement
46 this subsection.

47 Each county department of social services and the local domestic violence
48 shelter program serving the county shall jointly develop a plan for utilizing these funds.
49 The plan shall include the services to be provided and the manner in which the services
50 shall be delivered. The county plan shall be signed by the county social services director
51 or the director's designee and the domestic violence program director or the director's
52 designee and submitted to the Division of Social Services by December 1, 2005. The
53 Division of Social Services, in consultation with the Council for Women, shall review
54 the county plans and shall provide consultation and technical assistance to the
55 departments of social services and local domestic violence shelter programs, if needed.

1 The Division of Social Services shall allocate these funds to county
2 departments of social services according to the following formula: (i) each county shall
3 receive a base allocation of five thousand dollars (\$5,000); and (ii) each county shall
4 receive an allocation of the remaining funds based on the county's proportion of the
5 statewide total of the Work First caseload as of July 1, 2005, and the county's proportion
6 of the statewide total of the individuals receiving domestic violence services from
7 programs funded by the Council for Women as of July 1, 2005. The Division of Social
8 Services may reallocate unspent funds to counties that submit a written request for
9 additional funds.

10 The Department of Health and Human Services shall report on the uses of
11 these funds no later than March 1, 2006, to the House of Representatives Appropriations
12 Subcommittee on Health and Human Services, the Senate Appropriations Committee on
13 Health and Human Services, and the Fiscal Research Division.

14 **SECTION 5.1.(q)** The sum of two million two hundred forty-nine thousand
15 six hundred forty-two dollars (\$2,249,642) appropriated in this section in the TANF
16 Block Grant to the Department of Health and Human Services, Division of Social
17 Services, shall be used to expand after-school programs and services for at-risk children.
18 The Department shall develop and implement a grant program to award grants to
19 community-based programs that demonstrate the ability to reach children at risk of teen
20 pregnancy and school dropout. The Department shall award grants to community-based
21 organizations that demonstrate the ability to develop and implement linkages with local
22 departments of social services, area mental health programs, schools, and other human
23 services programs in order to provide support services and assistance to the child and
24 family. These funds may be used to fund one position within the Division of Social
25 Services to coordinate at-risk after-school programs and shall not be used for other State
26 administration. The Department shall report no later than March 1, 2006, on its progress
27 in complying with this section to the House of Representatives Appropriations
28 Subcommittee on Health and Human Services, the Senate Committee on Health and
29 Human Services, and the Fiscal Research Division.

30 **SECTION 5.1.(r)** The sum of twelve million four hundred fifty-two
31 thousand three hundred ninety-one dollars (\$12,452,391) appropriated in this section to
32 the Department of Health and Human Services, Division of Social Services, in the
33 TANF Block Grant for the 2005-2006 fiscal year for Child Welfare Improvements, shall
34 be allocated to the county departments of social services for hiring or contracting staff
35 to investigate and provide services in Child Protective Services cases; to provide foster
36 care and support services; to recruit, train, license, and support prospective foster and
37 adoptive families; and to provide interstate and post-adoption services for eligible
38 families.

39 **SECTION 5.1.(s)** The sum of two million five hundred fifty thousand
40 dollars (\$2,550,000) appropriated in this section in the TANF Block Grant to the
41 Department of Health and Human Services, Division of Social Services, for fiscal year
42 2005-2006 shall be used to support various child welfare training projects as follows:

- 43 (1) Provide a regional training center in southeastern North Carolina.
- 44 (2) Support the Masters Degree in Social Work/Baccalaureate Degree in
45 Social Work Collaborative.
- 46 (3) Provide training for residential child care facilities.
- 47 (4) Provide for various other child welfare training initiatives.

48 **SECTION 5.1.(t)** The sum of eight hundred thirty-eight thousand dollars
49 (\$838,000) appropriated in this section in the TANF Block Grant to the Department of
50 Health and Human Services shall be used to purchase services at maternity homes
51 throughout the State.

52 **SECTION 5.1.(u)** The sum of three million dollars (\$3,000,000)
53 appropriated in this section in the TANF Block Grant to the Department of Health and
54 Human Services, Special Children Adoption Fund, for the 2005-2006 fiscal year shall
55 be used to implement this subsection. The Division of Social Services, in consultation

1 with the North Carolina Association of County Directors of Social Services and
2 representatives of licensed private adoption agencies, shall develop guidelines for the
3 awarding of funds to licensed public and private adoption agencies upon the adoption of
4 children described in G.S. 108A-50 and in foster care. Payments received from the
5 Special Children Adoption Fund by participating agencies shall be used exclusively to
6 enhance the adoption services program. No local match shall be required as a condition
7 for receipt of these funds.

8 **SECTION 5.1.(v)** The sum of one million five hundred thousand dollars
9 (\$1,500,000) appropriated in this section in the TANF Block Grant and transferred to
10 the Social Services Block Grant to the Department of Health and Human Services,
11 Division of Social Services, for child caring agencies for the 2005-2006 fiscal year shall
12 be allocated to the State Private Child Caring Agencies Fund.

13 **SECTION 5.1.(w)** The sum of one million dollars (\$1,000,000) appropriated
14 in this section to the Department of Health and Human Services in the TANF Block
15 Grant for Boys and Girls Clubs shall be used to make grants for approved programs.
16 The Department of Health and Human Services, in accordance with federal regulations
17 for the use of TANF Block Grant funds, shall administer a grant program to award
18 funds to the Boys and Girls Clubs across the State in order to implement programs that
19 improve the motivation, performance, and self-esteem of youths and to implement other
20 initiatives that would be expected to reduce school dropout and teen pregnancy rates.
21 The Department shall encourage and facilitate collaboration between the Boys and Girls
22 Clubs and Support Our Students, Communities in Schools, and similar programs to
23 submit joint applications for the funds if appropriate.

24 **SECTION 5.1.(x)** The sum of five hundred fifty thousand dollars (\$550,000)
25 appropriated in this section to the Department of Health and Human Services in the
26 TANF Block Grant shall be transferred to Work Central, Inc. Work Central, Inc. shall
27 report on the number of people served and the services received as a result of the receipt
28 of funds. The report shall contain expenditure data, including the amount of funds used
29 for administration and direct training. The report shall also include the number of people
30 who have been employed as a direct result of services provided by Work Central, Inc.,
31 including the length of employment in the new position. The Department of Health and
32 Human Services shall evaluate the program and ensure that services provided are not
33 duplicative of local employment security commissions in the nine counties served by
34 Work Central, Inc. The evaluation report shall be submitted to the House of
35 Representatives Appropriations Subcommittee on Health and Human Services, the
36 Senate Appropriations Committee on Health and Human Services, and the Fiscal
37 Research Division no later than May 1, 2006.

38 **SECTION 5.1.(y)** The sum of one million four hundred forty-seven
39 thousand six hundred forty dollars (\$1,447,640) in this section appropriated to the
40 Department of Health and Human Services in the TANF Block Grant shall be used to
41 implement the component of N.C. FAST that specifically deals with the creation and
42 implementation of a statewide automated child welfare information system. The
43 statewide system shall be implemented in compliance with federal regulations in order
44 to avoid any potential payback of funds due to noncompliance. The Department of
45 Health and Human Services shall report on its compliance with this subsection to the
46 House of Representatives Appropriations Subcommittee on Health and Human
47 Services, the Senate Appropriations Committee on Health and Human Services, and the
48 Fiscal Research Division no later than January 1, 2006.

49 **SECTION 5.1.(z)** The sum of five hundred thousand dollars (\$500,000)
50 appropriated in this section to the Department of Health and Human Services, Division
51 of Social Services, in the TANF Block Grant shall be used to expand after-school
52 programs for at-risk children attending middle school. The Department shall develop
53 and implement a grant program to award funds to community-based programs
54 demonstrating the capacity to reach children at risk of teen pregnancy and school
55 dropout. These funds shall not be used for training or administration at the State level.

1 All funds shall be distributed to community-based programs, focusing on those
 2 communities where similar programs do not exist in middle schools. The Department
 3 shall report to the House of Representatives Appropriations Subcommittee on Health
 4 and Human Services, the Senate Appropriations Committee on Health and Human
 5 Services, and the Fiscal Research Division on its progress in complying with this
 6 subsection no later than May 1, 2006.

7 **MATERNAL AND CHILD HEALTH BLOCK GRANT**

8 **SECTION 5.1.(aa)** If federal funds are received under the Maternal and
 9 Child Health Block Grant for abstinence education, pursuant to section 912 of Public
 10 Law 104-193 (42 U.S.C. § 710), for the 2005-2006 fiscal year, then those funds shall be
 11 transferred to the State Board of Education to be administered by the Department of
 12 Public Instruction. The Department of Public Instruction shall use the funds to establish
 13 an Abstinence Until Marriage Education Program and shall delegate to one or more
 14 persons the responsibility of implementing the program and G.S. 115C-81(e1)(4). The
 15 Department of Public Instruction shall carefully and strictly follow federal guidelines in
 16 implementing and administering the abstinence education grant funds.

17 **SECTION 5.1.(bb)** The Department of Health and Human Services shall
 18 ensure that there will be follow-up testing in the Newborn Screening Program.

19 **SECTION 5.1.(cc)** Of the funds budgeted in the Maternal and Child Health
 20 Block Grant, three million two hundred fifty thousand dollars (\$3,250,000) shall be
 21 used for a school nurse funding initiative for the 2005-2006 fiscal year. The Department
 22 of Health and Human Services, Division of Public Health, in conjunction with the
 23 Department of Public Instruction, shall provide funds to communities to hire school
 24 nurses. The program will fund approximately 65 time-limited nurses. The criteria shall
 25 include determining the areas in the greatest need for school nurses with the greatest
 26 inability to pay for these nurses. Among other criteria, consideration shall also be given
 27 to (i) the current nurse-to-student ratio; (ii) the economic status of the community; and
 28 (iii) the health needs of area children.

29 There shall be no supplanting of local or Title I funds with these block grant
 30 funds. Communities shall maintain their current level of effort and funding for school
 31 nurses. No block grant funds shall be used for funding nurses for State agencies. All
 32 funding shall be used for direct services.

33 The Department of Health and Human Services shall report on the use of
 34 funds allocated under this section by December 1, 2005, to the House of
 35 Representatives Appropriations Subcommittee on Health and Human Services, the
 36 Senate Appropriations Committee on Health and Human Services, and the Fiscal
 37 Research Division.

38
 39 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

40 **NER BLOCK GRANTS**

41 **SECTION 5.2.(a)** Appropriations from federal block grant funds are made
 42 for fiscal year ending June 30, 2006, according to the following schedule:

43
 44 **COMMUNITY DEVELOPMENT BLOCK GRANT**

45		
46	01. State Administration	\$ 1,000,000
47		
48	02. Urgent Needs and Contingency	1,000,000
49		
50	03. Scattered Site Housing	13,200,000
51		
52	04. Economic Development	8,710,000
53		
54	05. Community Revitalization	13,500,000
55		

1	06. State Technical Assistance	450,000
2		
3	07. Housing Development	2,000,000
4		
5	08. Infrastructure	5,140,000
6		
7	TOTAL COMMUNITY DEVELOPMENT	
8	BLOCK GRANT – 2006 Program Year	\$ 45,000,000
9		

10 **SECTION 5.2.(b)** Decreases in Federal Fund Availability. – If federal funds
 11 are reduced below the amounts specified above after the effective date of this act, then
 12 every program in each of these federal block grants shall be reduced by the same
 13 percentage as the reduction in federal funds.

14 **SECTION 5.2.(c)** Increases in Federal Fund Availability for Community
 15 Development Block Grant. – Any block grant funds appropriated by the Congress of the
 16 United States in addition to the funds specified in this section shall be expended as
 17 follows: each program category under the Community Development Block Grant shall
 18 be increased by the same percentage as the increase in federal funds.

19 **SECTION 5.2.(d)** Limitations on Community Development Block Grant
 20 Funds. – Of the funds appropriated in this section for the Community Development
 21 Block Grant, the following shall be allocated in each category for each program year: up
 22 to one million dollars (\$1,000,000) may be used for State Administration; not less than
 23 one million dollars (\$1,000,000) may be used for Urgent Needs and Contingency; up to
 24 thirteen million two hundred thousand dollars (\$13,200,000) may be used for Scattered
 25 Site Housing; up to eight million seven hundred ten thousand dollars (\$8,710,000) may
 26 be used for Economic Development, including Urban Redevelopment Grants and Small
 27 Business or Entrepreneurial Assistance; not less than thirteen million five hundred
 28 thousand dollars (\$13,500,000) shall be used for Community Revitalization; up to four
 29 hundred fifty thousand dollars (\$450,000) may be used for State Technical Assistance;
 30 up to two million dollars (\$2,000,000) may be used for Housing Development; up to
 31 five million one hundred forty thousand dollars (\$5,140,000) may be used for
 32 Infrastructure. If federal block grant funds are reduced or increased by the Congress of
 33 the United States after the effective date of this act, then these reductions or increases
 34 shall be allocated in accordance with subsection (b) or (c) of this section, as applicable.

35 **SECTION 5.2.(e)** Increase Capacity for Nonprofit Organizations. –
 36 Assistance to nonprofit organizations to increase their capacity to carry out
 37 CDBG-eligible activities in partnership with units of local government is an eligible
 38 activity under any program category in accordance with federal regulations. Capacity
 39 building grants may be made from funds available within program categories, program
 40 income, or unobligated funds.

41 **SECTION 5.2.(f)** Department of Commerce Demonstration Grants in
 42 Partnership with Rural Economic Development Center, Inc. – The Department of
 43 Commerce, in partnership with the Rural Economic Development Center, Inc., shall
 44 award up to two million two hundred fifty thousand dollars (\$2,250,000) in
 45 demonstration grants to local governments in very distressed rural areas of the State.
 46 These grants shall be used to address critical infrastructure and entrepreneurial needs
 47 and to provide small business assistance.

48 **SECTION 5.2.(g)** The Department of Commerce shall consult with the Joint
 49 Legislative Commission on Governmental Operations prior to reallocating Community
 50 Development Block Grant Funds. Notwithstanding the provisions of this subsection,
 51 whenever the Director of the Budget finds that:

- 52 (1) A reallocation is required because of an emergency that poses an
 53 imminent threat to public health or public safety, the Director of the
 54 Budget may authorize the reallocation without consulting the
 55 Commission. The Department of Commerce shall report to the

1 Commission on the reallocation no later than 30 days after it was
2 authorized and shall identify in the report the emergency, the type of
3 action taken, and how it was related to the emergency.

- 4 (2) The State will lose federal block grant funds or receive less federal
5 block grant funds in the next fiscal year unless a reallocation is made,
6 the Department of Commerce shall provide a written report to the
7 Commission on the proposed reallocation and shall identify the reason
8 that failure to take action will result in the loss of federal funds. If the
9 Commission does not hear the issue within 30 days of receipt of the
10 report, the Department may take the action without consulting the
11 Commission.
12
13

14 PART VI. GENERAL PROVISIONS

15
16 Requested by: Senators Garrou, Dalton, Hagan

17 APPROPRIATION OF CASH BALANCES AND RECEIPTS

18 **SECTION 6.1.(a)** Expenditures of cash balances, federal funds,
19 departmental receipts, grants, and gifts from the various General Fund, Special Revenue
20 Fund, Enterprise Fund, Internal Service Fund, and Trust and Agency Fund budget codes
21 are appropriated and authorized for the 2005-2007 fiscal biennium as follows:

- 22 (1) For all budget codes listed in "State of North Carolina, Recommended
23 Continuation Budget 2005-2007, Volumes 1 through 6", cash balances
24 and receipts are appropriated up to the amounts specified in Volumes 1
25 through 6, as adjusted by the General Assembly, for the 2005-2006
26 fiscal year and the 2006-2007 fiscal year. Funds may be expended only
27 for the programs and purposes and objects and line items specified in
28 Volumes 1 through 6, or otherwise authorized by the General
29 Assembly.
30 (2) For all budget codes that are not listed in "State of North Carolina,
31 Recommended Continuation Budget 2005-2007, Volumes 1 through
32 6", cash balances and receipts are appropriated for each year of the
33 2005-2007 fiscal biennium up to the level of actual expenditures for
34 the 2004-2005 fiscal year, unless otherwise provided by law. Funds
35 may be expended only for the programs and purposes and objects and
36 line items authorized for the 2004-2005 fiscal year.
37 (3) Notwithstanding subdivisions (1) and (2) of this subsection, any
38 receipts that are required to be used to pay debt service requirements
39 for various outstanding bond issues and certificates of participation are
40 appropriated up to the actual amounts received for the 2005-2006
41 fiscal year and the 2006-2007 fiscal year and shall be used only to pay
42 debt service requirements.
43 (4) Notwithstanding subdivisions (1) and (2) of this subsection, cash
44 balances and receipts of funds that meet the definition issued by the
45 Governmental Accounting Standards Board of a trust or agency fund,
46 are appropriated for and in the amounts required to meet the legal
47 requirements of the trust agreement for the 2005-2006 fiscal year and
48 the 2006-2007 fiscal year.

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

52 **SECTION 6.1.(b)** Receipts collected in a fiscal year in excess of the
53 amounts authorized by this section shall remain unexpended and unencumbered until
54 appropriated by the General Assembly in a subsequent fiscal year, unless the

1 expenditure of over-realized receipts in the fiscal year in which the receipts were
2 collected is authorized by the Executive Budget Act.

3 Over-realized receipts are appropriated up to the amounts necessary to
4 implement this subsection.

5 In addition to the consultation and reporting requirements set out in
6 G.S. 143-23 and G.S. 143-27, the Office of State Budget and Management shall report
7 to the Joint Legislative Commission on Governmental Operations and to the Fiscal
8 Research Division of the Legislative Services Office within 30 days after the end of
9 each quarter on any over-realized receipts approved for expenditure under this
10 subsection by the Director of the Budget. The report shall include the source of the
11 receipt, the amount over-realized, the amount authorized for expenditure, and the
12 rationale for expenditure.

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

17 **SECTION 6.1.(d)** Notwithstanding subsections (a) and (b) of this section, if
18 Senate Bill 1126, 2005 Session, or substantially similar legislation revising the Coastal
19 Recreational Fishing License program or establishing a unified fishing license for
20 hunting and fishing in coastal, joint, and inland waters, becomes law, any receipts from
21 license revenues generated pursuant to such legislation are hereby appropriated for the
22 2005-2006 fiscal year and the 2006-2007 fiscal year for programs and purposes
23 authorized by law.

24 **SECTION 6.1.(e)** Notwithstanding subsections (a)(2) and (b) of this section,
25 the cash balances and receipts of any occupational licensing board, as defined in
26 G.S. 93B-1, that are not included in the budget codes listed in "State of North Carolina,
27 Recommended Continuation Budget 2005-2007, Volumes 1 through 6," are hereby
28 appropriated for the 2005-2006 fiscal year and the 2006-2007 fiscal year and may be
29 expended for programs and purposes authorized by law.

30
31 Requested by: Senators Garrou, Dalton, Hagan

32 **CONTINGENCY AND EMERGENCY FUND ALLOCATIONS**

33 **SECTION 6.2.** Funds in the amount of five million dollars (\$5,000,000) for
34 the 2005-2006 fiscal year and five million dollars (\$5,000,000) for the 2006-2007 fiscal
35 year are appropriated in this act to the Contingency and Emergency Fund. Of these
36 funds:

- 37 (1) Up to two million dollars (\$2,000,000) for the 2005-2006 fiscal year
38 may be used for purposes related to the Base Realignment and Closure
39 Act (BRAC); and
- 40 (2) Up to five hundred thousand dollars (\$500,000) for the 2005-2006
41 fiscal year and up to five hundred thousand dollars (\$500,000) for the
42 2006-2007 fiscal year may be expended for purposes other than those
43 set out in G.S.143-23(a1)(2) or in subdivision (1) of this section.

44 The remainder of these funds shall be expended for purposes outlined in
45 G.S. 143-23(a1)(2).

46
47 Requested by: Senators Garrou, Dalton, Hagan

48 **EXPENDITURES OF FUNDS IN RESERVES LIMITED**

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

51
52 Requested by: Senators Garrou, Dalton, Hagan

53 **BUDGET REPORTS ACCURATELY REFLECT PROJECTED RECEIPTS, 54 EXPENDITURES, FUND BALANCES, AND ACTUAL COLLECTIONS**

55 **SECTION 6.4.** G.S. 143-11(a) reads as rewritten:

"§ 143-11. Survey of departments, departments and recommended budget report.

(a) On or before the fifteenth day of December, biennially in the even-numbered years, the Director shall make a complete, careful survey of the operation and management of all the departments, bureaus, divisions, officers, boards, commissions, institutions, and agencies and undertakings of the State and all persons or corporations who use or expend State funds, in the interest of economy and efficiency, and of obtaining a working knowledge upon which to base recommendations to the General Assembly as to appropriations for maintenance and special funds and capital expenditures for the succeeding biennium. If the Director and the Commission shall agree in their recommendations for the budget for the next biennial period, he shall prepare their report in the form of a proposed budget, together with such comment and recommendations as they may deem proper to make. If the Director and Commission shall not agree in substantial particulars, the Director shall prepare the proposed budget based on his own conclusions and judgment, and the Commission or any of its members retain the right to submit separately to the General Assembly such statement of disagreement and the particulars thereof as representing their views. The budget report shall contain a complete and itemized plan of all proposed expenditures for each State department, bureau, board, division, institution, commission, State agency or undertaking, person or corporation who receives or may receive for use and expenditure any State funds, in accordance with the classification of funds and accounts adopted by the State Controller, and of the estimated revenues and borrowings for each year in the ensuing biennial period beginning with the first day of July thereafter. Opposite each line item of the proposed expenditures, the budget shall show in separate parallel columns:

- (1) Proposed expenditures and receipts for each fiscal year of the biennium;
- (2) The certified budget for the preceding fiscal year;
- (3) The currently authorized budget for the preceding fiscal year;
- (4) Actual expenditures and receipts for the most recent fiscal year for which actual expenditure information is available; and
- (5) Proposed increases and decreases.

Revenue and expenditure information shall be no less specific than the two-digit level in the State Accounting System Chart of Accounts as prescribed by the State Controller. The budget shall clearly differentiate between general fund expenditures for operating and maintenance, special fund expenditures for any purpose, and proposed capital improvements. The budget report shall include accurate projections of receipts, expenditures, and fund balances for all budget codes, funds, and accounts. Estimated receipts, including tuition collected by university or community college institutions, shall be adjusted to reflect actual collections from the previous fiscal year, unless the Director either (i) recommends a change that will result in collections in the budget year that differ from the actual collections of the prior year or (ii) otherwise determines there is a more reasonable basis upon which to accurately project receipts."

Requested by: Senators Garrou, Dalton, Hagan

AUTHORIZATION TO ESTABLISH RECEIPT-SUPPORTED POSITIONS

SECTION 6.5. Notwithstanding G.S. 143-34.1(a1), a department, institution, or other agency of State government may establish receipt-supported positions authorized in this act upon approval by the Director of the Budget. The Director, if necessary, may establish a receipt-supported position pursuant to this section at an annual salary amount different from the salary amount set out in this act if (i) funds are available from the proposed funding source and (ii) the alternative salary amount remains within the established salary range grade identified for the job classification of the affected receipt-supported position established in this act. The Director shall not change the job classifications or increase the number of

1 receipt-supported positions specified in this act without prior consultation with the Joint
2 Legislative Commission on Governmental Operations.

3
4 Requested by: Senators Garrou, Dalton, Hagan

5 **OVERHEAD COST RECOVERY**

6 **SECTION 6.6.(a)** The General Assembly finds that the General Fund
7 supports many state agencies that provide services and administer programs that impact
8 all of State government. These agencies include the Office of the Governor, the Office
9 of State Controller, the Department of Administration, including the Office of State
10 Personnel, State Property Office, Office of State Construction, and the Division of
11 Purchase and Contract, the Secretary of State, the Office of State Treasurer, and the
12 Office of State Auditor. The General Assembly also finds that the General Fund
13 supports the departmental administrative overhead costs for many receipt-supported
14 programs, activities, boards, and commissions. The General Assembly further finds that
15 only federally funded programs routinely reimburse the State for such administrative
16 overhead activities through an indirect cost allocation method. The General Assembly
17 finds that an indirect cost allocation program should be established to recover overhead
18 and indirect costs from all receipt-supported programs, activities, boards, and
19 commissions.

20 **SECTION 6.6.(b)** The Office of State Budget and Management shall study
21 the collection of overhead receipts and develop an overhead cost recovery program. In
22 implementing this section, the Office of State Budget and Management shall do the
23 following:

- 24 (1) For each receipt, determine the authority and requirements for the
25 allocation of overhead costs and collection of overhead receipts.
- 26 (2) For each receipt for which the State currently redirects a portion for
27 overhead costs, ensure that all future receipts revert to the General
28 Fund in accordance with the State Budget Manual, except as otherwise
29 required by law.
- 30 (3) For each receipt for which the State does not currently redirect a
31 portion for overhead costs, establish an indirect cost allocation
32 methodology and redirect a portion of future receipts for overhead
33 costs to the General Fund, except as otherwise required by law.
- 34 (5) Estimate the anticipated reimbursement to the General Fund for the
35 2006-2007 fiscal year.
- 36 (6) Effective with the 2006-2007 fiscal year, the Office of State Budget
37 and Management shall implement the overhead cost recovery program
38 to maximize reimbursement of statewide indirect costs supported by
39 the General Fund.

40 **SECTION 6.6.(c)** The Office of State Budget and Management shall report
41 on its progress in implementing this section to the Chairs of the Senate Committee on
42 Appropriations/Base Budget, the Chairs of the House of Representatives Committee on
43 Appropriations, and the Fiscal Research Division by April 1, 2006. The report shall
44 recommend any statutory changes required to implement the requirements of this
45 section.

46 **SECTION 6.6.(d)** This section does not apply to overhead cost
47 reimbursements collected under any grant agreement by The University of North
48 Carolina or any of its affiliated institutions.

49 **SECTION 6.6.(e)** The requirements of this section shall apply to all receipts
50 credited to a State agency, special revenue fund, enterprise fund, internal service fund or
51 trust fund, except as otherwise provided by law and subsection (d) of this section.

52
53 Requested by: Senators Garrou, Dalton, Hagan

54 **PRIOR CONSULTATION WITH THE JOINT LEGISLATIVE COMMISSION**
55 **ON GOVERNMENTAL OPERATIONS**

1 **SECTION 6.7.(a)** The last paragraph of G.S. 120-76(8) is recodified as
2 G.S. 120-76.1 and reads as rewritten:

3 **"§ 120-76.1. Prior consultation with the Commission.**

4 (a) ~~Notwithstanding the provisions of this subdivision G.S. 120-76(8) or any~~
5 other provision of law requiring prior consultation by the Governor with the
6 Commission, whenever an expenditure is required because of an emergency that poses
7 an imminent threat to public health or public safety, and is either the result of a natural
8 event, such as a hurricane or a flood, or an accident, such as an explosion or a wreck,
9 the Governor may take action ~~under this subsection~~ without consulting the Commission
10 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
12 ~~paragraph~~ subsection no later than 30 days after making the expenditure and shall
13 identify in the report the emergency, the type of action taken, and how it was related to
14 the emergency.

15 (b) Any agency, board, commission, or other entity required under
16 G.S. 120-76(8) or any other provision of law to consult with the Commission prior to
17 taking an action shall submit a detailed report of the action under consideration to the
18 Chairs of the Commission, the Commission Assistant, and the Fiscal Research Division
19 of the General Assembly. If the Commission does not hold a meeting to hear the
20 consultation within 60 days of receiving the submission of the detailed report, the
21 consultation requirement is satisfied."

22 **SECTION 6.7.(b)** G.S. 143-23(a1) reads as rewritten:

23 (a1) Notwithstanding the provisions of subsection (a) of this section, a department,
24 institution, or other spending agency may, with approval of the Director of the Budget,
25 spend more than was appropriated for:

- 26 (1) An object or line item within a purpose or program so long as the total
27 amount expended for the purpose or program is no more than was
28 appropriated from all sources for the purpose or program for the fiscal
29 period;
- 30 (2) A purpose or program, without consultation with the Joint Legislative
31 Commission on Governmental Operations, if the overexpenditure of
32 the purpose or program is:
- 33 a. Required by a court, Industrial Commission, or administrative
34 hearing officer's order;
- 35 b. Required to respond to an unanticipated disaster such as a fire,
36 hurricane, or tornado; or
- 37 c. Required to call out the National Guard.
38 The Director of the Budget shall report on a quarterly basis to the Joint
39 Legislative Commission on Governmental Operations on any
40 overexpenditures under this subdivision; or
- 41 (3) A purpose or program, after consultation with the Joint Legislative
42 Commission on Governmental Operations in accordance with
43 G.S. 120-76(8), and only if: (i) the overexpenditure is required to
44 continue the purpose or programs due to complications or changes in
45 circumstances that could not have been foreseen when the budget for
46 the fiscal period was enacted and (ii) the scope of the purpose or
47 program is not increased. The consultation is required as follows:
- 48 a. For a purpose or program with a certified budget of up to five
49 million dollars (\$5,000,000), consultation is required when the
50 authorization for the overexpenditure exceeds ten percent (10%)
51 of the certified budget;
- 52 b. For a purpose or program with a certified budget of from five
53 million dollars (\$5,000,000) up to twenty million dollars
54 (\$20,000,000), consultation is required when the authorization
55 for the overexpenditure exceeds five hundred thousand dollars

1 (\$500,000) or seven and one-half percent (7.5%) of the certified
2 budget, whichever is greater;

3 c. For a purpose or program with a certified budget of twenty
4 million dollars (\$20,000,000) or more, consultation is required
5 when the authorization for the overexpenditure exceeds one
6 million five hundred thousand dollars (\$1,500,000) or five
7 percent (5%) of the certified budget, whichever is greater;

8 d. For a purpose or program supported by federal funds or when
9 expenditures are required for the reasons set out in subdivision
10 (2) of this subsection, no consultation is required.

11 ~~If the Joint Legislative Commission on Governmental Operations does not meet for~~
12 ~~more than 30 days, the Director of the Budget may satisfy the requirements of the~~
13 ~~subsection to report to or consult with the Commission by reporting to or consulting~~
14 ~~with a joint meeting of the Chairs of the Appropriations Committees of the Senate and~~
15 ~~the House of Representatives."~~

16
17 Requested by: Senators Garrou, Dalton, Hagan

18 **CONSULTATION NOT REQUIRED PRIOR TO ESTABLISHING OR**
19 **INCREASING FEES IN ACCORDANCE WITH BUDGET ACT**

20 **SECTION 6.8.(a)** Notwithstanding G.S. 12-3.1(a), an agency is not required
21 to consult with the Joint Legislative Commission on Governmental Operations prior to
22 establishing or increasing a fee as authorized or anticipated in the Current Operations
23 and Capital Improvements Appropriations Act of 2005 or the Senate Appropriations
24 Committee Report on the Continuation, Expansion and Capital Budgets, which was
25 distributed in the Senate and the House of Representatives and used to explain this act.

26 **SECTION 6.8.(b)** This section expires June 30, 2007.

27
28 Requested by: Senators Garrou, Dalton, Hagan

29 **STATE MONEY RECIPIENTS/CONFLICT OF INTEREST POLICY**

30 **SECTION 6.9.(a)** G.S. 143-6.2 is amended by adding a new subsection to
31 read:

32 "(a1) Every non-State entity that receives, uses, or expends State funds, either by
33 General Assembly appropriation, or by grant, loan, or other allocation from a State
34 agency shall file with the State department or agency disbursing funds to the entity a
35 copy of that entity's policy addressing conflicts of interest that may arise involving the
36 entity's management employees and the members of its board of directors or other
37 governing body before funds may be disbursed to the entity. The policy shall address
38 situations in which any of these individuals may directly or indirectly benefit, except as
39 the entity's employees or members of the board or other governing body, from the
40 entity's disbursing of State funds, and shall include actions to be taken by the entity or
41 the individual, or both, to avoid conflicts of interest and the appearance of impropriety."

42 **SECTION 6.9.(b)** G.S. 143-6.2(d) is amended by adding a new subdivision
43 to read:

44 "(13) Require grantees to report their policies addressing conflicts of interest
45 that may arise involving the entity's management employees and the
46 members of its board of directors or other governing body before funds
47 may be disbursed to the entity."

48 **SECTION 6.9.(c)** This section applies to non-State entities that receive State
49 funds on or after July 1, 2005, and State funds shall not be disbursed to those entities on
50 or after July 1, 2005, until the entity files the policy required by this section with the
51 disbursing agency or department.

52
53 Requested by: Senators Garrou, Dalton, Hagan

54 **NON-STATE ENTITIES SHALL NOT HAVE OUTSTANDING TAX**
55 **ASSESSMENTS/APPLICABILITY OF REPORTING REQUIREMENTS**

1 **SECTION 6.10.(a)** G.S. 143-6.2 is amended by adding a new subsection to
2 read:

3 "**(c1) No Overdue Tax Debts.** – No grantee or subgrantee shall receive a grant of
4 State funds from a State agency, department, or institution if the grantee or subgrantee
5 has any overdue tax debts, as defined by G.S. 105-243.1, at the federal, State, or local
6 level."

7 **SECTION 6.10.(b)** This section shall apply to all State grant funds
8 appropriated or awarded on or after July 1, 2005. Grants awarded prior to July 1, 2005,
9 shall be subject to the reporting requirements in effect at the time the grant was made.

10
11 Requested by: Senators Garrou, Dalton, Hagan, Kerr, Hoyle

12 **RESERVE FOR SMALL EMPLOYER HEALTH INSURANCE**

13 **SECTION 6.11.(a)** It is the intent of the General Assembly to establish
14 Healthy NC, a program to assist small employers in purchasing affordable health
15 insurance coverage for their employees. It is further the intent of the General Assembly
16 that Healthy NC will be modeled after the Healthy NY program operating successfully
17 in that state since 2001. Healthy NC will be designed to encourage small employers
18 with 50 or fewer employees to offer health insurance coverage to their employees and
19 dependents and other qualified individuals. Uninsured sole proprietors and workers
20 whose employers do not provide health insurance may also purchase coverage directly
21 from insurers participating in Healthy NC. Coverage under Healthy NC will be
22 streamlined, yet comprehensive. Benefits available will include inpatient and outpatient
23 hospital services, physician services, maternity care, preventive health services,
24 diagnostic and X-ray services, and emergency services. Employers may select a benefit
25 package that offers limited prescription drug coverage, or one that does not include
26 coverage for prescription drugs. A feature of Healthy NC that will enable premiums to
27 be set at affordable rates is the availability of stop-loss coverage to protect insurers from
28 excessive claims. Stop-loss coverage is an insurance policy or other arrangement
29 whereby stop-loss funds are used to pay claims or indemnify the health plan insurer for
30 losses incurred under the health plan in excess of specified loss limits for individual
31 claims or for all claims combined. It is anticipated that successes of Healthy NC will be
32 marked by, among other things, affordable premiums and an increase in the number of
33 small employers and their employees that have health care coverage.

34 **SECTION 6.11.(b)** There is created in the Office of State Budget and
35 Management a nonreverting Reserve for Healthy NC. Funds appropriated in this act to
36 the Reserve for Healthy NC shall be allocated by the Commissioner of Insurance
37 exclusively for the purpose of reimbursing insurers providing health insurance to small
38 employers under Part 5A of Article 50 of Chapter 58 of the General Statutes, Healthy
39 NC Program, if enacted by the 2005 General Assembly.

40 **SECTION 6.11.(c)** Subsection (b) of this section becomes effective only if
41 the 2005 General Assembly enacts the Healthy NC program and appropriates funds to
42 the Reserve for Healthy NC.

43
44 Requested by: Senators Garrou, Dalton, Hagan

45 **AMEND THE TOBACCO RESERVE FUND TO PROMOTE THE HEALTH**
46 **AND WELLNESS OF THE STATE'S CITIZENS AND ECONOMIC**
47 **DEVELOPMENT**

48 **SECTION 6.12.(a)** G.S. 66-291(b)(2) reads as rewritten:

49 "(2) To the extent that a tobacco product manufacturer establishes that the
50 amount it was required to place into escrow on account of units sold in
51 the State in a particular year was greater than ~~the State's allocable~~
52 ~~share of the total payments that such manufacturer would have been~~
53 ~~required to make in that year under the Master Settlement Agreement~~
54 ~~(as determined pursuant to section IX(i)(2) of the Master Settlement~~
55 ~~Agreement, and before any of the adjustments or offsets described in~~

1 ~~section IX(i)(3) of that Agreement other than the Inflation~~
2 ~~Adjustment)the Master Settlement Agreement payments, as~~
3 ~~determined pursuant to Section IX(i) of that agreement, including after~~
4 ~~final determination of all adjustments, that the manufacturer would~~
5 ~~have been required to make on account of the units sold had it been a~~
6 ~~participating manufacturer, the excess shall be released from escrow~~
7 ~~and revert back to such tobacco product manufacturer; or".~~

8 **SECTION 6.12.(b)** If this section, or any portion of the amendment made to
9 G.S. 66-291(b)(2) by this section, is held by a court of competent jurisdiction to be
10 unconstitutional, then G.S. 66-291(b)(2) shall be deemed to be repealed in its entirety.
11 If G.S. 66-291(b)(2) shall thereafter be held by a court of competent jurisdiction to be
12 unconstitutional, then this section shall be repealed, and G.S. 66-291(b)(2) shall be
13 restored as if no amendments had been made by this section. Neither any judicial
14 holding of unconstitutionality nor the repeal of G.S. 66-291(b)(2) shall affect, impair, or
15 invalidate any other portion of Part 1 of Article 37 of Chapter 66 of the General Statutes
16 or the application of Part 1 of Article 37 of Chapter 66 of the General Statutes to any
17 other person or circumstance, and the remaining portions of Part 1 of Article 37 of
18 Chapter 66 of the General Statutes shall at all times continue in full force and effect.

19 **SECTION 6.12.(c)** This section becomes effective October 1, 2005.
20

21 Requested by: Senators Garrou, Dalton, Hagan

22 STATEWIDE INFORMATION TECHNOLOGY PROJECTS

23 **SECTION 6.13.(a)** There is appropriated from the Information Technology
24 Fund established in G.S. 147-33.72H to the Office of Information Technology Services
25 the sum of five million one hundred thousand dollars (\$5,100,000) for the 2005-2006
26 fiscal year and the sum of three million three hundred thousand dollars (\$3,300,000) for
27 the 2006-2007 fiscal year to continue existing Information Technology Fund activities
28 including project management assistance, security assessment remedial actions, asset
29 management, related legal support, and legacy system assessment.

30 **SECTION 6.13.(b)** There is appropriated from the Information Technology
31 Fund established in G.S. 147-33.72H to the Office of Information Technology Services
32 the sum of one million six hundred thousand dollars (\$1,600,000) for the 2005-2006
33 fiscal year and the sum of one million four hundred thousand dollars (\$1,400,000) for
34 the 2006-2007 fiscal year to establish two project management assistant positions and
35 one enterprise licensing position and to purchase and maintain asset management
36 software and enterprise licenses.

37 **SECTION 6.13.(c)** There is appropriated from the Information Technology
38 Fund established in G.S. 147-33.72H to the Office of Information Technology Services
39 the sum of six million three hundred thousand dollars (\$6,300,000) for the 2005-2006
40 fiscal year and the sum of five million eight hundred thousand dollars (\$5,800,000) for
41 the 2006-2007 fiscal year to provide services previously supported by cross-subsidies
42 in the information technology rate structure, including: (i) the operation of Enterprise
43 Technology Services within the Office of Information Technology Services, (ii) security
44 services, (iii) State portal maintenance, (iv) enterprise identity management, and (v) the
45 operations of the Office of the State Chief Information Officer.

46 **SECTION 6.13.(d)** There is appropriated from the Information Technology
47 Fund established in G.S. 147-33.72H to the Office of Information Technology Services
48 the sum of five hundred thousand dollars (\$500,000) for the 2005-2006 fiscal year to
49 facilitate consolidation of information technology activities in State agencies.
50

51 Requested by: Senators Garrou, Dalton, Hagan

52 STATE BUSINESS INFRASTRUCTURE PROGRAM

53 **SECTION 6.14.(a)** According to a study conducted by the Office of State
54 Controller, the State's personnel and payroll information systems are at risk of failure
55 within five years. This would result in delayed payments to over 80,000 state

employees. The current personnel and payroll information systems were designed and supported by agency staff, and staff members familiar with these information systems are near retirement from State government service. Through the State Business Infrastructure Program, the State Controller identified the personnel and payroll information systems as priorities for replacement.

SECTION 6.14.(b) There is appropriated from the Information Technology Fund established in G.S.147-33.72H to the Office of State Controller the sum of twenty million eight hundred seventy-five thousand dollars (\$20,875,000) for the 2005-2006 fiscal year and two million five hundred twenty-five thousand dollars (\$2,525,000) for the 2006-2007 fiscal year to initiate the replacement of the State's personnel and payroll information systems. These funds shall be used to procure software, hardware, integration services, project management, implementation activities, software license maintenance, hardware maintenance, contract support, and Information Technology Services Data Center activities.

SECTION 6.14.(c) Funds appropriated under this section are subject to the reporting requirement set out in G.S. 147-33.72H.

Requested by: Senators Garrou, Dalton, Hagan

INFORMATION TECHNOLOGY FUND

SECTION 6.15.(a) Of the funds collected by the Office of Information Technology Services from the information technology enterprise fee approved by the Office of State Budget and Management pursuant to G.S. 147-33.82, the Office shall deposit the sum of five million dollars (\$5,000,000) for the 2005-2006 fiscal year and for the 2006-2007 fiscal year in the Information Technology Fund established in G.S. 147-33.72H.

SECTION 6.15.(b) Effective July 1, 2005, the State Controller shall transfer to the Information Technology Fund established in G.S. 147-33.72H the sum of five million dollars (\$5,000,000) from the cash balance remaining in the Office of Information Technology Services Internal Service Fund on June 30, 2005. These funds shall be used to support statewide information technology initiatives.

PART VII. PUBLIC SCHOOLS

Requested by: Senator Lucas, Swindell, Garrou, Dalton, Hagan

TEACHER SALARY SCHEDULES

SECTION 7.1.(a) Effective for the 2005-2006 school year and for the 2006-2007 school year, the Director of the Budget shall transfer from the Reserve for Experience Step Salary Increase for Teachers and Principals in Public Schools funds necessary to implement the teacher salary schedules set out in subsection (b) of this section and for longevity in accordance with subsection (d) of this section, including funds for the employer's retirement and social security contributions for all teachers whose salaries are supported from the State's General Fund.

These funds shall be allocated to individuals according to rules adopted by the State Board of Education.

SECTION 7.1.(b) The following monthly salary schedules shall apply for the 2005-2006 and the 2006-2007 fiscal years to certified personnel of the public schools who are classified as teachers. The schedule contains 30 steps with each step corresponding to one year of teaching experience.

2005-2006 Monthly Salary Schedule
"A" Teachers

<u>Years of Experience</u>	<u>"A" Teachers</u>	<u>NBPTS Certification</u>
0	\$2,545	N/A

1	1	\$2,587	N/A
2	2	\$2,631	N/A
3	3	\$2,786	\$3,120
4	4	\$2,926	\$3,278
5	5	\$3,059	\$3,427
6	6	\$3,189	\$3,571
7	7	\$3,292	\$3,687
8	8	\$3,340	\$3,740
9	9	\$3,389	\$3,795
10	10	\$3,439	\$3,851
11	11	\$3,488	\$3,906
12	12	\$3,539	\$3,963
13	13	\$3,589	\$4,019
14	14	\$3,642	\$4,079
15	15	\$3,696	\$4,140
16	16	\$3,751	\$4,202
17	17	\$3,806	\$4,263
18	18	\$3,864	\$4,328
19	19	\$3,922	\$4,393
20	20	\$3,980	\$4,458
21	21	\$4,042	\$4,528
22	22	\$4,104	\$4,596
23	23	\$4,169	\$4,669
24	24	\$4,233	\$4,740
25	25	\$4,298	\$4,813
26	26	\$4,364	\$4,887
27	27	\$4,432	\$4,963
28	28	\$4,502	\$5,043
29	29	\$4,573	\$5,122

2005-2006 Monthly Salary Schedule
"M" Teachers

<u>Years of Experience</u>	<u>"M" Teachers</u>	<u>NBPTS Certification</u>	
35			
36			
37			
38	0	\$2,800	N/A
39	1	\$2,846	N/A
40	2	\$2,894	N/A
41	3	\$3,063	\$3,431
42	4	\$3,219	\$3,605
43	5	\$3,366	\$3,769
44	6	\$3,507	\$3,927
45	7	\$3,621	\$4,055
46	8	\$3,673	\$4,114
47	9	\$3,727	\$4,175
48	10	\$3,782	\$4,236
49	11	\$3,837	\$4,298
50	12	\$3,892	\$4,360
51	13	\$3,947	\$4,421
52	14	\$4,006	\$4,487
53	15	\$4,065	\$4,553
54	16	\$4,126	\$4,621
55	17	\$4,188	\$4,690

1	18	\$4,250	\$4,759
2	19	\$4,315	\$4,832
3	20	\$4,379	\$4,904
4	21	\$4,447	\$4,980
5	22	\$4,514	\$5,056
6	23	\$4,585	\$5,136
7	24	\$4,656	\$5,215
8	25	\$4,726	\$5,288
9	26	\$4,795	\$5,376
10	27	\$4,875	\$5,460
11	28	\$4,952	\$5,547
12	29	\$5,031	\$5,634

2006-2007 Monthly Salary Schedule
"A" Teachers

<u>Years of Experience</u>	<u>"A" Teachers</u>	<u>NBPTS Certification</u>
18		
19		
20	0	N/A
21	1	N/A
22	2	N/A
23	3	\$3,156
24	4	\$3,315
25	5	\$3,466
26	6	\$3,612
27	7	\$3,729
28	8	\$3,783
29	9	\$3,839
30	10	\$3,896
31	11	\$3,951
32	12	\$4,009
33	13	\$4,066
34	14	\$4,126
35	15	\$4,187
36	16	\$4,250
37	17	\$4,312
38	18	\$4,378
39	19	\$4,443
40	20	\$4,509
41	21	\$4,580
42	22	\$4,649
43	23	\$4,723
44	24	\$4,795
45	25	\$4,869
46	26	\$4,944
47	27	\$5,021
48	28	\$5,101
49	29	\$5,181

2006-2007 Monthly Salary Schedule
"M" Teachers

<u>Years of Experience</u>	<u>"M" Teachers</u>	<u>NBPTS Certification</u>
----------------------------	---------------------	----------------------------

1			
2	0	\$2,832	N/A
3	1	\$2,879	N/A
4	2	\$2,927	N/A
5	3	\$3,099	\$3,470
6	4	\$3,256	\$3,646
7	5	\$3,404	\$3,812
8	6	\$3,547	\$3,972
9	7	\$3,663	\$4,102
10	8	\$3,715	\$4,161
11	9	\$3,770	\$4,223
12	10	\$3,826	\$4,284
13	11	\$3,881	\$4,347
14	12	\$3,937	\$4,410
15	13	\$3,993	\$4,472
16	14	\$4,052	\$4,539
17	15	\$4,112	\$4,605
18	16	\$4,173	\$4,674
19	17	\$4,236	\$4,744
20	18	\$4,299	\$4,814
21	19	\$4,364	\$4,888
22	20	\$4,429	\$4,961
23	21	\$4,498	\$5,038
24	22	\$4,566	\$5,114
25	23	\$4,638	\$5,195
26	24	\$4,710	\$5,275
27	25	\$4,781	\$5,355
28	26	\$4,855	\$5,438
29	27	\$4,931	\$5,523
30	28	\$5,009	\$5,611
31	29	\$5,088	\$5,699
32			

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

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

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

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

8 **SECTION 7.1.(f)** Speech pathologists who are certified as speech
 9 pathologists at the masters degree level and audiologists who are certified as
 10 audiologists at the masters degree level and who are employed in the public schools as
 11 speech and language specialists and audiologists shall be paid on the school
 12 psychologist salary schedule.

13 Speech pathologists and audiologists with certification based on academic
 14 preparation at the six-year degree level shall receive a salary supplement of one hundred
 15 twenty-six dollars (\$126.00) per month in addition to the compensation provided for
 16 speech pathologists and audiologists. Speech pathologists and audiologists with
 17 certification based on academic preparation at the doctoral degree level shall receive a
 18 salary supplement of two hundred fifty-three dollars (\$253.00) per month in addition to
 19 the compensation provided for speech pathologists and audiologists.

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

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

24
 25 Requested by: Senator Lucas, Swindell, Garrou, Dalton, Hagan

26 **SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE**

27 **SECTION 7.2.(a)** Effective for the 2005-2006 school year and for the
 28 2006-2007 school year, the Director of the Budget shall transfer from the Reserve for
 29 Compensation Increases funds necessary to implement the salary schedules for
 30 school-based administrators as provided in this section. These funds shall be used for
 31 State-paid employees only.

32 **SECTION 7.2.(b)** The base salary schedule for school-based administrators
 33 shall apply only to principals and assistant principals. The base salary schedule for the
 34 2005-2006 fiscal year, commencing July 1, 2005, is as follows:

35
 36 2005-2006
 37 Principal and Assistant Principal Salary Schedules
 38 Classification

39 Yrs. of	Assistant	Prin I	Prin II	Prin III	Prin IV
40 Exp	Principal	(0-10)	(11-21)	(22-32)	(33-43)
41 0-4	\$3,256		-	-	-
42 5	\$3,404	-	-	-	-
43 6	\$3,547	-	-	-	-
44 7	\$3,662	-	-	-	-
45 8	\$3,715	\$3,715	-	-	-
46 9	\$3,769	\$3,769	-	-	-
47 10	\$3,825	\$3,825	\$3,880	-	-
48 11	\$3,880	\$3,880	\$3,936	-	-
49 12	\$3,936	\$3,936	\$3,993	\$4,052	-
50 13	\$3,993	\$3,993	\$4,052	\$4,111	\$4,173
51 14	\$4,052	\$4,052	\$4,111	\$4,173	\$4,235
52 15	\$4,111	\$4,111	\$4,173	\$4,235	\$4,298
53 16	\$4,173	\$4,173	\$4,235	\$4,298	\$4,363

1	17	\$4,235	\$4,235	\$4,298	\$4,363	\$4,428
2	18	\$4,298	\$4,298	\$4,363	\$4,428	\$4,497
3	19	\$4,363	\$4,363	\$4,428	\$4,497	\$4,565
4	20	\$4,428	\$4,428	\$4,497	\$4,565	\$4,638
5	21	\$4,497	\$4,497	\$4,565	\$4,638	\$4,708
6	22	\$4,565	\$4,565	\$4,638	\$4,708	\$4,780
7	23	\$4,638	\$4,638	\$4,708	\$4,780	\$4,855
8	24	\$4,708	\$4,708	\$4,780	\$4,855	\$4,931
9	25	\$4,780	\$4,780	\$4,855	\$4,931	\$5,008
10	26	\$4,855	\$4,855	\$4,931	\$5,008	\$5,088
11	27	\$4,931	\$4,931	\$5,008	\$5,088	\$5,189
12	28	\$5,008	\$5,008	\$5,088	\$5,189	\$5,294
13	29	\$5,088	\$5,088	\$5,189	\$5,294	\$5,400
14	30	\$5,189	\$5,189	\$5,294	\$5,400	\$5,508
15	31	\$5,294	\$5,294	\$5,400	\$5,508	\$5,617
16	32	-	\$5,400	\$5,508	\$5,617	\$5,730
17	33	-	-	\$5,617	\$5,730	\$5,845
18	34	-	-	\$5,730	\$5,845	\$5,962
19	35	-	-	-	\$5,962	\$6,081
20	36	-	-	-	\$6,081	\$6,203
21	37	-	-	-	-	\$6,327

2005-2006

Principal and Assistant Principal Salary Schedules
Classification

Yrs. of Exp	PrinV (44-54)	PrinVI (55-65)	PrinVII (66-100)	PrinVIII (101+)
14	\$4,298	-	-	-
15	\$4,363	-	-	-
16	\$4,428	\$4,497	-	-
17	\$4,497	\$4,565	\$4,708	-
18	\$4,565	\$4,638	\$4,780	\$4,855
19	\$4,638	\$4,708	\$4,855	\$4,931
20	\$4,708	\$4,780	\$4,931	\$5,008
21	\$4,780	\$4,855	\$5,008	\$5,088
22	\$4,855	\$4,931	\$5,088	\$5,189
23	\$4,931	\$5,008	\$5,189	\$5,294
24	\$5,008	\$5,088	\$5,294	\$5,400
25	\$5,088	\$5,189	\$5,400	\$5,508
26	\$5,189	\$5,294	\$5,508	\$5,617
27	\$5,294	\$5,400	\$5,617	\$5,730
28	\$5,400	\$5,508	\$5,730	\$5,845
29	\$5,508	\$5,617	\$5,845	\$5,962
30	\$5,617	\$5,730	\$5,962	\$6,081
31	\$5,730	\$5,845	\$6,081	\$6,203
32	\$5,845	\$5,962	\$6,203	\$6,327
33	\$5,962	\$6,081	\$6,327	\$6,453
34	\$6,081	\$6,203	\$6,453	\$6,583
35	\$6,203	\$6,327	\$6,583	\$6,714
36	\$6,327	\$6,453	\$6,714	\$6,847
37	\$6,453	\$6,583	\$6,847	\$6,985
38	\$6,583	\$6,714	\$6,985	\$7,124
39	-	\$6,847	\$7,124	\$7,266

1	40	-	\$6,985	\$7,266	\$7,412
2	41	-	-	\$7,412	\$7,560

SECTION 7.2.(c) The base salary schedule for school-based administrators shall apply only to principals and assistant principals. The base salary schedule for the 2006-2007 fiscal year, commencing July 1, 2006, is as follows:

2006-2007
Principal and Assistant Principal Salary Schedules
Classification

Yrs. of Exp	Assistant Principal	Prin I (0-10)	Prin II (11-21)	Prin III (22-32)	Prin IV (33-43)
0-4	\$3,297	-	-	-	-
5	\$3,448	-	-	-	-
6	\$3,593	-	-	-	-
7	\$3,709	-	-	-	-
8	\$3,762	\$3,762	-	-	-
9	\$3,817	\$3,817	-	-	-
10	\$3,874	\$3,874	\$3,930	-	-
11	\$3,930	\$3,930	\$3,987	-	-
12	\$3,987	\$3,987	\$4,044	\$4,104	-
13	\$4,044	\$4,044	\$4,104	\$4,163	\$4,226
14	\$4,104	\$4,104	\$4,163	\$4,226	\$4,289
15	\$4,163	\$4,163	\$4,226	\$4,289	\$4,353
16	\$4,226	\$4,226	\$4,289	\$4,353	\$4,419
17	\$4,289	\$4,289	\$4,353	\$4,419	\$4,484
18	\$4,353	\$4,353	\$4,419	\$4,484	\$4,554
19	\$4,419	\$4,419	\$4,484	\$4,554	\$4,623
20	\$4,484	\$4,484	\$4,554	\$4,623	\$4,697
21	\$4,554	\$4,554	\$4,623	\$4,697	\$4,769
22	\$4,623	\$4,623	\$4,697	\$4,769	\$4,842
23	\$4,697	\$4,697	\$4,769	\$4,842	\$4,917
24	\$4,769	\$4,769	\$4,842	\$4,917	\$4,994
25	\$4,842	\$4,842	\$4,917	\$4,994	\$5,072
26	\$4,917	\$4,917	\$4,994	\$5,072	\$5,153
27	\$4,994	\$4,994	\$5,072	\$5,153	\$5,256
28	\$5,072	\$5,072	\$5,153	\$5,256	\$5,361
29	\$5,153	\$5,153	\$5,256	\$5,361	\$5,469
30	\$5,256	\$5,256	\$5,361	\$5,469	\$5,579
31	\$5,361	\$5,361	\$5,469	\$5,579	\$5,689
32	-	\$5,469	\$5,579	\$5,689	\$5,803
33	-	-	\$5,689	\$5,803	\$5,920
34	-	-	\$5,803	\$5,920	\$6,039
35	-	-	-	\$6,039	\$6,158
36	-	-	-	\$6,158	\$6,282
37	-	-	-	-	\$6,408

2006-2007
Principal and Assistant Principal Salary Schedules
Classification

Yrs. of	PrinV	PrinVI	PrinVII	PrinVIII
---------	-------	--------	---------	----------

Exp	(44-54)	(55-65)	(66-100)	(101+)
14	\$4,353	-	-	-
15	\$4,419	-	-	-
16	\$4,484	\$4,554	-	-
17	\$4,554	\$4,623	\$4,769	-
18	\$4,623	\$4,697	\$4,842	\$4,917
19	\$4,697	\$4,769	\$4,917	\$4,994
20	\$4,769	\$4,842	\$4,994	\$5,072
21	\$4,842	\$4,917	\$5,072	\$5,153
22	\$4,917	\$4,994	\$5,153	\$5,256
23	\$4,994	\$5,072	\$5,256	\$5,361
24	\$5,072	\$5,153	\$5,361	\$5,469
25	\$5,153	\$5,256	\$5,469	\$5,579
26	\$5,256	\$5,361	\$5,579	\$5,689
27	\$5,361	\$5,469	\$5,689	\$5,803
28	\$5,469	\$5,579	\$5,803	\$5,920
29	\$5,579	\$5,689	\$5,920	\$6,039
30	\$5,689	\$5,803	\$6,039	\$6,158
31	\$5,803	\$5,920	\$6,158	\$6,282
32	\$5,920	\$6,039	\$6,282	\$6,408
33	\$6,039	\$6,158	\$6,408	\$6,536
34	\$6,158	\$6,282	\$6,536	\$6,667
35	\$6,282	\$6,408	\$6,667	\$6,800
36	\$6,408	\$6,536	\$6,800	\$6,935
37	\$6,536	\$6,667	\$6,935	\$7,074
38	\$6,667	\$6,800	\$7,074	\$7,215
39		\$6,935	\$7,215	\$7,359
40		\$7,074	\$7,359	\$7,507

SECTION 7.2.(d) The appropriate classification for placement of principals and assistant principals on the salary schedule, except for principals in alternative schools and in cooperative innovative high schools, shall be determined in accordance with the following schedule:

Classification	Number of Teachers Supervised
Assistant Principal	
Principal I	Fewer than 11 Teachers
Principal II	11-21 Teachers
Principal III	22-32 Teachers
Principal IV	33-43 Teachers
Principal V	44-54 Teachers
Principal VI	55-65 Teachers
Principal VII	66-100 Teachers
Principal VIII	More than 100 Teachers

The number of teachers supervised includes teachers and assistant principals paid from State funds only; it does not include teachers or assistant principals paid from non-State funds or the principal or teacher assistants.

The beginning classification for principals in alternative schools and in cooperative innovative high school programs shall be the Principal III level. Principals in alternative schools who supervise 33 or more teachers shall be classified according to the number of teachers supervised.

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

8 **SECTION 7.2.(f)** Principals and assistant principals with certification based
 9 on academic preparation at the six-year degree level shall be paid a salary supplement of
 10 one hundred twenty-six dollars (\$126.00) per month and at the doctoral degree level
 11 shall be paid a salary supplement of two hundred fifty-three dollars (\$253.00) per
 12 month.

13 **SECTION 7.2.(g)** Longevity pay for principals and assistant principals shall
 14 be as provided for State employees under the State Personnel Act.

15 **SECTION 7.2.(h)** If a principal is reassigned to a higher job classification
 16 because the principal is transferred to a school within a local school administrative unit
 17 with a larger number of State-allotted teachers, the principal shall be placed on the
 18 salary schedule as if the principal had served the principal's entire career as a principal
 19 at the higher job classification.

20 If a principal is reassigned to a lower job classification because the principal
 21 is transferred to a school within a local school administrative unit with a smaller number
 22 of State-allotted teachers, the principal shall be placed on the salary schedule as if the
 23 principal had served the principal's entire career as a principal at the lower job
 24 classification.

25 This subsection applies to all transfers on or after the effective date of this
 26 section, except transfers in school systems that have been created, or will be created, by
 27 merging two or more school systems. Transfers in these merged systems are exempt
 28 from the provisions of this subsection for one calendar year following the date of the
 29 merger.

30 **SECTION 7.2.(i)** Participants in an approved full-time masters in school
 31 administration program shall receive up to a 10-month stipend at the beginning salary of
 32 an assistant principal during the internship period of the masters program. For the
 33 2005-2006 fiscal year and subsequent fiscal years, the stipend shall not exceed the
 34 difference between the beginning salary of an assistant principal and any fellowship
 35 funds received by the intern as a full-time student, including awards of the Principal
 36 Fellows Program. The Principal Fellows Program or the school of education where the
 37 intern participates in a full-time masters in school administration program shall supply
 38 the Department of Public Instruction with certification of eligible full-time interns.

39 **SECTION 7.2.(j)** During the 2005-2006 fiscal year and the 2006-2007 fiscal
 40 year, the placement on the salary schedule of an administrator with a one-year
 41 provisional assistant principal's certificate shall be at the entry-level salary for an
 42 assistant principal or the appropriate step on the teacher salary schedule, whichever is
 43 higher.

44
 45 Requested by: Senator Lucas, Swindell, Garrou, Dalton, Hagan

46 **CENTRAL OFFICE SALARIES**

47 **SECTION 7.3.(a)** The monthly salary ranges that follow apply to assistant
 48 superintendents, associate superintendents, directors/coordinators, supervisors, and
 49 finance officers for the 2005-2006 fiscal year, beginning July 1, 2005.

50	School Administrator I	\$2,932	\$5,506
51	School Administrator II	\$3,112	\$5,840
52	School Administrator III	\$3,303	\$6,195
53	School Administrator IV	\$3,436	\$6,442
54	School Administrator V	\$3,574	\$6,702
55	School Administrator VI	\$3,792	\$7,108

1 School Administrator VII \$3,945 \$7,394
 2 The monthly salary ranges that follow apply to assistant superintendents,
 3 associate superintendents, directors/coordinators, supervisors, and finance officers for
 4 the 2006-2007 fiscal year, beginning July 1, 2006.

5	School Administrator I	\$2,932	\$5,671
6	School Administrator II	\$3,112	\$6,015
7	School Administrator III	\$3,303	\$6,380
8	School Administrator IV	\$3,436	\$6,636
9	School Administrator V	\$3,574	\$6,903
10	School Administrator VI	\$3,792	\$7,322
11	School Administrator VII	\$3,945	\$7,616

12 The local board of education shall determine the appropriate category and
 13 placement for each assistant superintendent, associate superintendent,
 14 director/coordinator, supervisor, or finance officer within the salary ranges and within
 15 funds appropriated by the General Assembly for central office administrators and
 16 superintendents. The category in which an employee is placed shall be included in the
 17 contract of any employee.

18 **SECTION 7.3.(b)** The monthly salary ranges that follow apply to public
 19 school superintendents for the 2005-2006 fiscal year, beginning July 1, 2005.

20	Superintendent I	\$4,187	\$7,844
21	Superintendent II	\$4,445	\$8,318
22	Superintendent III	\$4,716	\$8,825
23	Superintendent IV	\$5,005	\$9,360
24	Superintendent V	\$5,312	\$9,931

25 The monthly salary ranges that follow apply to public school superintendents
 26 for the 2006-2007 fiscal year, beginning July 1, 2006.

27	Superintendent I	\$4,187	\$8,080
28	Superintendent II	\$4,445	\$8,568
29	Superintendent III	\$4,716	\$9,090
30	Superintendent IV	\$5,005	\$9,641
31	Superintendent V	\$5,312	\$10,229

32 The local board of education shall determine the appropriate category and
 33 placement for the superintendent based on the average daily membership of the local
 34 school administrative unit and within funds appropriated by the General Assembly for
 35 central office administrators and superintendents.

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

39 **SECTION 7.3.(d)** Superintendents, assistant superintendents, associate
 40 superintendents, directors/coordinators, supervisors, and finance officers with
 41 certification based on academic preparation at the six-year degree level shall receive a
 42 salary supplement of one hundred twenty-six dollars (\$126.00) per month in addition to
 43 the compensation provided pursuant to this section. Superintendents, assistant
 44 superintendents, associate superintendents, directors/coordinators, supervisors, and
 45 finance officers with certification based on academic preparation at the doctoral degree
 46 level shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per
 47 month in addition to the compensation provided for under this section.

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

51 **SECTION 7.3.(f)** The annual salary increase for all permanent full-time
 52 personnel paid from the Central Office Allotment who work a nine-, 10-, 11-, or
 53 12-month work year schedule shall be the greater of five hundred dollars (\$500.00) or
 54 two percent (2%), commencing July 1, 2005. The annual salary increase for all
 55 permanent full-time personnel paid from the Central Office Allotment who work a

1 nine-, 10-, 11-, or 12-month work year schedule shall be the three percent (3%),
2 commencing July 1, 2006. The State Board of Education shall allocate these funds to
3 local school administrative units. The local boards of education shall establish
4 guidelines for providing salary increases to these personnel.
5

6 Requested by: Senator Lucas, Swindell, Garrou, Dalton, Hagan

7 **NONCERTIFIED PERSONNEL SALARY**

8 **SECTION 7.4.(a)** The annual salary increase for permanent, full-time
9 noncertified public school employees whose salaries are supported from the State's
10 General Fund shall be the greater of five hundred dollars (\$500.00) or two percent (2%),
11 commencing July 1, 2005.

12 The annual salary increase for permanent, full-time noncertified public school
13 employees whose salaries are supported from the State's General Fund shall be three
14 percent (3%), commencing July 1, 2006.

15 **SECTION 7.4.(b)** Local boards of education shall increase the rates of pay
16 for such employees who were employed for all or part of fiscal year 2004-2005 and who
17 continue their employment for fiscal year 2005-2006 by providing an annual salary
18 increase for employees of the greater of five hundred dollars (\$500.00) or two percent
19 (2%).

20 Local boards of education shall increase the rates of pay for such employees
21 who were employed for all or part of fiscal year 2005-2006 and who continue their
22 employment for fiscal year 2006-2007 by providing an annual salary increase for
23 employees of three percent (3%).

24 For part-time employees, the pay increase shall be pro rata based on the
25 number of hours worked.

26 **SECTION 7.4.(c)** The State Board of Education may adopt salary ranges for
27 noncertified personnel to support increases of the greater of five hundred dollars
28 (\$500.00) or two percent (2%) for the 2005-2006 fiscal year.

29 The State Board of Education may adopt salary ranges for noncertified
30 personnel to support increases of three percent (3%) for the 2006-2007 fiscal year.

31 **SECTION 7.4.(d)** For the 2005-2006 fiscal year, permanent full-time
32 employees who work a nine-, 10-, or 11-month work year schedule shall receive the five
33 hundred dollars (\$500.00) or the two percent (2%) annual increase provided by this act,
34 whichever is greater.

35 For the 2006-2007 fiscal year, permanent full-time employees who work a
36 nine-, 10-, or 11-month work year schedule shall receive the three percent (3%) annual
37 increase provided by this act.
38
39

40 Requested by: Senator Lucas, Swindell, Garrou, Dalton, Hagan

41 **BONUS FOR CERTIFIED PERSONNEL AT THE TOP OF THEIR SALARY**
42 **SCHEDULES**

43 **SECTION 7.5.** Effective July 1, 2005, any permanent certified personnel
44 employed on July 1, 2003, and paid on the teacher salary schedule with 29+ years of
45 experience shall receive a one-time bonus equivalent to the average increase of the 26 to
46 29 year steps. Effective July 1, 2005, any permanent personnel employed on July 1,
47 2004, and paid at the top of the principal and assistant principal salary schedule shall
48 receive a one-time bonus equivalent to two percent (2%).

49 Effective July 1, 2006, any permanent certified personnel employed on July
50 1, 2003, and paid on the teacher salary schedule with 29+ years of experience shall
51 receive a one-time bonus equivalent to the average increase of the 26 to 29 year steps.
52 Effective July 1, 2006, any permanent personnel employed on July 1, 2005, and paid at
53 the top of the principal and assistant principal salary schedule shall receive a one-time
54 bonus equivalent to two percent (2%).

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

4
5 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

6 **SUPPLEMENTAL FUNDING IN LOW-WEALTH COUNTIES**

7 **SECTION 7.6.(a)** Funds for Supplemental Funding. – The General
8 Assembly finds that it is appropriate to provide supplemental funds in low-wealth
9 counties to allow those counties to enhance the instructional program and student
10 achievement. Therefore, funds are appropriated to State Aid to Local School
11 Administrative Units for the 2005-2006 fiscal year and the 2006-2007 fiscal year to be
12 used for supplemental funds for the schools.

13 **SECTION 7.6.(b)** Use of Funds for Supplemental Funding. – All funds
14 received pursuant to this section shall be used only: (i) to provide instructional
15 positions, instructional support positions, teacher assistant positions, clerical positions,
16 school computer technicians, instructional supplies and equipment, staff development,
17 and textbooks; (ii) for salary supplements for instructional personnel and instructional
18 support personnel; and (iii) to pay an amount not to exceed ten thousand dollars
19 (\$10,000) of the plant operation contract cost charged by the Department of Public
20 Instruction for services.

21 Local boards of education are encouraged to use at least twenty-five percent
22 (25%) of the funds received pursuant to this section to improve the academic
23 performance of children who are performing at Level I or II on either reading or
24 mathematics end-of-grade tests in grades 3-8 and children who are performing at Level
25 I or II on the writing tests in grades 4 and 7. Local boards of education shall report to
26 the State Board of Education on an annual basis on funds used for this purpose, and the
27 State Board shall report this information to the Joint Legislative Education Oversight
28 Committee. These reports shall specify how these funds were targeted and used to
29 implement specific improvement strategies of each local school administrative unit and
30 its schools, such as teacher recruitment, closing the achievement gap, improving student
31 accountability, addressing the needs of at-risk students, and establishing and
32 maintaining safe schools.

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

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

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

1 (14) "State average adjusted property tax base per square mile" means the
2 sum of the county-adjusted property tax bases for all counties divided
3 by the number of square miles of land area in the State.

4 (14a) "Supplant" means to decrease local per student current expense
5 appropriations from one fiscal year to the next fiscal year.

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

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

20 **SECTION 7.6.(e)** Allocation of Funds. – Except as provided in subsection
21 (g) of this section, the amount received per average daily membership for a county shall
22 be the difference between the State average current expense appropriations per student
23 and the current expense appropriations per student that the county could provide given
24 the county's wealth and an average effort to fund public schools. (To derive the current
25 expense appropriations per student that the county could be able to provide given the
26 county's wealth and an average effort to fund public schools, multiply the county wealth
27 as a percentage of State average wealth by the State average current expense
28 appropriations per student.)

29 The funds for the local school administrative units located in whole or in part
30 in the county shall be allocated to each local school administrative unit located in whole
31 or in part in the county based on the average daily membership of the county's students
32 in the school units.

33 If the funds appropriated for supplemental funding are not adequate to fund
34 the formula fully, each local school administrative unit shall receive a pro rata share of
35 the funds appropriated for supplemental funding.

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

42 **SECTION 7.6.(g)** Minimum Effort Required. – Counties that had effective
43 tax rates in the 1996-1997 fiscal year that were above the State average effective tax
44 rate but that had effective rates below the State average in the 1997-1998 fiscal year or
45 thereafter shall receive reduced funding under this section. This reduction in funding
46 shall be determined by subtracting the amount that the county would have received
47 pursuant to Section 17.1(g) of Chapter 507 of the 1995 Session Laws from the amount
48 that the county would have received if qualified for full funding and multiplying the
49 difference by ten percent (10%). This method of calculating reduced funding shall
50 apply one time only.

51 This method of calculating reduced funding shall not apply in cases in which
52 the effective tax rate fell below the statewide average effective tax rate as a result of a
53 reduction in the actual property tax rate. In these cases, the minimum effort required
54 shall be calculated in accordance with Section 17.1(g) of Chapter 507 of the 1995
55 Session Laws.

1 If the county documents that it has increased the per student appropriation to
2 the school current expense fund in the current fiscal year, the State Board of Education
3 shall include this additional per pupil appropriation when calculating minimum effort
4 pursuant to Section 17.1(g) of Chapter 507 of the 1995 Session Laws.

5 **SECTION 7.6.(h) Nonsupplant Requirement.** – A county in which a local
6 school administrative unit receives funds under this section shall use the funds to
7 supplement local current expense funds and shall not supplant local current expense
8 funds. For the 2005-2007 fiscal biennium, the State Board of Education shall not
9 allocate funds under this section to a county found to have used these funds to supplant
10 local per student current expense funds. The State Board of Education shall make a
11 finding that a county has used these funds to supplant local current expense funds in the
12 prior year, or the year for which the most recent data are available, if:

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

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

22 **SECTION 7.6.(i) Reports.** – The State Board of Education shall report to the
23 Joint Legislative Education Oversight Committee prior to May 1, 2006, if it determines
24 that counties have supplanted funds.

25 **SECTION 7.6.(j) Department of Revenue Reports.** – The Department of
26 Revenue shall provide to the Department of Public Instruction a preliminary report for
27 the current fiscal year of the assessed value of the property tax base for each county
28 prior to March 1 of each year and a final report prior to May 1 of each year. The reports
29 shall include for each county the annual sales assessment ratio and the taxable values of
30 (i) total real property, (ii) the portion of total real property represented by the
31 present-use value of agricultural land, horticultural land, and forestland as defined in
32 G.S. 105-277.2, (iii) property of public service companies determined in accordance
33 with Article 23 of Chapter 105 of the General Statutes, and (iv) personal property.
34

35 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

36 **SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING**

37 **SECTION 7.7.(a) Funds for Small School Systems.** – Except as provided in
38 subsection (b) of this section, the State Board of Education shall allocate funds
39 appropriated for small school system supplemental funding (i) to each county school
40 administrative unit with an average daily membership of fewer than 3,175 students and
41 (ii) to each county school administrative unit with an average daily membership from
42 3,175 to 4,000 students if the county in which the local school administrative unit is
43 located has a county-adjusted property tax base per student that is below the
44 State-adjusted property tax base per student and if the total average daily membership of
45 all local school administrative units located within the county is from 3,175 to 4,000
46 students. The allocation formula shall:

- 47 (1) Round all fractions of positions to the next whole position.
- 48 (2) Provide five and one-half additional regular classroom teachers in
49 counties in which the average daily membership per square mile is
50 greater than four, and seven additional regular classroom teachers in
51 counties in which the average daily membership per square mile is
52 four or fewer.
- 53 (3) Provide additional program enhancement teachers adequate to offer
54 the standard course of study.

1 (4) Change the duty-free period allocation to one teacher assistant per 400
2 average daily membership.

3 (5) Provide a base for the consolidated funds allotment of at least seven
4 hundred forty thousand seventy-four dollars (\$740,074), excluding
5 textbooks for the 2005-2006 fiscal year and a base of seven hundred
6 forty thousand seventy-four dollars (\$740,074) for the 2006-2007
7 fiscal year.

8 (6) Allot vocational education funds for grade 6 as well as for grades 7-12.

9 If funds appropriated for each fiscal year for small school system
10 supplemental funding are not adequate to fully fund the program, the State Board of
11 Education shall reduce the amount allocated to each county school administrative unit
12 on a pro rata basis. This formula is solely a basis for distribution of supplemental
13 funding for certain county school administrative units and is not intended to reflect any
14 measure of the adequacy of the educational program or funding for public schools. The
15 formula is also not intended to reflect any commitment by the General Assembly to
16 appropriate any additional supplemental funds for such county administrative units.

17 **SECTION 7.7.(b) Nonsupplant Requirement.** – A county in which a local
18 school administrative unit receives funds under this section shall use the funds to
19 supplement local current expense funds and shall not supplant local current expense
20 funds. For the 2005-2007 fiscal biennium, the State Board of Education shall not
21 allocate funds under this section to a county found to have used these funds to supplant
22 local per student current expense funds. The State Board of Education shall make a
23 finding that a county has used these funds to supplant local current expense funds in the
24 prior year, or the year for which the most recent data are available, if:

25 (1) The current expense appropriation per student of the county for the
26 current year is less than ninety-five percent (95%) of the average of the
27 local current expense appropriations per student for the three prior
28 fiscal years; and

29 (2) The county cannot show: (i) that it has remedied the deficiency in
30 funding or (ii) that extraordinary circumstances caused the county to
31 supplant local current expense funds with funds allocated under this
32 section.

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

34 **SECTION 7.7.(c) Phase-Out Provisions.** – If a local school administrative
35 unit becomes ineligible for funding under this formula solely because of an increase in
36 the county-adjusted property tax base per student of the county in which the local school
37 administrative unit is located, funding for that unit shall be phased out over a two-year
38 period. For the first year of ineligibility, the unit shall receive the same amount it
39 received for the prior fiscal year. For the second year of ineligibility, it shall receive
40 one-half of that amount.

41 If a local school administrative unit becomes ineligible for funding under this
42 formula solely because of an increase in the population of the county in which the local
43 school administrative unit is located, funding for that unit shall be continued for five
44 years after the unit becomes ineligible.

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

46 (1) "Average daily membership" means within two percent (2%) of the
47 average daily membership as defined in the North Carolina Public
48 Schools Allotment Policy Manual adopted by the State Board of
49 Education.

50 (2) "County-adjusted property tax base per student" means the total
51 assessed property valuation for each county, adjusted using a weighted
52 average of the three most recent annual sales assessment ratio studies,
53 divided by the total number of students in average daily membership
54 who reside within the county.

- 1 (2a) "Local current expense funds" means the most recent county current
2 expense appropriations to public schools, as reported by local boards
3 of education in the audit report filed with the Secretary of the Local
4 Government Commission pursuant to G.S. 115C-447.
- 5 (3) "Sales assessment ratio studies" means sales assessment ratio studies
6 performed by the Department of Revenue under G.S. 105-289(h).
- 7 (4) "State-adjusted property tax base per student" means the sum of all
8 county-adjusted property tax bases divided by the total number of
9 students in average daily membership who reside within the State.
- 10 (4a) "Supplant" means to decrease local per student current expense
11 appropriations from one fiscal year to the next fiscal year.
- 12 (5) "Weighted average of the three most recent annual sales assessment
13 ratio studies" means the weighted average of the three most recent
14 annual sales assessment ratio studies in the most recent years for which
15 county current expense appropriations and adjusted property tax
16 valuations are available. If real property in a county has been revalued
17 one year prior to the most recent sales assessment ratio study, a
18 weighted average of the two most recent sales assessment ratios shall
19 be used. If property has been revalued during the year of the most
20 recent sales assessment ratio study, the sales assessment ratio for the
21 year of revaluation shall be used.

22 **SECTION 7.7.(e)** Reports. – The State Board of Education shall report to
23 the Joint Legislative Education Oversight Committee prior to May 1, 2006, if it
24 determines that counties have supplanted funds.

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

37
38 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

39 **DISADVANTAGED STUDENT SUPPLEMENTAL FUNDING**

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

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

- 54 (1) Provide instructional positions or instructional support positions and/or
55 professional development;

- 1 (2) Provide intensive in-school and/or after-school remediation;
- 2 (3) Purchase diagnostic software and progress-monitoring tools; and
- 3 (4) Provide funds for teacher bonuses and supplements. The State Board
- 4 of Education shall set a maximum percentage of the funds that may be
- 5 used for this purpose.

6 **SECTION 7.8.(b)** Funds are appropriated in this act to evaluate the
7 Disadvantaged Students Supplemental Funding Initiatives and Low-Wealth Initiatives.
8 The State Board of Education shall use these funds to:

- 9 (1) Evaluate the strategies implemented by local school administrative
- 10 units with Disadvantaged Student Supplemental Funds and
- 11 Low-Wealth Funds and assess their impact on student performance;
- 12 and
- 13 (2) Evaluate the efficiency and effectiveness of the technical assistance
- 14 and support provided to local school administrative units by the
- 15 Department of Public Instruction.

16 The State Board of Education shall report the results of the evaluation to the
17 Office of State Budget and Management, the Joint Legislative Education Oversight
18 Committee, and the Fiscal Research Division by February 15, 2006, and by January 15
19 of each subsequent year.

20
21 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

22 **STUDENTS WITH LIMITED ENGLISH PROFICIENCY**

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

26 The State Board shall allocate these funds to local school administrative units
27 and to charter schools under a formula that takes into account the average percentage of
28 students in the units or the charters over the past three years who have limited English
29 proficiency. The State Board shall allocate funds to a unit or a charter school only if (i)
30 average daily membership of the unit or the charter school includes at least 20 students
31 with limited English proficiency or (ii) students with limited English proficiency
32 comprise at least two and one-half percent (2.5%) of the average daily membership of
33 the unit or charter school. For the portion of the funds that is allocated on the basis of
34 the number of identified students, the maximum number of identified students for whom
35 a unit or charter school receives funds shall not exceed ten and six-tenths percent
36 (10.6%) of its average daily membership.

37 Local school administrative units shall use funds allocated to them to pay for
38 classroom teachers, teacher assistants, tutors, textbooks, classroom
39 materials/instructional supplies/equipment, transportation costs, and staff development
40 of teachers for students with limited English proficiency.

41 A county in which a local school administrative unit receives funds under this
42 section shall use the funds to supplement local current expense funds and shall not
43 supplant local current expense funds.

44 **SECTION 7.9.(b)** The Department of Public Instruction shall prepare a
45 current head count of the number of students classified with limited English proficiency
46 by December 1 of each year.

47 Students in the head count shall be assessed at least once every three years to
48 determine their level of English proficiency. A student who scores "superior" on the
49 standard English language proficiency assessment instrument used in this State shall not
50 be included in the head count of students with limited English proficiency.

51
52 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

53 **FLEXIBILITY FOR THE HIGHEST PRIORITY ELEMENTARY SCHOOLS**

54 **SECTION 7.10.** The State Board of Education may allow high priority
55 schools that have made high growth for three consecutive years to be removed from the

1 list of high priority schools. If a local board of education chooses to have a school
2 removed from the list of high priority schools, the additional high priority funding for
3 that school shall be discontinued.

4
5 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

6 **AT-RISK STUDENT SERVICES/ALTERNATIVE SCHOOLS**

7 **SECTION 7.11.** The State Board of Education may use up to two hundred
8 thousand dollars (\$200,000) of the funds in the Alternative Schools/At-Risk Student
9 allotment each year for the 2005-2006 fiscal year and for the 2006-2007 fiscal year to
10 implement G.S. 115C-12(24).

11
12 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

13 **FUNDS FOR CHILDREN WITH DISABILITIES**

14 **SECTION 7.12.** The State Board of Education shall allocate funds for
15 children with disabilities on the basis of two thousand eight hundred thirty-eight dollars
16 and thirty-nine cents (\$2,838.39) per child for a maximum of 169,164 children for the
17 2005-2006 school year. Each local school administrative unit shall receive funds for the
18 lesser of (i) all children who are identified as children with disabilities or (ii) twelve and
19 five-tenths percent (12.5%) of the 2005-2006 allocated average daily membership in the
20 local school administrative unit.

21 The dollar amounts allocated under this section for children with disabilities
22 shall also adjust in accordance with legislative salary increments, retirement rate
23 adjustments, and health benefit adjustments for personnel who serve children with
24 disabilities.

25
26 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

27 **FUNDS FOR ACADEMICALLY GIFTED CHILDREN**

28 **SECTION 7.13.** The State Board of Education shall allocate funds for
29 academically or intellectually gifted children on the basis of nine hundred twenty-six
30 dollars and fifty-five cents (\$926.55) per child. A local school administrative unit shall
31 receive funds for a maximum of four percent (4%) of its 2005-2006 allocated average
32 daily membership, regardless of the number of children identified as academically or
33 intellectually gifted in the unit. The State Board shall allocate funds for no more than
34 55,895 children for the 2005-2006 school year.

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

39
40 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

41 **EXPENDITURE OF FUNDS TO IMPROVE STUDENT ACCOUNTABILITY**

42 **SECTION 7.14.(a)** Funds appropriated for the 2005-2006 and 2006-2007
43 fiscal years for Student Accountability Standards shall be used to assist students to
44 perform at or above grade level in reading and mathematics in grades 3-8 as measured
45 by the State's end-of-grade tests. The State Board of Education shall allocate these funds
46 to LEAs based on the number of students who score at Level I or Level II on either
47 reading or mathematics end-of-grade tests in grades 3-8. Funds in the allocation
48 category shall be used to improve the academic performance of (i) students who are
49 performing at Level I or II on either reading or mathematics end-of-grade tests in grades
50 3-8 or (ii) students who are performing at Level I or II on the writing tests in grades 4
51 and 7. These funds may also be used to improve the academic performance of students
52 who are performing at Level I or II on the high school end-of-course tests. These funds
53 shall not be transferred to other allocation categories or otherwise used for other
54 purposes. Except as otherwise provided by law, local boards of education may transfer
55 other funds available to them into this allocation category.

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

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

8 These funds shall be allocated to local school administrative units for the
9 2005-2006 fiscal year within 30 days of the date this act becomes law.

10 **SECTION 7.14.(b)** Funds appropriated for Student Accountability
11 Standards shall not revert at the end of each fiscal year but shall remain available for
12 expenditure until August 31 of the subsequent fiscal year.

13
14 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

15 **LITIGATION RESERVE FUNDS**

16 **SECTION 7.15.** The State Board of Education may expend up to five
17 hundred thousand dollars (\$500,000) each year for the 2005-2006 and 2006-2007 fiscal
18 years from unexpended funds for certified employees' salaries to pay expenses related to
19 pending litigation.

20
21 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

22 **BASE BUDGET REDUCTION TO DEPARTMENT OF PUBLIC**
23 **INSTRUCTION**

24 **SECTION 7.16.** Notwithstanding any other provision of law, the
25 Department of Public Instruction may use salary reserve funds and other funds and may
26 transfer funds within the Department's continuation budget to implement budget
27 reductions for the 2005-2006 fiscal year.

28
29 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

30 **REPLACEMENT SCHOOL BUSES FUNDS**

31 **SECTION 7.17.(a)** The State Board of Education may impose any of the
32 following conditions on allotments to local boards of education for replacement school
33 buses:

- 34 (1) The local board of education shall use the funds only to make the first,
35 second, or third year's payment on a financing contract entered into
36 pursuant to G.S. 115C-528.
- 37 (2) The term of a financing contract entered into under this section shall
38 not exceed three years.
- 39 (3) The local board of education shall purchase the buses only from
40 vendors selected by the State Board of Education and on terms
41 approved by the State Board of Education.
- 42 (4) The Department of Administration, Division of Purchase and Contract,
43 in cooperation with the State Board of Education, shall solicit bids for
44 the direct purchase of school buses and activity buses and shall
45 establish a statewide term contract for use by the State Board of
46 Education. Local boards of education and other agencies shall be
47 eligible to purchase from the statewide term contract. The State Board
48 of Education shall also solicit bids for the financing of school buses.
- 49 (5) A bus financed pursuant to this section shall meet all federal motor
50 vehicle safety regulations for school buses.
- 51 (6) Any other condition the State Board of Education considers
52 appropriate.

53 **SECTION 7.17.(b)** Any term contract for the purchase or lease-purchase of
54 school buses or school activity buses shall not require vendor payment of the electronic
55 procurement transaction fee of the North Carolina E-Procurement Service.

1
2 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan
3 **EXPENDITURES FOR DRIVING ELIGIBILITY CERTIFICATES**

4 **SECTION 7.18.** G.S. 115C-12(28) reads as rewritten:

5 **"§ 115C-12. Powers and duties of the Board generally.**

6 The general supervision and administration of the free public school system shall be
7 vested in the State Board of Education. The State Board of Education shall establish
8 policy for the system of free public schools, subject to laws enacted by the General
9 Assembly. The powers and duties of the State Board of Education are defined as
10 follows:

11
12 (28) Duty to Develop Rules for Issuance of Driving Eligibility Certificates.
13 – The State Board of Education shall adopt the following rules to assist
14 schools in their administration of procedures necessary to implement
15 G.S. 20-11 and G.S. 20-13.2:

- 16 a. To define what is equivalent to a high school diploma for the
17 purposes of G.S. 20-11 and G.S. 20-13.2. These rules shall
18 apply to all educational programs offered in the State by public
19 schools, charter schools, nonpublic schools, or community
20 colleges.
- 21 b. To establish the procedures a person who is or was enrolled in a
22 public school or in a charter school must follow and the
23 requirements that person shall meet to obtain a driving
24 eligibility certificate.
- 25 c. To require the person who is required under G.S. 20-11(n) to
26 sign the driving eligibility certificate to provide the certificate if
27 he or she determines that one of the following requirements is
28 met:
- 29 1. The person seeking the certificate is eligible for the
30 certificate under G.S. 20-11(n)(1) and is not subject to
31 G.S. 20-11(n1).
 - 32 2. The person seeking the certificate is eligible for the
33 certificate under G.S. 20-11(n)(1) and G.S. 20-11(n1).
- 34 These rules shall apply to public schools and charter schools.
- 35 d. To provide for an appeal to an appropriate education authority
36 by a person who is denied a driving eligibility certificate. These
37 rules shall apply to public schools and charter schools.
- 38 e. To define exemplary student behavior and to define what
39 constitutes the successful completion of a drug or alcohol
40 treatment counseling program. These rules shall apply to public
41 schools and charter schools.

42 The State Board also shall develop policies as to when it is
43 appropriate to notify the Division of Motor Vehicles that a person who
44 is or was enrolled in a public school or in a charter school no longer
45 meets the requirements for a driving eligibility certificate.

46 The State Board shall develop a form for parents, guardians, or
47 emancipated juveniles, as appropriate, to provide their written,
48 irrevocable consent for a school to disclose to the Division of Motor
49 Vehicles that the student no longer meets the conditions for a driving
50 eligibility certificate under G.S. 20-11(n)(1) or G.S. 20-11(n1), if
51 applicable, in the event that this disclosure is necessary to comply with
52 G.S. 20-11 or G.S. 20-13.2. Other than identifying under which
53 statutory subsection the student is no longer eligible, no other details
54 or information concerning the student's school record shall be released

1 pursuant to this consent. This form shall be used for students enrolled
2 in public schools or charter schools.

3 The State Board of Education may use funds appropriated for
4 drivers education to cover the costs of driving eligibility certificates."
5

6 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

7 **DISCREPANCIES BETWEEN ANTICIPATED AND ACTUAL ADM**

8 **SECTION 7.19.(a)** If the State Board of Education does not have sufficient
9 resources in the ADM Contingency Reserve line item to make allotment adjustments in
10 accordance with the Allotment Adjustments for ADM Growth provisions of the North
11 Carolina Public Schools Allotment Policy Manual, the State Board of Education may
12 use funds appropriated to State Aid for Public Schools for this purpose.

13 **SECTION 7.19.(b)** If the higher of the first or second month average daily
14 membership in a local school administrative unit is at least two percent (2%) or 100
15 students lower than the anticipated average daily membership used for allotments for
16 the unit, the State Board of Education shall reduce allotments for the unit. The reduced
17 allotments shall be based on the higher of the first or second month average daily
18 membership plus one-half of the number of students overestimated in the anticipated
19 average daily membership.

20 The allotments reduced pursuant to this subsection shall include only those
21 allotments that may be increased pursuant to the Allotment Adjustments for ADM
22 Growth provisions of the North Carolina Public Schools Allotment Policy Manual.
23

24 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

25 **CHARTER SCHOOL ADVISORY COMMITTEE/CHARTER SCHOOL**
26 **EVALUATION**

27 **SECTION 7.20.** The State Board of Education may spend up to fifty
28 thousand dollars (\$50,000) a year from State Aid to Local School Administrative Units
29 for the 2005-2006 and 2006-2007 fiscal years to continue support of a charter school
30 advisory committee and to continue to evaluate charter schools.
31

32 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

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

34 **SECTION 7.21.(a)** The State Board of Education shall grant flexibility to a
35 local board of education regarding the use of mentor funds to provide mentoring
36 support, provided the local board submits a detailed plan on the use of the funds to the
37 State Board and the State Board approves that plan. The plan shall include information
38 on how all mentors in the local school administrative unit have been or will be
39 adequately trained to provide mentoring support.

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

44 **SECTION 7.21.(b)** The State Board, after consultation with the Professional
45 Teaching Standards Commission, shall adopt standards for mentor training.

46 **SECTION 7.21.(c)** Each local board of education with a plan approved
47 pursuant to subsection (a) of this section shall report to the State Board on the impact of
48 its mentor program on teacher retention. The State Board shall analyze these reports to
49 determine the characteristics of mentor programs that are most effective in retaining
50 teachers and shall report its findings to the Joint Legislative Education Oversight
51 Committee by October 15, 2006.

52 **SECTION 7.21.(d)** In addition to the report required in subsection (c) of this
53 section, the State shall also evaluate the effectiveness of a representative sample of local
54 mentor programs and report on its findings to the Joint Legislative Education Oversight
55 Committee and the Fiscal Research Division by December 15, 2006. The evaluation

1 shall focus on quantitative evidence, quality of service delivery, and satisfaction of
2 those involved. The report shall include the results of the evaluation and
3 recommendations both for improving mentor programs generally and for an appropriate
4 level of State support for mentor programs.

5
6 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

7 **VISITING INTERNATIONAL EXCHANGE TEACHERS**

8 **SECTION 7.22.(a)** G.S. 115C-105.25(b) is amended by adding a new
9 subdivision to read:

10 "(5a) Positions allocated for classroom teachers may be converted to dollar
11 equivalents to contract for visiting international exchange teachers.
12 These positions shall be converted at the statewide average salary for
13 classroom teachers, including benefits. The converted funds shall be
14 used only to cover the costs associated with bringing visiting
15 international exchange teachers to the local school administrative unit
16 through a State-approved visiting international exchange teacher
17 program and supporting the visiting exchange teachers."

18 **SECTION 7.22.(b)** The Visiting International Faculty Program is a
19 State-approved visiting international exchange teacher program.

20
21 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

22 **FUNDS TO IMPLEMENT THE ABCS OF PUBLIC EDUCATION**

23 **SECTION 7.23.(a)** The State Board of Education shall use funds
24 appropriated in this act for State Aid to Local School Administrative Units to provide
25 incentive funding for schools that met or exceeded the projected levels of improvement
26 in student performance during the 2004-2005 school year, in accordance with the ABCs
27 of Public Education Program. In accordance with State Board of Education policy:

- 28 (1) Incentive awards in schools that achieve higher than expected
29 improvements may be:
30 a. Up to one thousand five hundred dollars (\$1,500) for each
31 teacher and for certified personnel; and
32 b. Up to five hundred dollars (\$500.00) for each teacher assistant.
33 (2) Incentive awards in schools that meet the expected improvements may
34 be:
35 a. Up to seven hundred fifty dollars (\$750.00) for each teacher and
36 for certified personnel; and
37 b. Up to three hundred seventy-five dollars (\$375.00) for each
38 teacher assistant.

39 **SECTION 7.23.(b)** The State Board of Education may use funds
40 appropriated to the State Public School Fund for assistance teams to low-performing
41 schools.

42
43 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

44 **LEA ASSISTANCE PROGRAM**

45 **SECTION 7.24.** Of the funds appropriated to the State Public School Fund,
46 the State Board of Education shall use five hundred thousand dollars (\$500,000) for the
47 2005-2006 fiscal year and five hundred thousand dollars (\$500,000) for the 2006-2007
48 fiscal year to provide assistance to the State's low-performing Local School
49 Administrative Units (LEAs) and to assist schools in meeting adequate yearly progress
50 in each subgroup identified in the No Child Left Behind Act of 2001. The State Board
51 of Education shall report to the Office of State Budget and Management, the Fiscal
52 Research Division, and the Joint Legislative Education Oversight Committee on the
53 expenditure of these funds by May 15, 2006, and by December 15, 2007. The report
54 shall contain: (i) the criteria for selecting LEAs and schools to receive assistance, (ii)
55 measurable goals and objectives for the assistance program, (iii) an explanation of the

1 assistance provided, (iv) findings from the assistance program, (v) actual expenditures
2 by category, (vi) recommendations for the continuance of this program, and (vii) any
3 other information the State Board deems necessary. These funds shall not revert at the
4 end of each fiscal year but shall remain available until expended for this purpose.

5
6 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

7 **FUNDS FOR THE TESTING AND IMPLEMENTATION OF THE NEW**
8 **STUDENT INFORMATION SYSTEM**

9 **SECTION 7.25.(a)** Funds appropriated for the Uniform Education
10 Reporting System shall not revert at the end of the 2005-2006 and 2006-2007 fiscal
11 years but shall remain available until expended.

12 **SECTION 7.25.(b)** This section becomes effective June 30, 2005.

13
14 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

15 **PUBLIC SCHOOL BUILDING CAPITAL AND TECHNOLOGY FUND**

16 **SECTION 7.26.(a)** The title of Article 38A of Chapter 115C of the General
17 Statutes reads as rewritten:

18 "Article 38A.

19 Public School Building Capital and Technology Fund."

20 **SECTION 7.26.(b)** G.S. 115C-546.1 is amended by deleting the language
21 "Public School Building Capital Fund" wherever it appears and substituting "Public
22 School Building Capital and Technology Fund".

23 **SECTION 7.26.(c)** Notwithstanding the provisions of G.S. 115C-546.1(b),
24 as rewritten by subsection (b) of this section, for the third and fourth quarters of the
25 2005-2006 fiscal year only, the Secretary of Revenue shall remit to the State Treasurer
26 an amount equal to five sixty-ninths of the net collections received during the previous
27 quarter by the Department of Revenue under G.S. 105-130.3. Of these funds,
28 twenty-five million dollars (\$25,000,000) each quarter shall be for credit to the State
29 Public School Fund, and the remainder shall be for credit to the Public School Building
30 Capital and Technology Fund.

31 **SECTION 7.26.(d)** Notwithstanding the provisions of G.S. 115C-546.1(b),
32 as rewritten by subsection (b) of this section, for the first and second quarters of the
33 2006-2007 fiscal year only, the Secretary of Revenue shall remit to the State Treasurer
34 an amount equal to five sixty-ninths of the net collections received during the previous
35 quarter by the Department of Revenue under G.S. 105-130.3. Of these funds, twenty
36 million five hundred thousand dollars (\$20,500,000) each quarter shall be for credit to
37 the State Public School Fund, and the remainder shall be for credit to the Public School
38 Building Capital and Technology Fund.

39
40 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

41 **LEA SALES TAX REFUND REPORTING**

42 **SECTION 7.27.(a)** G.S. 105-164.14(c) reads as rewritten:

43 "(c) Certain Governmental Entities. – A governmental entity listed in this
44 subsection is allowed an annual refund of sales and use taxes paid by it under this
45 Article on direct purchases of tangible personal property and services, other than
46 electricity and telecommunications service. Sales and use tax liability indirectly
47 incurred by a governmental entity on building materials, supplies, fixtures, and
48 equipment that become a part of or annexed to any building or structure that is owned or
49 leased by the governmental entity and is being erected, altered, or repaired for use by
50 the governmental entity is considered a sales or use tax liability incurred on direct
51 purchases by the governmental entity for the purpose of this subsection. A request for a
52 refund must be in writing and must include any information and documentation required
53 by the Secretary. A request for a refund is due within six months after the end of the
54 governmental entity's fiscal year. The Secretary shall make an annual report to the
55 Department of Public Instruction and the Fiscal Research Division of the General

1 Assembly by January 1 of the amount of refunds, identified by taxpayer, claimed under
2 subdivisions (2b) and (2c) of this subsection over the preceding year.

3 This subsection applies only to the following governmental entities:

- 4 (1) A county.
- 5 (2) A city as defined in G.S. 160A-1.
- 6 (2a) A consolidated city-county as defined in G.S. 160B-2.
- 7 (2b) A local school administrative unit.
- 8 (2c) A joint agency created by interlocal agreement among local school
9 administrative units pursuant to G.S. 160A-462 to jointly purchase
10 food service-related materials, supplies, and equipment on their behalf.
- 11 (3) A metropolitan sewerage district or a metropolitan water district in this
12 State.
- 13 (4) A water and sewer authority created under Chapter 162A of the
14 General Statutes.
- 15 (5) A lake authority created by a board of county commissioners pursuant
16 to an act of the General Assembly.
- 17 (6) A sanitary district.
- 18 (7) A regional solid waste management authority created pursuant to
19 G.S. 153A-421.
- 20 (8) An area mental health, developmental disabilities, and substance abuse
21 authority, other than a single-county area authority, established
22 pursuant to Article 4 of Chapter 122C of the General Statutes.
- 23 (9) A district health department, or a public health authority created
24 pursuant to Part 1A of Article 2 of Chapter 130A of the General
25 Statutes.
- 26 (10) A regional council of governments created pursuant to G.S. 160A-470.
- 27 (11) A regional planning and economic development commission or a
28 regional economic development commission created pursuant to
29 Chapter 158 of the General Statutes.
- 30 (12) A regional planning commission created pursuant to G.S. 153A-391.
- 31 (13) A regional sports authority created pursuant to G.S. 160A-479.
- 32 (14) A public transportation authority created pursuant to Article 25 of
33 Chapter 160A of the General Statutes.
- 34 (14a) A facility authority created pursuant to Part 4 of Article 20 of Chapter
35 160A of the General Statutes.
- 36 (15) A regional public transportation authority created pursuant to Article
37 26 of Chapter 160A of the General Statutes, or a regional
38 transportation authority created pursuant to Article 27 of Chapter 160A
39 of the General Statutes.
- 40 (16) A local airport authority that was created pursuant to a local act of the
41 General Assembly.
- 42 (17) A joint agency created by interlocal agreement pursuant to
43 G.S. 160A-462 to operate a public broadcasting television station.
- 44 (18) Repealed by Session Laws 2001-474, s. 7, effective November 29,
45 2001.
- 46 (19) Repealed by Session Laws 2001-474, s. 7, effective November 29,
47 2001.
- 48 (20) A constituent institution of The University of North Carolina, but only
49 with respect to sales and use tax paid by it for tangible personal
50 property or services that are eligible for refund under this subsection
51 acquired by it through the expenditure of contract and grant funds.
- 52 (21) The University of North Carolina Health Care System.
- 53 (22) A regional natural gas district created pursuant to Article 28 of Chapter
54 160A of the General Statutes."

1 **SECTION 7.27.(b)** G.S. 105-259(b) is amended by adding a new
2 subdivision to read:

3 "(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State
4 who has access to tax information in the course of service to or employment by the State
5 may not disclose the information to any other person unless the disclosure is made for
6 one of the following purposes:

7
8 (32) To provide the report required under G.S. 105-164.14(c) to the
9 Department of Public Instruction and the Fiscal Research Division of
10 the General Assembly."

11 **SECTION 7.27.(c)** In addition to the report required under
12 G.S. 105-164.14(c), as amended by this section, the Secretary of Revenue shall make a
13 report to the Department of Public Instruction and the Fiscal Research Division of the
14 General Assembly within 30 days after this act becomes law of the amount of refunds,
15 identified by taxpayer, claimed under subdivisions (2b) and (2c) of G.S. 105-164.14(c)
16 during the 2002-2003, 2003-2004, and 2004-2005 fiscal years.

17
18 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

19 **REVIEW OF STANDARDS FOR MASTERS IN SCHOOL ADMINISTRATION**
20 **PROGRAMS**

21 **SECTION 7.28.** The State Board of Education, in consultation with the
22 Board of Governors of The University of North Carolina, shall review standards for
23 Masters in School Administration programs to ensure that appropriate competencies
24 related to teacher retention, teacher evaluations, teacher support programs, and teacher
25 effectiveness are included and emphasized.

26
27 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

28 **EVALUATION OF SCHOOL PRINCIPALS**

29 **SECTION 7.29.** Chapter 115C of the General Statutes is amended by adding
30 a new section to read:

31 **"§ 115C-286.1. Evaluations of principals.**

32 Local school administrative units shall evaluate all principals and assistant principals
33 at least once each year. Either the superintendent or the superintendent's designee shall
34 conduct the evaluations.

35 The State Board of Education shall ensure that the standards and criteria for the
36 evaluations include the accountability measures of teacher retention, teacher support,
37 and school climate. The State Board shall revise its evaluation instruments to include
38 these measures. A local board shall use the performance standards and criteria adopted
39 by the State Board unless the board develops an alternative evaluation that is properly
40 validated and that includes standards and criteria similar to those adopted by the State
41 Board."

42
43 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

44 **PLANNING TIME FOR TEACHERS**

45 **SECTION 7.30.** The State Board of Education shall report on best practices
46 from North Carolina schools for providing a minimum of five hours per week within the
47 instructional day for planning, collaborating with colleagues and parents, and
48 professional development, especially within elementary school schedules. The State
49 Board shall submit its report to the Education Cabinet and to the Joint Legislative
50 Education Oversight Committee by December 31, 2005.

51 The State Board shall disseminate this information about best practices to
52 schools and school systems across the State.

53
54 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

1 **ONLINE PROFESSIONAL DEVELOPMENT RESOURCE CENTER FOR**
 2 **TEACHERS AND PRINCIPALS**

3 **SECTION 7.31.** The State Board of Education and the Department of Public
 4 Instruction shall develop a Web portal that catalogues high-quality professional
 5 development opportunities for teachers and principals.

6 The State Chief Information Officer must approve the system's information
 7 technology project plan before funds are spent for the implementation of this system.
 8

9 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

10 **LEARN AND EARN HIGH SCHOOLS**

11 **SECTION 7.32.(a)** Funds are appropriated in this act for the Learn and Earn
 12 high school workforce development program. The purpose of the program is to create
 13 rigorous and relevant high school options that provide students with the opportunity and
 14 assistance to earn an associate degree or two years of college credit by the conclusion of
 15 the year after their senior year in high school. The State Board of Education shall work
 16 closely with the Education Cabinet and the New Schools Project in administering the
 17 program.

18 **SECTION 7.32.(b)** These funds shall be used to establish new high schools
 19 in which a local school administrative unit, two- and four-year colleges and universities,
 20 and local employers work together to ensure that high school and postsecondary college
 21 curricula operate seamlessly and meet the needs of participating employers.

22 Funds shall not be allotted until Learn and Earn high schools are certified as
 23 operational.

24 **SECTION 7.32.(c)** During the first year of its operation, a high school
 25 established under G.S. 115C-238.50 shall be allotted a principal regardless of the
 26 number of State-paid teachers assigned to the school or the number of students enrolled
 27 in the school.

28 **SECTION 7.32.(d)** The State Board of Education, in consultation with the
 29 State Board of Community Colleges and The University of North Carolina Board of
 30 Governors, shall conduct an annual evaluation of this program. The evaluation shall
 31 include measures as identified in G.S. 115C-238.55. It shall also include: (i) an
 32 accounting of how funds and personnel resources were utilized and their impact on
 33 student achievement, retention, and employability; (ii) recommended statutory and
 34 policy changes; and (iii) recommendations for improvement of the program. The State
 35 Board of Education shall report the results of this evaluation to the Office of State
 36 Budget and Management, the Joint Legislative Education Oversight Committee, and the
 37 Fiscal Research Division by January 15 of each fiscal year.
 38

39 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

40 **FLEXIBILITY FOR HIGH SCHOOL INNOVATION**

41 **SECTION 7.33.(a)** Part 9 of Article 16 of Chapter 115C of the General
 42 Statutes reads as rewritten:

43 "Part 9. Cooperative Innovative High School Programs.

44 "**§ 115C-238.50. Purpose.**

45 (a) The purpose of this Part is to authorize ~~boards of trustees of community~~
 46 ~~colleges and local boards of education to jointly establish local boards of education to~~
 47 jointly establish with one or more boards of trustees cooperative innovative programs in
 48 high schools and community colleges or universities that will expand students'
 49 opportunities for educational success through high quality instructional programming.
 50 These cooperative innovative high school programs shall target:

- 51 (1) High school students who are at risk of dropping out of school before
 52 attaining a high school diploma; or
 53 (2) High school students who would benefit from accelerated academic
 54 instruction.

1 (b) All the cooperative innovative high school programs established under this
 2 Part shall:

- 3 (1) Prepare students adequately for future learning in the workforce or in
 4 an institution of higher education.
- 5 (2) Expand students' educational opportunities within the public school
 6 system.
- 7 (3) Be centered on the core academic standards represented by the college
 8 preparatory or tech prep program of study as defined by the State
 9 Board of Education.
- 10 (4) Encourage the cooperative or shared use of resources, personnel, and
 11 facilities between public schools and ~~community colleges.~~ colleges or
 12 universities, or both.
- 13 (5) Integrate and emphasize both academic and technical skills necessary
 14 for students to be successful in a more demanding and changing
 15 workplace.
- 16 (6) Emphasize parental involvement and provide consistent counseling,
 17 advising, and parent conferencing so that parents and students can
 18 make responsible decisions regarding course taking and can track the
 19 students' academic progress and success.
- 20 (7) Be held accountable for meeting measurable student achievement
 21 results.
- 22 (8) Encourage the use of different and innovative teaching methods.
- 23 (9) Establish joint institutional responsibility and accountability for
 24 support of students and their success.
- 25 (10) Effectively utilize existing funding sources for high school,
 26 ~~community college,~~ university, and vocational programs and actively
 27 pursue new funding from other sources.
- 28 (11) Develop methods for early identification of potential participating
 29 students in the middle grades and through high school.
- 30 (12) Reduce the percentage of students needing remedial courses upon their
 31 initial entry from high school into a college or university.

32 (c) Programs developed under this Part that target students who are at risk of
 33 dropping out of high school before attaining a high school diploma shall:

- 34 (1) Provide these students with the opportunity to graduate from high
 35 school possessing the core academic skills needed for postsecondary
 36 education and high-skilled employment.
- 37 (2) Enable students to complete a technical or academic program in a field
 38 that is in high demand and has high wages.
- 39 (3) Set and achieve goals that significantly reduce dropout rates and raise
 40 high school and ~~community college~~ retention, certification, and degree
 41 completion rates.
- 42 (4) Enable students who complete these programs to pass employer
 43 exams, if applicable.

44 (d) Cooperative innovative high school programs that offer accelerated learning
 45 programs shall:

- 46 (1) Provide a flexible, customized program of instruction for students who
 47 would benefit from accelerated, higher level coursework or early
 48 graduation from high school.
- 49 (2) Enable students to obtain a high school diploma in less than four ~~years~~
 50 ~~and years,~~ to begin or complete an associate degree program or
 51 program, to master a certificate or vocational program-program, or to
 52 earn up to two years of college credit.
- 53 (3) Offer a college preparatory academic core and in-depth studies in a
 54 career or technical field that will lead to advanced programs or
 55 employment opportunities in engineering, health sciences, or teaching.

1 (e) Cooperative innovative high school programs may include the creation of a
2 school within a school, a technical high school, or a high school or technical center
3 located on the campus of a ~~community college, college or university.~~

4 (f) Students are eligible to attend these programs as early as ninth grade.

5 **"§ 115C-238.50A. Definitions.**

6 The following definitions apply in this Part:

- 7 (1) Constituent institution. – A constituent institution as defined in
8 G.S. 116-2(4).
9 (2) Education partner. – An education partner as provided in
10 G.S. 115C-238.52.
11 (3) Governing board. – The State Board of Community Colleges, the
12 Board of Governors of The University of North Carolina, or the Board
13 of the North Carolina Independent Colleges and Universities.
14 (4) Local board of trustees. – The board of trustees of a community
15 college, constituent institution of The University of North Carolina, or
16 private college located in North Carolina.

17 **"§ 115C-238.51. Application process.**

18 (a) A local board of education and ~~a~~ at least one local board of trustees ~~of a~~
19 ~~community college~~ shall jointly apply to establish a cooperative innovative high school
20 program under this Part.

21 (b) The application shall contain at least the following information:

- 22 (1) A description of a program that implements the purposes in
23 G.S. 115C-238.50.
24 (2) A statement of how the program relates to the Economic Vision Plan
25 adopted for the economic development region in which the program is
26 to be located.
27 (3) The facilities to be used by the program and the manner in which
28 administrative services of the program are to be provided.
29 (4) A description of student academic and vocational achievement goals
30 and the method of demonstrating that students have attained the skills
31 and knowledge specified for those goals.
32 (5) A description of how the program will be operated, including
33 budgeting, curriculum, transportation, and operating procedures.
34 (6) The process to be followed by the program to ensure parental
35 involvement.
36 (7) The process by which students will be selected for and admitted to the
37 program.
38 (8) A description of the funds that will be used and a proposed budget for
39 the program. This description shall identify how the average daily
40 membership (ADM) and full-time equivalent (FTE) students are
41 counted.
42 (9) The qualifications required for individuals employed in the program.
43 (10) The number of students to be served.
44 (11) A description of how the program's effectiveness in meeting the
45 purposes in G.S. 115C-238.50 will be measured.

46 (c) The application shall be submitted to the State Board of Education and the
47 ~~State Board of Community Colleges~~ applicable governing Boards by November 1 of
48 each year. The ~~State Board of Education and the State Board of Community Colleges~~
49 Boards shall appoint a joint advisory committee to review the applications and to
50 recommend to the ~~State Boards~~ those programs that meet the requirements of this Part
51 and that achieve the purposes set out in G.S. 115C-238.50.

52 (d) ~~The State Board of Education and the State Board of Community Colleges~~
53 ~~shall approve two cooperative innovative high school programs in each of the State's~~
54 ~~economic development regions.~~ The ~~State Boards~~ may approve programs recommended
55 by the joint advisory committee or may approve other programs that were not

1 recommended. The ~~State Boards~~ shall approve all applications by March 15 of each
2 year. No application shall be approved unless the ~~State Boards~~ State Board of Education
3 and the applicable governing Board find that the application meets the requirements set
4 out in this Part and that granting the application would achieve the purposes set out in
5 G.S. 115C-238.50. Priority shall be given to applications that are most likely to further
6 State education policies, to address the economic development needs of the economic
7 development regions in which they are located, and to strengthen the educational
8 programs offered in the local school administrative units in which they are located.

9 **"§ 115C-238.52. Participation by other education partners.**

10 (a) Any or all of the following education partners may participate in the
11 development of a cooperative innovative program under this Part that is targeted to high
12 school students who would benefit from accelerated academic instruction:

13 (1) ~~A constituent institution of The University of North Carolina.~~

14 (2) ~~A private college or university located in North Carolina.~~

15 (3) A private business or organization.

16 (4) The county board of commissioners in the county in which the
17 program is located.

18 (b) Any or all of the education partners listed in subsection (a) of this section that
19 participate shall:

20 (1) Jointly apply with the local board of education and the local board of
21 trustees ~~of the community college~~ to establish a cooperative innovative
22 program under this Part.

23 (2) Be identified in the application.

24 (3) Sign the written agreement under G.S. 115C-238.53(b).

25 **"§ 115C-238.53. Program operation.**

26 (a) A program approved by the State ~~shall be~~ is accountable to the local board of
27 education.

28 (b) A program approved under this Part shall operate under the terms of a written
29 agreement signed by the local board of education, local board of ~~trustees of the~~
30 ~~community college, trustees, State Board of Education, and State Board of Community~~
31 ~~Colleges, applicable governing Board.~~ The agreement shall incorporate the information
32 provided in the application, as modified during the approval process, and any terms and
33 conditions imposed on the program by the State Board of Education and the ~~State Board~~
34 ~~of Community Colleges, applicable governing Board.~~ The agreement may be for a term
35 of no longer than five school years.

36 (c) A program may be operated in a facility owned or leased by the local board
37 of education, the local board of ~~trustees of the community college, trustees,~~
38 or the education partner, if any.

39 (d) A program approved under this Part shall provide instruction each school
40 year for at least 180 days during nine calendar months, shall comply with laws and
41 policies relating to the education of students with disabilities, and shall comply with
42 Article 27 of this Chapter.

43 (e) A program approved under this Part may use State, federal, and local funds
44 allocated to the local school administrative unit, to the ~~State Board of Community~~
45 ~~Colleges, applicable governing Board,~~ and to the ~~community college or university~~
46 to implement the program. If there is an education partner and if it is a public body, the
47 program may use State, federal, and local funds allocated to that body.

48 (f) Except as provided in this Part and ~~pursuant to~~ under the terms of the
49 agreement, a program is exempt from laws and rules applicable to a local board of
50 education, a local school administrative unit, a community college, a constituent
51 institution, or a local board of ~~trustees of a community college trustees.~~

52 **"§ 115C-238.54. Funds for programs.**

53 (a) The Department of Public Instruction shall assign a school code for each
54 program that is approved under this Part. All positions and other State and federal
55 allotments that are generated for this program shall be assigned to that school code.

1 Notwithstanding G.S. 115C-105.25, once funds are assigned to that school code, the
 2 local board of education may use these funds for the program and may transfer these
 3 funds between funding allotment categories.

4 (b) The local board of trustees ~~of a community college~~ may allocate State and
 5 federal funds for a program that is approved under this Part.

6 (c) An education partner under G.S. 115C-238.52 that is a public body may
 7 allocate State, federal, and local funds for a program that is approved under this Part.

8 (d) If not an education partner under G.S. 115C-238.52, a county board of
 9 commissioners in a county where a program is located may nevertheless appropriate
 10 funds to a program approved under this Part.

11 (e) The local board of education and the local board of trustees ~~of the community~~
 12 ~~college~~ are strongly encouraged to seek funds from sources other than State, federal,
 13 and local appropriations. They are strongly encouraged to seek funds the Education
 14 Cabinet identifies or obtains under G.S. 116C-4.

15 "**§ 115C-238.55. Evaluation of programs.**

16 The State Board of Education and the ~~State Board of Community Colleges~~
 17 ~~governing Boards~~ shall evaluate the success of students in programs approved under this
 18 Part. Success shall be measured by high school retention rates, high school completion
 19 rates, high school dropout rates, certification and associate degree completion,
 20 admission to four-year institutions, postgraduation employment in career or
 21 study-related fields, and employer satisfaction of employees who participated in and
 22 graduated from the programs. Beginning October 15, 2005, and annually thereafter, the
 23 Boards shall jointly report to the Joint Legislative Education Oversight Committee on
 24 the evaluation of these programs. If, by October 15, 2006, the Boards determine any or
 25 all of these programs have been successful, they shall jointly develop a prototype plan
 26 for similar programs that could be expanded across the State. This plan shall be
 27 included in their report to the Joint Legislative Education Oversight Committee that is
 28 due by October 15, 2007."

29 **SECTION 7.33.(b)** It is the intent of the General Assembly that three
 30 cooperative innovative high school programs are established that emphasize the
 31 educational development of high school students in the areas of science and
 32 mathematics in a nonresidential setting. One of these programs shall be located in the
 33 eastern region of the State, one shall be located in the central region of the State, and
 34 one shall be located in the western region of the State. The State Board of Education
 35 shall begin planning for the design and implementation of these programs and shall
 36 report their plan to the Joint Legislative Education Oversight Committee and the Fiscal
 37 Research Division of the General Assembly by March 15, 2006.

38 The plan shall include, but not be limited to, the following aspects of the
 39 proposed programs:

- 40 (1) Programmatic design including location, curriculum, student access,
 41 and calendar,
- 42 (2) Projected costs of operation, including instructional, administrative,
 43 transportation, capital, and other costs,
- 44 (3) Any plans for coordination with institutes of higher education,
- 45 (4) Proposed implementation schedule.

46
 47 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

48 **FUNDS FOR EDUCATION OF STUDENTS AT ECKERD YOUTH**
 49 **ALTERNATIVES THERAPEUTIC CAMP**

50 **SECTION 7.35.** If a student is placed in an Eckerd Youth Alternatives
 51 therapeutic camp on the recommendation of a local school administrative unit, the unit
 52 shall transfer to the camp the State funds allocated to the unit for the education of the
 53 child. For each day that the child receives educational services at the camp, that unit
 54 shall pay 1/180 of the annual amount a charter school located in that unit would receive
 55 in State funds for that child, for a maximum of 180 days in a fiscal year. If the child is a

1 child with special needs, the unit shall also be responsible for the State per pupil
2 allocation for children with special needs.

3
4 Requested by: Senators Lucas, Garrou, Dalton, Hagan

5 **FUND ONE LOCAL SCHOOL ADMINISTRATIVE UNIT PER COUNTY**

6 **SECTION 7.36.(a)** Notwithstanding any other provision of law, the State
7 Board of Education shall allot State funds on the basis of only one local school
8 administrative unit per county. To implement this change, the State Board shall change
9 formulas that allot funds on a per local school administrative unit basis to formulas that
10 allot funds on a per county basis. If the amount previously allotted per local school
11 administrative unit was graduated on the basis of average daily membership, the amount
12 allotted per county shall be graduated on the basis of the total average daily membership
13 of all units located in the county.

14 If a city school administrative unit is located in more than one county, the
15 State Board of Education shall include in each county's average daily membership the
16 average daily membership of the county's students in the city school administrative unit.

17 If a county contains more than one local school administrative unit, the State
18 Board shall divide the amount allotted on a per county basis between the units on the
19 basis of average daily membership.

20 **SECTION 7.36.(b)** This section does not apply to allotments to the
21 Nash-Rocky Mount School Administrative Unit, the Edgecombe County School
22 Administrative Unit, the Cleveland County School Administrative Unit, or the Gaston
23 County School Administrative Unit.

24 **SECTION 7.36.(c)** This section becomes effective July 1, 2006.

25
26 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

27 **MINIMIZE TIME DEVOTED TO STANDARDIZED TESTS**

28 **SECTION 7.37.** G.S. 115C-174.12(a) reads as rewritten:

29 "(a) The State Board of Education shall establish policies and guidelines
30 necessary for minimizing the time students spend taking tests administered through
31 State and local testing programs, for minimizing the frequency of field testing at any
32 one school, and for otherwise carrying out the provisions of this Article. These policies
33 and guidelines shall include the following:

- 34 (1) Schools shall devote no more than two days of instructional time per
35 year to the taking of practice tests that do not have the primary purpose
36 of assessing current student learning;
- 37 (2) Students in a school shall not be subject to field tests or national tests
38 during the two-week period preceding the administration of
39 end-of-grade tests, end-of-course tests, or the school's regularly
40 scheduled final exams; and
- 41 (3) No school shall participate in more than two field tests at any one
42 grade level during a school year unless that school volunteers, through
43 a vote of its school improvement team, to participate in an expanded
44 number of field tests.

45 These policies shall reflect standard testing practices to insure reliability and validity
46 of the sample testing. The results of the field tests shall be used in the final design of
47 each test. The State Board of Education's policies regarding the testing of children with
48 disabilities shall (i) provide broad accommodations and alternate methods of assessment
49 that are consistent with a child's individualized education program and section 504 (29
50 U.S.C. § 794) plans, (ii) prohibit the use of statewide tests as the sole determinant of
51 decisions about a child's graduation or promotion, and (iii) provide parents with
52 information about the Statewide Testing Program and options for students with
53 disabilities. The State Board shall report its proposed policies and proposed changes in
54 policies to the Joint Legislative Education Oversight Committee prior to adoption.

1 The State Board of Education may appoint an Advisory Council on Testing to assist
2 in carrying out its responsibilities under this Article."
3

4 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

5 **EDUCATION CABINET**

6 **SECTION 7.38.(a)** G.S. 116C-1(b) reads as rewritten:

7 "(b) The Education Cabinet shall consist of the Governor, who shall serve as
8 chair, the President of The University of North Carolina, the State Superintendent of
9 Public Instruction, the Chairman of the State Board of Education, the President of the
10 North Carolina Community Colleges System, the Secretary of Health and Human
11 Services, and the President of the North Carolina Independent Colleges and
12 Universities. The Education Cabinet may invite other representatives of education to
13 participate in its deliberations as adjunct members."

14 **SECTION 7.38.(b)** The Education Cabinet shall study:

- 15 (1) The extent to which school nurses, school social workers, and other
16 instructional support personnel collaborate with each other and with
17 local health, mental health, and social services providers to meet the
18 needs of at-risk children and their families and to support the
19 educational achievement of at-risk children; and
20 (2) The need for additional training for school nurses, school social
21 workers, and other instructional support personnel on multidisciplinary
22 assessments and on referral and care coordination for at-risk students
23 and their families.

24 The Education Cabinet shall report the results of its study and its
25 recommendations to the Joint Legislative Education Oversight Committee prior to April
26 15, 2006.
27

28 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

29 **THE CENTER FOR 21ST CENTURY SKILLS**

30 **SECTION 7.39.(a)** The State Board of Education shall transfer funds
31 appropriated for the Center for 21st Century Skills to the Office of the Governor. These
32 funds shall be used for the establishment of the Center for 21st Century Skills within the
33 North Carolina Business Committee for Education, Inc. The purpose of the Center shall
34 be to design curriculum, teacher training, and student assessment to support students
35 acquiring the knowledge and skills needed for the emerging workforce of the 21st
36 century.

37 **SECTION 7.39.(b)** The North Carolina Business Committee for Education,
38 Inc., and the Center for 21st Century Skills shall coordinate their efforts on high school
39 reform with the North Carolina New Schools Project.

40 **SECTION 7.39.(c)** The North Carolina Business Committee for Education,
41 Inc., and the Center for 21st Century Skills shall work with the North Carolina Science,
42 Mathematics and Technology Education Center, the North Carolina School of Science
43 and Mathematics, the North Carolina Board of Science and Technology, and the
44 governing boards of education to research and propose options to create new or expand
45 existing mathematics and science summer enrichment programs across the State and to
46 establish nonresidential high schools focused on mathematics, science, and technology.
47 The Center shall also support efforts of the Futures for Kids Program to connect
48 students with the workforce needs of their home communities.
49

50 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

51 **TEACHER WORKING CONDITIONS INITIATIVE**

52 **SECTION 7.40.(a)** Funds are appropriated in this act to continue the
53 Governor's Teacher Working Conditions Survey. The State Board of Education shall
54 use these funds: (i) for the administration of the survey by the Professional Teaching

1 Standards Commission on a biennial basis, and (ii) to establish an advisory board to
2 oversee implementation of recommendations from the survey.

3 **SECTION 7.40.(b)** The State Board of Education may supplement these
4 funds with gifts or other private funds donated for this purpose.

5
6 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

7 **PLAN AND FUNDING FOR A VIRTUAL HIGH SCHOOL**

8 **SECTION 7.41.(a)** The State Board of Education, the Board of Governors
9 of The University of North Carolina, the Independent Colleges and Universities, and the
10 State Board of Community Colleges shall develop E-learning standards and plans for
11 infrastructures that provide virtual learning opportunities accessible to students and
12 other citizens through all North Carolina schools, universities, and community colleges.
13 In developing the plan for the public schools, the State Board of Education shall focus
14 initially on high schools while also researching and developing, where appropriate,
15 E-learning for middle schools, junior high schools, and elementary schools. E-learning
16 programs shall support both teachers and students.

17 **SECTION 7.41.(b)** As used in this section, "E-learning" is electronic
18 learning that includes a wide set of applications and processes, such as Web-based
19 learning, computer-based learning, virtual classrooms, and digital collaboration. It
20 includes the delivery of content via Internet, intranet/extranet (LAN/WAN), audiotape,
21 videotape, satellite broadcast, interactive television, and CD-ROM.

22 **SECTION 7.41.(c)** It is the intent of the General Assembly to give public
23 schools the highest priority in funding for and development of E-learning. Funding for
24 E-learning should be a new appropriation and not come exclusively from existing funds.

25 **SECTION 7.41.(d)** The State Board of Education shall use funds
26 appropriated for a virtual high school to establish and implement a pilot virtual high
27 school during the 2005-2006 school year and the 2006-2007 school year.

28 The State Board of Education shall include in the pilot program instruction on
29 personal financial literacy. This instruction shall be designed to equip students with the
30 knowledge and skills they need, before they become self-supporting, to make critical
31 decisions regarding their personal finances. The components of instruction shall include,
32 at a minimum, consumer financial education, personal finance, and personal credit.

33 **SECTION 7.41.(e)** If the pilot program is successful, it is the intent of the
34 General Assembly to provide funding to implement a virtual high school on a statewide
35 basis for the 2006-2007 fiscal year.

36
37 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

38 **FEASIBILITY STUDY FOR DEVELOPING REGIONAL EDUCATION**
39 **NETWORKS**

40 **SECTION 7.42.** The North Carolina Rural Economic Development Center
41 and the e-NC Authority, in collaboration with representatives from local school
42 administrative units, The University of North Carolina, the State Board of Education,
43 the State Chief Information Officer, and the Community College System shall perform a
44 feasibility study on developing regional education networks that are centrally managed
45 to provide and sustain broadband connectivity to individual students and teachers in
46 schools, community colleges, and universities.

47 The study shall include an evaluation of existing technology infrastructures,
48 such as the statewide infrastructure, the North Carolina Research and Education
49 Network, or the regional infrastructure, Winston-Net. These state-of-the-art
50 infrastructures may be capable of supporting growth in traffic and thus serve as a
51 backbone infrastructure for delivering high-speed access to underserved regions.

52 The North Carolina Rural Economic Development Center and the e-NC
53 Authority shall report the results of the study to the 2006 Regular Session of the 2005
54 General Assembly.

1 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

2 **PLAN FOR PROJECTING SCHOOL TECHNOLOGY FUNDING NEEDS**

3 **SECTION 7.43.(a)** G.S. 115C-102.6A(c) reads as rewritten:

4 "(c) Components of the State school technology plan shall include at least the
5 following:

6
7 (17) A baseline template for:

8 a. Technology infrastructure, including broadband connectivity,
9 personnel recommendations, and other resources needed to
10 operate effectively from the classroom desktop to local,
11 regional, and State networks, and

12 b. An evaluation component that provides for local school
13 administrative unit accountability for maintaining quality
14 upgradeable systems."

15 **SECTION 7.43.(b)** Before November 2005, the Department of Public
16 Instruction shall hold regional workshops for local school administrative units to
17 provide guidance in developing local school system technology plans that meet the
18 criteria established in the State school technology plan, including the components added
19 under subsection (a) of this section. The State Chief Information Officer will assist with
20 the regional meetings as needed to provide technical assistance.

21 **SECTION 7.43.(c)** G.S. 115C-102.7 is amended by adding the following
22 new subsection to read:

23 "(c) The Department of Public Instruction shall randomly check local school
24 system technology plans to ensure that local school administrative units are
25 implementing their plans as approved. The Department shall report to the State Board of
26 Education and the State Chief Information Officer on which local school administrative
27 units are not complying with their plans. The report shall include the reasons these local
28 school administrative units are out of compliance and a recommended plan of action to
29 support each of these local school administrative units in carrying out their plans."

30 **SECTION 7.43.(d)** The State Board of Education shall determine the total
31 amount of funds needed for the recurring total cost of ownership to implement,
32 maintain, and upgrade technology infrastructures and instructional technology as
33 specified in the revised local school system technology plans. This shall include
34 personnel costs for both technical and instructional needs so that a three- to five-year
35 budget plan can be developed for the General Assembly.

36 **SECTION 7.43.(e)** The State Board of Education shall also study and
37 identify the types of resources needed to operate schools designed to meet the needs of
38 twenty-first century learners.

39 The State Board shall report the results of this study to the 2006 Regular
40 Session of the 2005 General Assembly.

41
42 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

43 **ANNUAL REPORT THAT HIGHLIGHTS THE IMPACT OF EDUCATION**
44 **PREPARATION ON ECONOMIC GROWTH**

45 **SECTION 7.44.** The North Carolina Board of Science and Technology shall
46 prepare an annual report by county on the status of trends that reflect the impact of
47 education on economic growth for the twenty-first century. This report shall contain
48 information about the status of each county with regard to education and economic
49 growth.

50 The Board shall provide the report to the Regular 2006 Session of the 2005
51 General Assembly and shall make the report available for citizens.

52
53 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

54 **PROCESS FOR MORE ASSISTANCE FOR E-RATE**

1 **SECTION 7.45.** In order to provide assistance to local school
2 administrative units with E-rate applications, the Department of Public Instruction shall,
3 within existing funds, ensure that a minimum of one full-time coordinator who has
4 technical knowledge and skills is assigned this responsibility. The Department shall
5 notify local school administrative units about the person or office assigned the
6 responsibility of providing assistance with E-rate applications.

7 The Department shall provide the State Board of Education with an annual
8 report on E-rate, including funding, commitments, and enrollment by local school
9 administrative units.

10 As used in this section, "E-rate" is the mechanism to provide discount rates to
11 support universal telecommunications services for use by schools and libraries as
12 provided in section 254 of the federal Telecommunications Act of 1996.

13
14 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

15 **PLANNING FOR A STATE CENTRAL INFRASTRUCTURE OFFICE**

16 **SECTION 7.46.(a)** The Office of State Budget and Management shall
17 conduct a study to determine the feasibility of establishing a State Central Infrastructure
18 Office that would collect and manage information for technology, water, sewer, and
19 other utility infrastructures needed to assist communities in becoming and remaining
20 economically viable.

21 **SECTION 7.46.(b)** The Office of State Budget and Management shall report
22 the results of this study to the 2006 Regular Session of the 2005 General Assembly.
23 The report shall include legislative proposals, including a proposal to define the term
24 "infrastructure" in the General Statutes to include technology.

25
26 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

27 **SCHOOL EMPLOYEE SALARY STUDY**

28 **SECTION 7.47.** The Joint Legislative Education Oversight Committee shall
29 study the current salary structure for teachers and other school employees. In the course
30 of the study, the Committee shall:

- 31 (1) Develop a plan to get the State moving toward the national average in
32 teacher salaries by 2008 and toward the top 10 states in the nation by
33 2010.
- 34 (2) Consider strategies for maintaining the lead in teacher salaries in the
35 Southeastern United States.
- 36 (3) Consider the need to reduce the number of steps on the teacher salary
37 schedule, increase the beginning teacher salary, and enable an
38 individual to reach the maximum salary sooner.
- 39 (4) Perform a market-sensitive analysis of the skills and knowledge
40 needed to be a successful teacher to determine what it takes to make
41 the schedule attractive and competitive.
- 42 (4) Consider the placement of appropriate extraordinary increases on
43 schedule for achievement of career status, teacher retention, and other
44 purposes.
- 45 (5) Determine the need to modify the masters schedule differential.
- 46 (6) Determine the need to modify the alternative salary schedules to
47 reward different levels of academic preparation and career
48 accomplishments such as attainment of national certification.
- 49 (7) Consider the appropriate relationship of the school counselor's
50 schedule to the schedules for other members of the school-based staff.
- 51 (8) Determine the need to modify the administrator salary schedule.
- 52 (9) Consider other matters the Committee deems appropriate.

53 The Committee shall report the results of its study to the 2006 Regular
54 Session of the 2005 General Assembly.

1 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

2 **COMMISSION FOR A SOUND BASIC EDUCATION**

3 **SECTION 7.48.(a)** The North Carolina Commission for a Sound Basic
4 Education is hereby established. The Commission shall (i) investigate strategies and
5 resources which contribute to the opportunity for North Carolina students to obtain a
6 sound basic education, (ii) analyze all current plans for implementing the strategies
7 developed to enhance every child's ability to fulfill his or her potential, and (iii) if
8 necessary, provide a cost analysis for implementing those plans.

9 **SECTION 7.48.(b)** The Commission shall consist of six members appointed
10 by the President Pro Tempore of the Senate and six members appointed by the Speaker
11 of the House of Representatives. The President Pro Tempore of the Senate and the
12 Speaker of the House of Representatives shall each designate a cochair of the
13 Commission from their appointees.

14 **SECTION 7.48.(c)** The Commission shall appoint advisory members to
15 assist it in its work. The advisory members shall include at least two parents of children
16 in the public schools and representatives of State agencies, the Community College
17 System, The University of North Carolina, education organizations, child health
18 organizations, and child advocacy organizations.

19 **SECTION 7.48.(d)** The full commission shall meet on a monthly basis. The
20 commission shall develop the necessary and appropriate committees and subcommittees
21 to facilitate completion of its work. The committees and subcommittees shall meet as
22 necessary to effectively conduct the work with which they are charged.

23 **SECTION 7.48.(e)** Only members of the Commission may vote on any
24 matter before the Commission.

25 **SECTION 7.48.(f)** Members of the Commission and advisory members of
26 the Commission shall receive per diem, subsistence, and travel allowances in
27 accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate.

28 **SECTION 7.48.(g)** The Commission, while in the discharge of its official
29 duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1
30 through G.S. 120-19.4. The Commission may meet at any time upon the joint call of the
31 cochairs. The Commission may meet in the Legislative Building or the Legislative
32 Office Building.

33 The Legislative Services Commission, through the Legislative Services
34 Officer, shall assign professional staff to assist the Commission in its work. The House
35 of Representatives' and the Senate's Supervisors of Clerks shall assign clerical staff to
36 the Commission, and the expenses relating to the clerical employees shall be borne by
37 the Commission. The Commission may contract for professional, clerical, or consultant
38 services as provided by G.S. 120-32.02. If the Commission hires a consultant, the
39 consultant shall not be a State employee or a person currently under contract with the
40 State to provide services.

41 All State departments and agencies and local governments and their
42 subdivisions shall furnish the Commission with any information in their possession or
43 available to them.

44 The Legislative Services Commission, through the Legislative Services
45 Officer, shall assign professional staff to assist the Commission in its work. The House
46 of Representatives' and the Senate's Supervisors of Clerks shall assign clerical staff to
47 the Commission, and the expenses relating to the clerical employees shall be borne by
48 the Commission.

49 **SECTION 7.48.(h)** The Commission shall provide opportunities for
50 substantive and meaningful input into and development and review of the
51 comprehensive plan by all stakeholders in the public education system. These
52 stakeholders include, but are not limited to, students, parents, guardians, educators,
53 school board members, education advocates, and child health professionals.
54 Opportunities for input and review shall include (i) regional public forums, (ii) regular
55 distribution to local newspapers statewide of details of its work and posting of the

1 information on the Internet, (iii) providing stakeholders with the opportunity to identify
2 representative members of stakeholder groups to be included as full participants in the
3 Commission's deliberations, and (iv) open meetings of the Commission and any
4 committees it may create.

5 **SECTION 7.48.(i)** The Commission shall make a final report to the General
6 Assembly by January 15, 2006. The report shall include the details of the plans, the
7 results of the cost analysis and a proposed budget, and any statutory changes necessary
8 to implement the plans on a statewide basis.

9 **SECTION 7.48.(j)** The Commission shall terminate upon filing its final
10 report or upon the convening of the 2006 Regular Session of the 2005 General
11 Assembly, whichever is earlier.

12 **SECTION 7.48.(k)** Funds in the amount of two hundred thousand dollars
13 (\$200,000) are appropriated in this act to the General Assembly to carry out its work of
14 the North Carolina Commission for a Sound Basic Education.

15 16 **PART VIII. COMMUNITY COLLEGES**

17
18 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

19 **USE OF FUNDS FOR THE COLLEGE INFORMATION SYSTEM PROJECT**

20 **SECTION 8.1.(a)** Funds appropriated to the Community Colleges System
21 Office for the College Information System Project shall not revert at the end of the
22 2004-2005 fiscal year but shall remain available until expended.

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

26 **SECTION 8.1.(c)** Subsection (a) of this section becomes effective June 30,
27 2005.

28
29 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

30 **CARRYFORWARD FOR EQUIPMENT**

31 **SECTION 8.2.(a)** Subject to the approval of the Office of State Budget and
32 Management and cash availability, the North Carolina Community Colleges System
33 Office may carry-forward an amount not to exceed fifteen million dollars (\$15,000,000)
34 of the operating funds that were not reverted in fiscal year 2004-2005 to be reallocated
35 to the State Board of Community Colleges' Equipment Reserve Fund. These funds shall
36 be distributed to colleges consistent with G.S. 115D-31.

37 **SECTION 8.2.(b)** This section becomes effective June 30, 2005.

38
39 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

40 **SALARIES OF COMMUNITY COLLEGE FACULTY AND PROFESSIONAL** 41 **STAFF**

42 **SECTION 8.3.(a)** The minimum salaries for community college faculty
43 shall be based on the following education levels:

- 44 (1) Vocational Diploma/Certificate or Less. – This education level
45 includes faculty members who are high school graduates, have
46 vocational diplomas, or have completed one year of college.
- 47 (2) Associate Degree or Equivalent. – This education level includes
48 faculty members who have an associate degree or have completed two
49 or more years of college but have no degree.
- 50 (3) Bachelors Degree.
- 51 (4) Masters Degree or Education Specialist.
- 52 (5) Doctoral Degree.

53 **SECTION 8.3.(b)** For the 2005-2006 school year, the minimum salaries for
54 nine-month, full-time, curriculum community college faculty shall be as follows:

55 Education Level Minimum Salary

	<u>2005-2006</u>	<u>2006-2007</u>
Vocational Diploma/Certificate or Less	\$29,652	\$30,542
Associate Degree or Equivalent	\$30,102	31,005
Bachelors Degree	\$32,050	33,011
Masters Degree or Education Specialist	\$33,777	34,790
Doctoral Degree	\$36,269	37,357

No full-time faculty member shall earn less than the minimum salary for his or her education level.

The pro rata hourly rate of the minimum salary for each education level shall be used to determine the minimum salary for part-time faculty members.

SECTION 8.3.(c)

(1) It is the intent of the General Assembly to encourage community colleges to make faculty salaries a priority and to reward colleges that have taken steps to achieve the national average, therefore:

- a. If the average faculty salary at a community college is one hundred percent (100%) or more of the national average community college faculty salary, the college may transfer up to eight percent (8%) of the State funds allocated to it for faculty salaries.
- b. If the average faculty salary at a community college is at least ninety-five percent (95%) but less than one hundred percent (100%) of the national average community college faculty salary, the college may transfer up to six percent (6%) of the State funds allocated to it for faculty salaries.
- c. If the average faculty salary at a community college is at least ninety percent (90%) but less than ninety-five percent (95%) of the national average community college faculty salary, the college may transfer up to five percent (5%) of the State funds allocated to it for faculty salaries.
- d. If the average faculty salary at a community college is at least eighty-five percent (85%) but less than ninety percent (90%) of the national average community college faculty salary, the college may transfer up to three percent (3%) of the State funds allocated to it for faculty salaries.
- e. If the average faculty salary at a community college is eighty-five percent (85%) or less of the national average community college faculty salary, the college may transfer up to two percent (2%) of the State funds allocated to it for faculty salaries.

Except as provided by subdivision (2) of this subsection, a community college shall not transfer a greater percentage of the State funds allocated to it for faculty salaries than is authorized by this subsection.

(2) With the approval of the State Board of Community Colleges, a community college at which the average faculty salary is eighty-five percent (85%) or less of the national average may transfer a greater percentage of the State funds allocated to it for faculty salaries than is authorized by sub-subdivision e. of subdivision (1) of this subsection. The State Board shall approve the transfer only for purposes that directly affect student services.

(3) A local community college may use all State funds allocated to it except for Literacy Funds and Funds for New and Expanding Industry Training to increase faculty salaries.

SECTION 8.3.(d) As used in this section:

- 1 (1) "Average faculty salary at a community college" means the total
2 nine-month salary from all sources of all nine-month, full-time,
3 curriculum faculty at the college, as determined by the North Carolina
4 Community College System on October 1 of each year.
- 5 (2) "National average community college faculty salary" means the
6 nine-month, full-time, curriculum salary average, as published by the
7 Integrated Postsecondary Education Data System (IPEDS), for the
8 most recent year for which data are available.

9 **SECTION 8.3.(e)** The State Board of Community Colleges shall adopt rules
10 to implement the provisions of this section.

11 **SECTION 8.3.(f)** The State Board of Community Colleges shall report to
12 the appropriations subcommittees on education, the Speaker of the House of
13 Representatives, the President Pro Tempore of the Senate, the Fiscal Research Division,
14 and the Office of State Budget and Management by December 1, 2005, and every year
15 thereafter through December 1, 2009, on the implementation of this section.

16 **SECTION 8.3.(g)** Funds appropriated in this act for salary increases shall be
17 used to increase faculty and professional staff salaries by an average of two percent
18 (2%). These increases are in addition to other salary increases provided for in this act
19 and shall be calculated on the average salaries prior to the issuance of the compensation
20 increase. Colleges may provide additional increases from funds available.

21 The State Board of Community Colleges shall adopt rules to ensure that these
22 funds are used only to move faculty and professional staff to the respective national
23 averages. These funds shall not be transferred by the State Board or used for any other
24 budget purpose by the community colleges.

25
26 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

27 **WORKFORCE DEVELOPMENT PROGRAMS**

28 **SECTION 8.4.(a)** Article 1 of Chapter 115D of the General Statutes is
29 amended by adding a new G.S. 115D-5.1 to be entitled "Workforce Development
30 Programs"; G.S. 115D-5(d) is recodified as G.S. 115D-5.1(a); G.S. 115D-5(k) is
31 recodified as G.S. 115D-5.1(b); and G.S. 115D-5(i) is recodified as G.S. 115D-5.1(c).

32 **SECTION 8.4.(b)** G.S. 115D-5.1, as enacted by subsection (a) of this
33 section, reads as rewritten:

34 **"§ 115D-5.1. Workforce Development Programs.**

35 (a) Community colleges shall assist in the preemployment and in-service training
36 of employees in industry, business, agriculture, health occupation and governmental
37 agencies. Such training shall include instruction on worker safety and health standards
38 and practices applicable to the field of employment. The State Board of Community
39 Colleges shall make appropriate regulations including the establishment of maximum
40 hours of instruction which may be offered at State expense in each in-plant training
41 program. No instructor or other employee of a community college shall engage in the
42 normal management, supervisory and operational functions of the establishment in
43 which the instruction is offered during the hours in which the instructor or other
44 employee is employed for instructional or educational purposes.

45 (b) The North Carolina Community College System's New and Expanding
46 Industry Training (NEIT) Program Guidelines, which were adopted by the State Board
47 of Community Colleges on April 18, 1997, apply to all funds appropriated for the
48 Program after June 30, 1997. A project approved as an exception under these
49 Guidelines, or these Guidelines as modified by the State Board of Community Colleges,
50 shall be approved for one year only.

51 (c) The State Board of Community Colleges shall report to the Joint Legislative
52 Education Oversight Committee on September 1 of each year on expenditures for the
53 New and Expanding Industry Training Program each fiscal year. The report shall
54 include, for each company or individual that receives funds for the New and Expanding
55 Industry Training Program:

- 1 (1) The total amount of funds received by the company or individual;
- 2 (2) The amount of funds per trainee received by the company or
- 3 individual;
- 4 (3) The amount of funds received per trainee by the community college
- 5 training the trainee;
- 6 (4) The number of trainees trained by company and by community
- 7 college; and
- 8 (5) The number of years the companies or individuals have been funded.

9 (d) Funds available to the New and Expanding Industry Training Program shall
10 not revert at the end of a fiscal year but shall remain available until expended.

11 (e) There is created within the North Carolina Community College System the
12 Customized Industry Training (CIT) Program. The CIT Program shall offer programs
13 and training services as new options for assisting existing business and industry to
14 remain productive, profitable, and within the State. Before a business or industry
15 qualifies to receive assistance under the CIT Program, the President of the North
16 Carolina Community College System shall determine that:

- 17 (1) The business is making an appreciable capital investment;
- 18 (2) The business is deploying new technology; and
- 19 (3) The skills of the workers will be enhanced by the assistance.

20 The State Board shall report on an annual basis to the Joint Legislative Education
21 Oversight Committee on:

- 22 (1) The total amount of funds received by a company under the CIT
23 Program;
- 24 (2) The amount of funds per trainee received by that company;
- 25 (3) The amount of funds received per trainee by the community college
26 delivering the training;
- 27 (4) The number of trainees trained by the company and community
28 college; and
- 29 (5) The number of years that company has been funded.

30 The State Board shall adopt rules and policies to implement this section."

31 **SECTION 8.4.(c)** Notwithstanding any other provision of law, the State
32 Board of Community Colleges may use funds appropriated to it for the New and
33 Expanding Industry Training Program to operate programs under the Customized
34 Industry Training Program.

35 **SECTION 8.4.(d)** G.S. 115D-5.1(d), as enacted by this section, becomes
36 effective June 30, 2005.

37
38 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

39 **REPORT ON THE ADEQUACY OF MULTICAMPUS FUNDS**

40 **SECTION 8.5.** The General Assembly finds that additional data are needed
41 to determine the adequacy of multicampus and off-campus center funds; therefore,
42 multicampus colleges and colleges with off-campus centers shall report annually,
43 beginning September 1, 2005, to the Community Colleges System Office on all
44 expenditures by line item of funds used to support their multicampuses and off-campus
45 centers. The Community Colleges System Office shall report on these expenditures to
46 the Education Appropriation Subcommittees of the House of Representatives and the
47 Senate, the Office of State Budget and Management, and the Fiscal Research Division
48 by October 1 of each year.

49 Notwithstanding any other provision of law, funds appropriated to the
50 Community Colleges System Office for multicampus colleges or off-campus centers
51 shall be used only for the administration of the multicampus college or off-campus
52 center for which the funds were allotted. These funds shall not be transferred to any
53 other campus or center, or used for any other purpose.

54
55 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

EDUCATION PROGRAM AUDITING FUNCTION

SECTION 8.6. G.S. 115D-5(m) reads as rewritten:

"(m) ~~The State Board of Community Colleges shall require auditors of community college programs to use a statistically valid sample size in performing program audits of community colleges.~~ The State Board of Community Colleges shall maintain an education program auditing function that conducts an annual audit of each community college operating under the provisions of this Chapter. The purpose of the annual audit shall be to ensure that college programs and related fiscal operations comply with State law, State regulations, State Board policies, and System Office guidance. The State Board of Community Colleges shall require auditors of community college programs to use a statistically valid sample size in performing program audits of community colleges. All education program audit findings shall be forwarded to the college president, local college board of trustees, the State Board of Community Colleges, and the State Auditor. The State Board shall assess a twenty-five percent (25%) fiscal penalty in addition to the audit exception on all audits of both dollars and student membership hours excepted when the audit exceptions result from nonprocessing errors."

Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

FERRY BOAT OPERATOR TRAINING FEASIBILITY STUDY

SECTION 8.7.(a) The State Board of Community Colleges, in consultation with the Ferry Division of the Department of Transportation, shall study the need for training for ferry boat operators. In conducting the study, the State Board shall consider the following:

- (1) Types of training needed and whether it is feasible for the community colleges to provide this training.
- (2) Estimated number of students.
- (3) Estimated employment opportunities for the students.
- (4) Start-up costs for the program and resources for those costs.
- (5) Location of the training.

SECTION 8.7.(b) The State Board shall report to the Joint Legislative Education Oversight Committee and the Joint Legislative Transportation Oversight Committee on its findings and recommendations no later than December 1, 2005.

Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

EXTEND THE SUNSET ON TRAINING AND REEMPLOYMENT CONTRIBUTIONS MADE BY EMPLOYERS

SECTION 8.8.(a) Section 8 of S.L. 1999-321, as amended by Section 30.5(f) of S.L. 2001-424, reads as rewritten:

"Section 8. Section 1 of this act is effective with respect to calendar quarters beginning on or after April 1, 1999. Section 7 of this act becomes effective July 1, 1999. The remainder of this act is effective with respect to calendar quarters beginning on or after January 1, 2000. ~~G.S. 96-6.1, as enacted by Section 2 of this act, is repealed effective with respect to calendar quarters beginning on or after January 1, 2006.~~"

SECTION 8.8.(b) G.S. 96-6.1 is amended by adding a new subsection to read:

"(c) Sunset. – This section is repealed effective with respect to calendar quarters beginning on or after January 1, 2011."

Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

COMMUNITY COLLEGE INNOVATIVE LEARNING FUND

SECTION 8.9. There is created within the North Carolina Community College System (NCCCS) The Innovative Learning Fund. The purpose of the Fund is to assist colleges with infrastructure needs as they evolve to meet the needs of the changing economy. The President of the NCCCS, in consultation with the State Board

1 of Community Colleges, may make grants to qualified colleges of up to one million
2 dollars (\$1,000,000), for planning, equipment, or technology for innovative or lifelong
3 learning centers. The NCCCS shall consult with the seven Economic Development
4 Partnerships, the local boards of trustees, the constituent institutions of The University
5 System when appropriate, and any other entity it deems necessary to prioritize and
6 determine which projects should receive grants from the Fund. In awarding the grants,
7 the President and the State Board shall consider the following:

- 8 (1) The Vision Plan of the Economic Development Partnership where the
9 project will be located;
- 10 (2) The ability of the county to provide funding for the project;
- 11 (3) The maintenance of effort by the county to support the existing
12 mission of the college;
- 13 (4) The impact the innovative learning center will have on economic
14 development in the county and region; and
- 15 (5) The existence of any other innovative learning centers in the region.

16 Priority shall be given to projects that directly impact teacher education, allied health,
17 economic development, or public safety.

18 Funds appropriated in this act for the Innovative Learning Fund shall not
19 revert at the end of the 2005-2006 fiscal year but shall remain available until expended.
20

21 Requested by: Senators Rand, Lucas, Swindell, Garrou, Dalton, Hagan
22 **CARRYFORWARD FOR COLLEGES IN ECONOMICALLY**
23 **DISADVANTAGED COUNTIES**

24 **SECTION 8.10.(a)** Notwithstanding G.S. 143-18 or any other provision of
25 law, a community college may retain and carry-forward its General Fund current
26 operations credit balance remaining at the end of the fiscal year, if the county in which
27 the main campus of the community college is located:

- 28 (1) Is designated as a Tier 1 or Tier 2 county in accordance with
29 G.S. 105-129.3;
- 30 (2) Had an unemployment rate greater than or equal to seven percent (7%)
31 in calendar year 2004; and
- 32 (3) Is designated as a Low-Wealth County under Section 7.6 of this act,
33 whose wealth as calculated by the Low-Wealth Formula is eighty
34 percent (80%) or less of the State Average.

35 **SECTION 8.10.(b)** Colleges who serve counties that meet the criteria
36 outlined in subsection (a) of this section, but whose main campuses are not located in
37 such counties, may carry-forward the percentage of the funds remaining at the end of
38 the fiscal year equal to the percentage of total full-time equivalent students served in
39 those counties that meet the criteria, as determined by the North Carolina Community
40 Colleges System Office.

41 **SECTION 8.10.(c)** Allowable carryforwards under this section shall be
42 calculated prior to the calculation of Performance Funding as described in
43 G.S. 115D-31.3.

44 **SECTION 8.10.(d)** This section becomes effective June 30, 2005.
45

46 Requested by: Senators Rand, Lucas, Swindell, Garrou, Dalton, Hagan
47 **DEFENSE TECHNOLOGY INNOVATION CENTER**

48 **SECTION 8.11.** Funds appropriated in this act for North Carolina
49 Electronics and Information Technologies Association's Defense Technology
50 Innovation Center shall be used for the following:

- 51 (1) Site selection and acquisition, including the purchase or lease of real
52 property to house the Center; the construction of buildings or other site
53 structures; the improvement or refurbishment of existing structures to
54 provide appropriate laboratory and administrative space; and the
55 improvement of existing infrastructure at the facility, including

1 improvements to utility, telecommunications, and Internet
2 infrastructure.

- 3 (2) Equipment acquisition, including acquisition of laboratory equipment
4 and supplies and office furniture, equipment, and supplies.
5 (3) Employment of staff to support the mission of the Center and to
6 oversee day-to-day operations of the Center.
7 (4) Implementation of a comprehensive business and marketing plan for
8 the Center.
9 (5) Development of a tenant screening process and the recruitment of
10 appropriate tenants for the Center.
11 (6) Administration and operation of the Center and the development of a
12 sustainable business plan for the Center.
13

14 Requested by: Senators Swindell and Lucas

15 **COMMUNITY COLLEGE CAPITAL FUNDS**

16 **SECTION 8.12.** Notwithstanding G.S. 115D-31 or any other provision of
17 law, funds appropriated in this act for community college capital projects do not have to
18 be matched by local funds.
19

20 **PART IX. UNIVERSITIES**

21
22 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

23 **UNC FLEXIBILITY GUIDELINES**

24 **SECTION 9.1.** The Chancellor of each constituent institution shall report to
25 the Board of Governors of The University of North Carolina on the management
26 flexibility adjustments made to the General Fund budget codes in order to meet the
27 reserve amounts for that institution. The President of The University of North Carolina
28 shall report to the Board of Governors of The University of North Carolina on the
29 reductions made to the General Fund budget codes controlled by the Board in order to
30 meet the reduction reserve amounts for those entities. The Board of Governors shall
31 make a summary report to the Office of State Budget and Management and the Fiscal
32 Research Division by December 31, 2005, on all reductions made by these entities and
33 constituent institutions in order to reduce the budgets by the targeted amounts.
34

35 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

36 **ENROLLMENT GROWTH FUND/ENCOURAGE PARTNERSHIPS FOR NEW**
37 **2 + 2 PROGRAMS**

38 **SECTION 9.2.(a)** The University of North Carolina Board of Governors'
39 Task Force on Meeting Teacher Supply and Demand called for the President to develop
40 a plan for enrollment growth in the University System's teacher education programs to
41 respond to the State's shortage of teachers. In a presentation to the Joint Legislative
42 Education Oversight Committee and to the Board of Governors, a commitment was
43 made to increase the number of teacher education graduates in 2005-2006 and in
44 2006-2007. The Office of the President of The University of North Carolina shall
45 obtain plans from each campus as to how they will maintain their current enrollment in
46 the teacher education programs and achieve their growth targets to ensure such
47 increases in those programs occur. Plans may include using enrollment growth funds
48 for targeted admissions, enhanced student support, and advising, recruiting, increases in
49 faculty in necessary instructional areas that lead to certification, and other methods the
50 Office of the President believes will achieve those results. The Office of the President
51 shall report back to the Office of State Budget and Management and the Joint
52 Legislative Education Oversight Committee no later than December 30, 2005, on each
53 campus's plan. No later than March 31, 2006, the Office of the President shall submit a
54 report on progress towards meeting this priority for the 2006-2007 academic year, based
55 on each campus's current students in the education programs, and the students who have

1 been accepted for the 2006-2007 fiscal year who are enrolling in the education
2 programs. The report shall also explain the distribution of enrollment growth funds by
3 specific initiative.

4 **SECTION 9.2.(b)** The Board of Governors of The University of North
5 Carolina and the State Board of Community Colleges shall strongly encourage the
6 constituent institutions and the community colleges that do not currently have 2 + 2
7 programs that emphasize teacher education to design and enter into formal partnerships
8 to offer those 2 + 2 programs. The Board of Governors and the Board of Community
9 Colleges shall report to the Joint Legislative Education Oversight Committee by
10 February 1, 2006, regarding the status of existing 2 + 2 programs and any new
11 partnerships established.

12
13 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

14 **UNC-NCCCS JOINT INITIATIVE FOR TEACHER EDUCATION AND**
15 **RECRUITMENT**

16 **SECTION 9.3.(a)** Funds appropriated in this act to The University of North
17 Carolina for the UNC-NCCCS Joint Initiative for Teacher Education and Recruitment
18 shall be used to establish eight positions. These individuals shall have an office in and
19 work with staff in the Regional Alternative Licensure Centers of the Department of
20 Public Instruction. Their responsibilities are to assist in increasing the number of
21 certified teachers in the public schools of North Carolina. To accomplish this, their
22 specific tasks are as follows:

- 23 (1) Resolve curriculum issues between The University of North Carolina
24 campuses and the community colleges within each region to ensure
25 seamless articulation;
- 26 (2) Serve as licensure advisors to prospective teachers and assist with
27 individual reviews for lateral entry candidates;
- 28 (3) Offer admissions advice to community college students seeking to
29 transfer to a four-year institution; and
- 30 (4) Recruit prospective teachers on community college campuses.

31 Funds have been included in the appropriation to ensure these staff members can travel
32 routinely among all the University System campuses and community college sites
33 within a region.

34 **SECTION 9.3.(b)** The results of this initiative shall be reported annually,
35 and shall include at a minimum, the following performance outcomes by region in
36 which the advisors are working:

- 37 (1) Number of community college students articulated and working
38 toward teacher licensure, their "base" community college, and The
39 University of North Carolina institution to which they have moved;
- 40 (2) Number of lateral entry teachers worked with by these advisors who
41 are actively pursuing certification, and the number licensed;
- 42 (3) Head count of the number of students in the process of receiving
43 courses towards certification, their home county, where/at what
44 institution(s) they are taking the course(s), and whether they are taking
45 the course by regular attendance or via distance education (or the
46 respective percentages if both methods are being employed);
- 47 (4) Total full-time equivalencies (FTE's) and student credit hours that the
48 head count in subdivision (3) of this subsection represents;
- 49 (5) Articulation issues and curriculum changes effectively made as a result
50 of these advisors; and
- 51 (6) Articulation issues that are under discussion but have not been
52 satisfactorily resolved.

53 **SECTION 9.3.(c)** These results shall be reported by September 1, 2006, and
54 annually thereafter to the State Board of Education, the Board of Governors of The
55 University of North Carolina, the State Board of Community Colleges, the Education

1 Cabinet, the Joint Legislative Education Oversight Commission, and the Office of State
2 Budget and Management.

3
4 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

5 **ENROLLMENT GROWTH FUNDING MODEL**

6 **SECTION 9.4.** The Office of State Budget and Management, jointly with
7 The University of North Carolina and the Fiscal Research Division of the General
8 Assembly, shall conduct a comprehensive review of the enrollment funding model to
9 review the assumptions contained within each element of the formula, to obtain current
10 benchmark information related to specific elements within the formula, and to examine
11 the impact of alternative elements and assumptions. An alternative to the current model
12 shall be the result of this analysis. This alternative shall be used to prepare a request for
13 enrollment growth funding for the budget to be submitted for the 2006 Session of the
14 General Assembly and shall be shown in comparison to the use of the current formula.

15
16 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

17 **UNC-NCCCS 2+2 E-LEARNING INITIATIVE**

18 **SECTION 9.5.** Funds appropriated in this act to The University of North
19 Carolina and the North Carolina Community College System for the UNC-NCCCS 2+2
20 E-Learning Initiative shall be used to fund further development of online courses for
21 2+2 programs. Based on a mutually agreed upon decision by the State Board of
22 Education Chairman, the President of the North Carolina Community College System,
23 and the President of The University of North Carolina as to the areas of greatest need,
24 funds are available to support joint technology development, systems to track student
25 progress and articulation between a North Carolina community college and a University
26 of North Carolina campus, and to develop technology to support online courses and 2+2
27 programs.

28
29 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

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

31 **SECTION 9.6.(a)** There is appropriated from the Escheat Fund income to
32 the Board of Governors of The University of North Carolina the sum of sixty-seven
33 million two hundred forty-eight thousand sixteen dollars (\$67,248,016) for fiscal year
34 2005-2006 and the sum of sixty-seven million six hundred thirty-eight thousand sixteen
35 dollars (\$67,638,016) for fiscal year 2006-2007; and to the State Board of Community
36 Colleges the sum of thirteen million nine hundred eighty-one thousand two hundred two
37 dollars (\$13,981,202) for fiscal year 2005-2006 and the sum of thirteen million nine
38 hundred eighty-one thousand two hundred two dollars (\$13,981,202) for fiscal year
39 2006-2007. These funds shall be allocated by the North Carolina State Educational
40 Assistance Authority (SEAA) for need-based student financial aid in accordance with
41 G.S. 116B-7.

42 The SEAA shall perform all of the administrative functions necessary to
43 implement this program of financial aid. The SEAA shall conduct periodic evaluations
44 of expenditures of the Scholarship Programs to determine if allocations are utilized to
45 ensure access to institutions of higher learning and to meet the goals of the respective
46 programs. The SEAA may make recommendations for redistribution of funds to The
47 University of North Carolina and the President of the Community College System
48 regarding their respective scholarship programs, who then may authorize redistribution
49 of unutilized funds for a particular fiscal year.

50 **SECTION 9.6.(b)** There is appropriated from the Escheat Fund to the Board
51 of Governors of The University of North Carolina the sum of seven hundred eighty
52 thousand dollars (\$780,000) for the 2005-2006 fiscal year and the sum of one million
53 one hundred seventy thousand dollars (\$1,170,000) for the 2006-2007 fiscal year to be
54 allocated to the SEAA for need-based student financial aid to be used in accordance
55 with G.S. 116B-7 and this act. The SEAA shall use these funds only to provide

1 scholarship loans (known as the Millennium Teaching Scholarship Loan Program) to
2 North Carolina high school seniors interested in preparing to teach in the State's public
3 schools who also enroll at any of the Historically Black Colleges and Universities that
4 do not have Teaching Fellows. An allocation of 20 grants of six thousand five hundred
5 dollars (\$6,500) each shall be given to the three universities without any Teaching
6 Fellows for the purposes specified in this subsection.

7 The SEAA shall administer these funds and shall establish any additional
8 criteria needed to award these scholarship loans, the conditions for forgiving the loans,
9 and the collection of the loan repayments when necessary.

10 **SECTION 9.6.(c)** If the interest income generated from the Escheat Fund is
11 insufficient to pay the appropriations made in subsections (a) and (b) of this section, the
12 difference may be taken from the Escheat Fund principal to reach the appropriations
13 referenced in this section; however, under no circumstances shall the Escheat Fund
14 principal be reduced below the sum of four hundred million dollars (\$400,000,000).

15 **SECTION 9.6.(d)** All obligations to students for uses of the funds set out in
16 sections that were made before the date this act becomes law shall be fulfilled as to
17 students who remain eligible under the provisions of the respective programs.

18
19 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

20 **STUDY OF DISTANCE EDUCATION**

21 **SECTION 9.7.** The Office of State Budget and Management shall conduct a
22 study to identify and analyze the distance education programs at the institutions in the
23 University System. The study shall identify any duplication in course and program
24 offerings, leader courses and programs at campuses in a particular area of study, the cost
25 of developing online courses, and determine which campuses are best suited to offer a
26 particular course or program of study. The findings of the study shall be reported to the
27 Joint Legislative Education Oversight Committee no later than April 30, 2006.

28
29 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

30 **INFORMATION TECHNOLOGY PROCUREMENT**

31 **SECTION 9.8.** For purposes of purchasing hardware, software licenses, and
32 multiyear maintenance agreements, The University of North Carolina and its constituent
33 institutions may participate in the aggregation of purchasing administered by the Office
34 of State Technology Services, as defined in G.S. 147-33.72F. The Office of State
35 Budget and Management shall conduct a cost comparison study of hardware, software
36 license, and multiyear maintenance agreement purchases made by The University of
37 North Carolina and its constituent institutions and by the Office of State Technology
38 Services, to determine if further aggregation is cost-justified. The Study shall also
39 include an analysis of aggregated purchases by the University System and the effect of
40 educational discounts available to the University System. The report of comparative
41 unit costs shall be completed by December 31, 2005.

42
43 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

44 **BOARD OF GOVERNORS' DENTAL SCHOLARSHIPS**

45 **SECTION 9.9.(a)** The current Board of Governors' Dental Scholarship
46 Program, under the purview of the Board of Governors of The University of North
47 Carolina, shall make any awards to students admitted after July 1, 2005, as scholarship
48 loan awards. The Board of Governors' Dental Scholarship Program is administered by
49 the Board of Governors of The University of North Carolina. The Board of Governors'
50 Dental Scholarship Program shall be used to provide a four-year scholarship loan of
51 relevant tuition and fees, mandatory medical insurance, required laptop computers for
52 first-year students, required dental equipment, and an annual payment of five thousand
53 dollars (\$5,000) per year to students who have been accepted for admission to the
54 School of Dentistry at the University of North Carolina at Chapel Hill. The Board may
55 adopt standards, including minimum grade point average and SAT scores, for awarding

1 these scholarship loans to ensure that only the most qualified students receive them.
2 The Board shall make an effort to identify and encourage minority and economically
3 disadvantaged youth to enter the program. All scholarship loans shall be evidenced by
4 notes made payable to the Board that shall bear interest at the rate of ten percent (10%)
5 per year beginning September 1 after completion of the program, or immediately after
6 termination of the scholarship loan, whichever is earlier. The scholarship loan may be
7 terminated by the recipient withdrawing from school or by the recipient not meeting the
8 standards set by the Board. The Board shall forgive the loan if, within seven years after
9 graduation, the recipient practices dentistry in North Carolina for four years. The Board
10 shall also forgive the loan if it finds that it is impossible for the recipient to practice
11 medicine in North Carolina for four years, within seven years after graduation, because
12 of the death or permanent disability of the recipient. All unused funds appropriated to
13 or otherwise received by the Board for scholarships, all funds received as repayment of
14 scholarship loans, and all interest earned on these funds shall revert to the General Fund
15 at the end of each fiscal year.

16 **SECTION 9.9.(b)** Any dental scholarship awarded prior to July 1, 2005,
17 shall remain a scholarship and shall not be converted to a scholarship loan unless the
18 recipient agrees to the conversion.
19

20 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

21 **BOARD OF GOVERNORS' MEDICAL SCHOLARSHIPS**

22 **SECTION 9.10.(a)** The current Board of Governors' Medical Scholarship
23 Program, under the purview of the Board of Governors of The University of North
24 Carolina, shall make any awards to students admitted after July 1, 2005, as scholarship
25 loan awards. The Board of Governors' Medical Scholarship Program is administered by
26 the Board of Governors of The University of North Carolina. The Board of Governors'
27 Medical Scholarship Program shall be used to provide a four-year scholarship loan of
28 relevant tuition and fees, mandatory medical insurance, required laptop computers, and
29 an annual payment of five thousand dollars (\$5,000) per year to students who have been
30 accepted for admission to either Duke University School of Medicine, Brody School of
31 Medicine at East Carolina University, the University of North Carolina at Chapel Hill
32 School of Medicine, or the Wake Forest University School of Medicine. The Board may
33 adopt standards, including minimum grade point average and SAT scores, for awarding
34 these scholarship loans to ensure that only the most qualified students receive them. The
35 Board shall make an effort to identify and encourage minority and economically
36 disadvantaged youth to enter the program. All scholarship loans shall be evidenced by
37 notes made payable to the Board that shall bear interest at the rate of ten percent (10%)
38 per year beginning September 1 after completion of the program, or immediately after
39 termination of the scholarship loan, whichever is earlier. The scholarship loan may be
40 terminated by the recipient withdrawing from school or by the recipient not meeting the
41 standards set by the Board. The Board shall forgive the loan if, within seven years after
42 graduation, the recipient practices medicine in North Carolina for four years. The Board
43 shall also forgive the loan if it finds that it is impossible for the recipient to practice
44 medicine in North Carolina for four years, within seven years after graduation, because
45 of the death or permanent disability of the recipient. All unused funds appropriated to or
46 otherwise received by the Board for scholarships, all funds received as repayment of
47 scholarship loans, and all interest earned on these funds, shall revert to the General Fund
48 at the end of each fiscal year.

49 **SECTION 9.10.(b)** Any medical scholarship awarded prior to July 1, 2005,
50 shall remain a scholarship and shall not be converted to a scholarship loan unless the
51 recipient agrees to the conversion.
52

53 Requested by: Senators Swindell, Lucas, Garrou, Dalton, Hagan

54 **TEACHER SCHOLARSHIPS FUNDS**

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

3 **"§ 116-209.38. Future Teachers of North Carolina Scholarship Loan Fund.**

4 (a) There is established the Future Teachers of North Carolina Scholarship Loan
5 Fund. The purpose of the Fund is to provide a two-year scholarship loan of six thousand
6 five hundred dollars (\$6,500) per year for any North Carolina student pursuing a college
7 degree to teach in the public schools of the State. The scholarship loan shall be paid
8 only for the student's junior and senior years. The scholarship loan is available if the
9 student is enrolled in a State institution of higher education or a private institution of
10 higher education located in this State that has an accredited teacher preparation program
11 for students planning to become certified teachers in North Carolina. The State
12 Education Assistance Authority shall administer the Fund and shall award 100
13 scholarship loans annually.

14 (b) The Board of Governors of The University of North Carolina, in consultation
15 with the State Board of Education and the State Board of Community Colleges, shall
16 develop the criteria for awarding the scholarship loans under this section and shall adopt
17 very stringent standards for awarding these scholarship loans to ensure that only the best
18 students receive them. Additional criteria for awarding a scholarship loan under this
19 section shall include all of the following:

20 (1) The student is one who either: (i) maintained a "B" or better average in
21 college and is enrolled as a junior or senior in a teacher preparation
22 program at any of the institutions described by subsection (a) of this
23 section; or (ii) completed a college transfer curriculum at a community
24 college in the State's community college system, maintained a "B" or
25 better average in the community college courses, and is accepted and
26 enrolled in a teacher preparation program at one of the institutions
27 described by subsection (a) of this section.

28 (2) The student agrees to become certified in math, science, special
29 education, or English as a Second Language and teach full-time in that
30 subject area in a North Carolina public school for three years within
31 four years after graduation.

32 (3) Any additional criteria that the Board of Governors of The University
33 of North Carolina, in consultation with the State Board of Education
34 and the State Board of Community Colleges, considers necessary to
35 administer the Fund effectively.

36 (c) If a student who is awarded a scholarship loan under this section fails to
37 comply with the provisions of this section or the terms of the agreement awarding the
38 scholarship loan, then the student shall repay the full amount of the scholarship loan
39 provided to the student and the appropriate amount of interest as determined by the
40 State Education Assistance Authority.

41 (d) The Board of Governors of The University of North Carolina, the State Board
42 of Education, and the State Board of Community Colleges shall: (i) prepare a clear
43 written explanation of the Future Teachers of North Carolina Scholarship Fund and the
44 information regarding the availability and criteria for awarding the scholarship loans,
45 and (ii) shall provide that information to the appropriate counselors in each local school
46 system and the appropriate institutions of higher education and shall charge those
47 counselors to inform students about the scholarship loans and to encourage them to
48 apply for the scholarship loans.

49 (e) The Board of Governors of The University of North Carolina shall adopt
50 rules to implement this section.

51 (f) The Board of Governors of The University of North Carolina shall report to
52 the Joint Legislative Education Oversight Committee by March 1 each year regarding
53 the Fund and scholarship loans awarded from the Fund."

54 **SECTION 9.11.(b)** Of the funds appropriated in this act to the State
55 Education Assistance Authority the sum of six hundred fifty thousand dollars

1 (\$650,000) for the 2005-2006 fiscal year and the sum of one million three hundred
2 thousand dollars (\$1,300,000) for the 2006-2007 fiscal year shall be used to implement
3 this act.
4

5 Requested by: Senators Lucas, Swindell, Nesbitt, Garrou, Dalton, Hagan

6 **UNC-ASHEVILLE RETAIN SALE PROCEEDS**

7 **SECTION 9.12.** Notwithstanding any other provision of law, the University
8 of North Carolina at Asheville may retain the proceeds from the sale of its existing
9 chancellor's residence and appurtenant land. The University of North Carolina at
10 Asheville may use the proceeds from the sale of its existing chancellor's residence and
11 the appurtenant land to construct or otherwise acquire a new chancellor's residence.
12 Proceeds from the sale not used for that purpose within two fiscal years of the sale shall
13 revert to the General Fund.
14

15 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

16 **UNC BOND PROJECT MODIFICATIONS**

17 **SECTION 9.13.(a)** Pursuant to Section 2(b) of S.L. 2000-3, the General
18 Assembly finds that it is in the best interest of the State to respond to current
19 educational and research program requirements at Elizabeth City State University by
20 changing the scope of "Mitchell-Lewis Residence Hall-Comprehensive Renovation" to
21 be a replacement project instead of a renovation. Section 2(a) of S.L. 2000-3 is therefore
22 amended in the portion under Elizabeth City State University by replacing "Mitchell
23 Lewis Residence Hall-Comprehensive Renovation" with "Mitchell Lewis Residence
24 Hall-Replacement."

25 **SECTION 9.13.(b)** Pursuant to Section 2(b) of S.L. 2000-3, the General
26 Assembly finds that it is in the best interest of the State to respond to current
27 educational and research program requirements at North Carolina Central University by
28 the cancellation of "Latham Residence Hall-Comprehensive Renovation". The unused
29 monies from "Latham Residence Hall-Comprehensive Renovation," should be
30 transferred to "Eagleson Residence Hall-Comprehensive Renovation". Section 2(a) of
31 S.L. 2000-3 is therefore amended in the portion under North Carolina Central
32 University by reducing the money allocated to "Latham Residence Hall-Comprehensive
33 Renovation" by reducing that amount by two million three hundred seventy-three
34 thousand four hundred fifty-seven dollars (\$2,373,457) to a total of one million
35 thirty-eight thousand one hundred forty-three dollars (\$1,038,143) and by increasing the
36 allocation to "Eagleson Residence Hall-Comprehensive Renovation" by two million
37 three hundred seventy-three thousand four hundred fifty-seven dollars (\$2,373,457) to
38 create a total allocation of nine million two hundred forty-two thousand nine hundred
39 fifty-seven dollars (\$9,242,957).

40 **SECTION 9.13.(c)** Pursuant to Section 2(b) of S.L. 2000-3, the General
41 Assembly finds that it is in the best interest of the State to respond to current
42 educational and research program requirements at the University of North Carolina at
43 Wilmington by the cancellation of "King Hall Classroom Building-Comprehensive
44 Renovation", and by transferring the unused funds to the following projects listed under
45 the portion entitled University of North Carolina at Wilmington: "Academic &
46 Classroom Facilities," "General Classroom Bldg," "Hinton James Hall Classroom Bldg.
47 – Comprehensive Renovation," "Friday Hall Laboratory Bldg. – Comprehensive
48 Renovation," "Kenan Auditorium – Comprehensive Renovation." Section 2(a) of S.L.
49 2000-3 is therefore amended in the portion under the University of North Carolina at
50 Wilmington by:

- 51 (1) Reducing the allocation to "King Hall Classroom Building –
52 Comprehensive Renovation" by three million one hundred sixty-eight
53 thousand six hundred eighty-nine dollars (\$3,168,689) to create a total
54 allocation of three hundred fifty-eight thousand seven hundred eleven
55 dollars (\$358,711).

- 1 (2) Increasing the allocation to "General Classroom Building" by six
 2 hundred seventy-nine thousand seven hundred seventy-eight dollars
 3 (\$679,778) to create a total allocation of thirteen million three hundred
 4 twenty-six thousand seven hundred seventy-eight dollars
 5 (\$13,326,778).
 6 (3) Increasing the allocation to "Academic & Classroom Facilities" by
 7 nine hundred ninety-one thousand one hundred twenty-three dollars
 8 (\$991,123) to create a total allocation of thirty-four million
 9 twenty-three thousand two hundred twenty-three dollars
 10 (\$34,023,223).
 11 (4) Increasing the allocation to "Hinton James Hall Classroom Building –
 12 Comprehensive Renovation" by one hundred seventy-six thousand six
 13 hundred nine dollars (\$176,609) to create a total allocation of two
 14 million eight hundred six thousand five hundred sixty-one dollars
 15 (\$2,806,561).
 16 (5) Increasing the allocation to "Kenan Auditorium – Comprehensive
 17 Renovation" by one hundred fifty-one thousand seven hundred
 18 forty-nine dollars (\$151,749) to create a total allocation of two million
 19 seventy-three thousand seven hundred twenty-four dollars
 20 (\$2,073,724).
 21 (6) Increasing the allocation to "Friday Hall Laboratory Building –
 22 Comprehensive Renovation" by one million one hundred sixty-nine
 23 thousand four hundred thirty dollars (\$1,169,430) to create a total
 24 allocation of eight million eight hundred sixty-two thousand eight
 25 hundred thirty dollars (\$8,862,830).

26 **SECTION 9.13.(d)** Pursuant to Section 2(b) of S.L. 2000-3, the General
 27 Assembly finds that it is in the best interest of the State to respond to current
 28 educational and research program requirements at the University of North Carolina at
 29 Pembroke by the cancellation of "West Residence Hall – Comprehensive Renovation"
 30 and by transferring the unused funds to a new project, "North and Belk Residence
 31 Halls–Fire Safety Improvements and Renovations" and by the cancellation of
 32 "Campuswide Infrastructure Improvements" and by transferring those unused funds to a
 33 new project, "Biotechnology Teaching Labs and Classroom Building". Section 2(a) of
 34 S.L. 2000-3 is therefore amended in the portion under University of North Carolina at
 35 Pembroke by:

- 36 (1) Reducing the allocation to "West Residence Hall – Comprehensive
 37 Renovation" by eight hundred seventy-nine thousand three hundred
 38 dollars (\$879,300) to a total allocation of ninety-eight thousand dollars
 39 (\$98,000).
 40 (2) Reducing the allocation to "Campuswide Infrastructure
 41 Improvements" by one million seven hundred thirty thousand three
 42 hundred eighty-two dollars (\$1,730,382) to a total allocation of two
 43 hundred sixty-six thousand two hundred eighteen dollars (\$266,218).
 44 (3) Adding a new project entitled "North and Belk Residence Halls – Fire
 45 Safety Improvements and Renovations \$879,300".
 46 (4) Adding a new project entitled "Biotechnology Teaching Labs and
 47 Classroom Building \$1,730,382".

48 **SECTION 9.13.(e)** Nothing in this section is intended to supersede any other
 49 requirement of law or policy for approval of the substituted capital improvement
 50 projects.
 51

52 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan
 53 **AMEND NC SCHOOL OF SCIENCE AND MATH TUITION GRANT**
 54 **SECTION 9.14.(a)** G.S. 116-238.1(f) reads as rewritten:

1 (f) Notwithstanding any other provision of this section, no tuition grant awarded
2 to a student under this section shall exceed the cost of ~~tuition of attendance~~ at the
3 constituent institution at which the student is enrolled. If a student, who is eligible for a
4 tuition grant under this subsection, also receives a scholarship or other grant covering
5 the cost of ~~tuition attendance~~ at the constituent institution for which the tuition grant is
6 awarded, then the amount of the tuition grant shall be reduced by an appropriate amount
7 determined by the State Education Assistance Authority. The State Education
8 Assistance Authority shall reduce the amount of the tuition grant so that the sum of all
9 grants and scholarship aid covering the cost of ~~tuition attendance~~ received by the
10 student, including the tuition grant under this section, shall not exceed the cost of ~~tuition~~
11 attendance for the constituent institution at which the student is enrolled. The cost of
12 attendance, as used in this subsection, shall be determined by the State Education
13 Assistance Authority for each constituent institution."

14 **SECTION 9.14.(b)** This section applies to any eligible student who is
15 enrolled full-time in The University of North Carolina after July 1, 2005.

16
17 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

18 **UNC-CHAPEL HILL CONTINUE TO OPERATE HORACE WILLIAMS**
19 **AIRPORT**

20 **SECTION 9.15.** The University of North Carolina at Chapel Hill shall
21 operate the Horace Williams Airport and continue air transportation support for the
22 Area Health Education Centers (AHEC) and the public from that location until AHEC's
23 Medical Air Operations have access to, or utilize, the Raleigh-Durham International
24 Airport (RDU) on a basis sufficient to serve adequately the needs of patients,
25 physicians, and passengers associated with AHEC's statewide programs and activities.
26 At that time, the University of North Carolina at Chapel Hill may close the Horace
27 Williams Airport.

28
29 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

30 **NORTH CAROLINA AGRICULTURAL AND TECHNICAL STATE**
31 **UNIVERSITY FUNDS**

32 **SECTION 9.16.** Of the funds appropriated by this act to the Board of
33 Governors of The University of North Carolina for the 2005-2006 fiscal year the sum of
34 one million eighty-eight thousand nine hundred forty-one dollars (\$1,088,941) shall be
35 allocated to North Carolina Agricultural and Technical State University for agricultural
36 and research extension programs. It is the intent of the General Assembly to fully fund
37 these programs for the 2006-2007 fiscal year.

38
39 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

40 **TRANSFER PROSPECTIVE TEACHER SCHOLARSHIP LOAN AND**
41 **TEACHER ASSISTANT SCHOLARSHIP LOAN TO THE NC STATE**
42 **EDUCATION ASSISTANCE AUTHORITY**

43 **SECTION 9.17.(a)** The Scholarship Loan Fund for Prospective Teachers is
44 transferred from the Department of Public Instruction to the State Education Assistance
45 Authority. This transfer shall have all of the elements of a Type I transfer, as defined in
46 G.S. 143A-6.

47 **SECTION 9.17.(b)** G.S. 115C-468 is recodified as G.S. 116-209.33.
48 G.S. 115C-469, 115C-470, and 115C-472.1 are repealed. G.S. 115C-471 is recodified as
49 G.S. 116-209.34.

50 **SECTION 9.17.(c)** G.S. 115C-468 recodified by subsection (b) of this
51 section as G.S. 116-209.33 reads as rewritten:

52 **"§ 116-209.33. ~~Establishment of fund.~~ Scholarship Loan Fund for Prospective**
53 **Teachers.**

54 (a) There is established a revolving fund known as the "Scholarship Loan Fund
55 for Prospective Teachers". The purpose of the Fund is to provide scholarship loans to

1 qualified individuals who are pursuing college degrees to become teachers. The State
2 Education Assistance Authority shall administer the Fund.

3 (b) Criteria—The State Education Assistance Authority, in consultation with the
4 State Board of Education, shall develop criteria for awarding scholarship loans from the
5 fund shall include measures—the Fund. These criteria shall include:

6 (1) Measures of academic performance including grade point averages,
7 scores on standardized tests, class rank, and recommendations of
8 guidance counselors and principals.

9 (2) North Carolina residency. – For purposes of this section, residency
10 shall be determined by the same standard as residency for tuition
11 purposes pursuant to G.S. 116-143.1.

12 (3) The geographic areas or subjects of instruction in which the demand
13 for teachers is greatest.

14 (4) To the extent practical, an equal number of scholarships shall be
15 awarded in each of the State's Congressional Districts.

16 (5) Any additional criteria that the State Education Assistance Authority
17 considers necessary to administer the Fund effectively, including the
18 following:

19 a. Consideration of the appropriate numbers of minority applicants
20 and applicants from diverse socioeconomic backgrounds to
21 receive scholarships pursuant to this section.

22 b. Consideration of the commitment an individual applying to
23 receive funds demonstrates to the profession of teaching.

24 (c) The Superintendent of Public Instruction—State Education Assistance
25 Authority may earmark each year up to twenty percent (20%) of the funds available for
26 scholarship loans each year under this section for awards to applicants who have been
27 employed for at least one year as teacher assistants and who are currently employed as
28 teacher assistants. Preference for these scholarship loans from funds earmarked for
29 teacher assistants shall be given first to applicants who worked as teacher assistants for
30 at least five years and whose positions as teacher assistants were abolished and then to
31 applicants who already hold a baccalaureate degree or who have already been formally
32 admitted to an approved teacher education program in North Carolina. The criteria for
33 awarding scholarship loans to applicants who worked as teacher assistants for at least
34 five years and whose positions as teacher assistants were abolished shall include
35 whether the teacher assistant has been admitted to an approved teacher education
36 program in North Carolina for the Teacher Assistant Scholarship Fund established in
37 G.S. 116-209.35.

38 The Superintendent of Public Instruction may further earmark a portion of these
39 funds each year for two year awards to applicants who have been employed for at least
40 one year as teacher assistants to attend community colleges to get other skills of use in
41 public schools or to get an early childhood associate degree. The provisions of this
42 Article shall apply to these scholarship loans except that a recipient of one of these
43 scholarship loans may receive credit upon the amount due by reason of the loan as
44 provided in G.S. 115C-471(5) or by working in a nonteaching position in the North
45 Carolina public schools or by working in a licensed child care center in North Carolina."

46 **SECTION 9.17.(d)** G.S. 115C-471 recodified by subsection (b) of this
47 section as G.S. 116-209.34 reads as rewritten:

48 **"§ 116-209.34. Fund administered by State Superintendent of Public Instruction;**
49 **rules and regulations, State Education Assistance Authority; rule-making**
50 **authority.**

51 (a) The Scholarship Loan Fund for Prospective Teachers shall be administered
52 by the State Superintendent of Public Instruction, under rules adopted by the State
53 Board of Education and subject to the following directions and limitations: The State
54 Education Assistance Authority shall establish the terms and conditions for the
55 scholarship loans consistent with the following:

- 1 (1) ~~Any resident of North Carolina who is interested in preparing to teach~~
2 ~~in the public schools of the State may apply in writing to the State~~
3 ~~Superintendent of Public Instruction for a regular scholarship loan in~~
4 ~~the amount of not more than two thousand five hundred dollars~~
5 ~~(\$2,500) per academic school year. An applicant who has been~~
6 ~~employed for at least one year as a teacher assistant and who is~~
7 ~~currently employed as a teacher assistant may apply for a scholarship~~
8 ~~loan from funds earmarked for teacher assistants in the amount of not~~
9 ~~more than one thousand two hundred dollars (\$1,200) per academic~~
10 ~~school year. The loan amount shall be not more than four thousand~~
11 ~~dollars (\$4,000) per academic school year for a maximum of four~~
12 ~~years for applicants who are pursuing a college degree to become a~~
13 ~~teacher.~~
- 14 (2) ~~All scholarship loans shall be evidenced by notes made payable to the~~
15 ~~State Board of Education Authority that bear interest at the rate of ten~~
16 ~~percent (10%) per annum from and after September 1 following~~
17 ~~fulfillment by a prospective teacher of the requirements for a~~
18 ~~certificate based upon the entry level degree; or in the case of persons~~
19 ~~already teaching in the public schools who obtain scholarship loans,~~
20 ~~the notes shall bear interest at the prescribed rate from and after~~
21 ~~September 1 of the school year beginning immediately after the use of~~
22 ~~the scholarship loans; or in the event any such scholarship is~~
23 ~~terminated under the provisions of subdivision (3) of this section, the~~
24 ~~notes shall bear interest from the date of termination. A minor~~
25 ~~recipient who signs a note shall also obtain the endorsement thereon by~~
26 ~~a parent, if there be a living parent, unless the endorsement is waived~~
27 ~~by the Superintendent of Public Instruction. The minor recipient shall~~
28 ~~be obligated upon the note as fully as if the recipient were of age and~~
29 ~~shall not be permitted to plead such minority as a defense in order to~~
30 ~~avoid the obligations undertaken upon the notes. year, beginning~~
31 ~~September 1 after graduation, or immediately after termination of the~~
32 ~~scholarship loan, whichever is earlier.~~
- 33 (3) ~~Each recipient of a scholarship loan under the provisions of this~~
34 ~~program shall be eligible for scholarship loans each year until the~~
35 ~~recipient has qualified for a certificate based upon the entry level~~
36 ~~degree, but the recipient shall not be so eligible for more than the~~
37 ~~minimum number of years normally required for qualifying for the~~
38 ~~certificate. The permanent withdrawal of any recipient from college or~~
39 ~~failure of the recipient to do college work in a manner acceptable to~~
40 ~~the State Superintendent of Public Instruction shall immediately forfeit~~
41 ~~the recipient's right to retain the scholarship and subject the~~
42 ~~scholarship to termination by the State Superintendent of Public~~
43 ~~Instruction in the Superintendent's discretion. A scholarship loan shall~~
44 ~~be terminated upon the recipient's withdrawing from school or a~~
45 ~~finding by the Authority that the recipient fails to meet the standards~~
46 ~~set by the Authority. All terminated scholarships shall be regarded as~~
47 ~~vacant and subject to being awarded to other eligible persons.~~
- 48 (4) ~~Except under emergency conditions applicable to the State~~
49 ~~Superintendent of Public Instruction, recipients of scholarship loans~~
50 ~~shall enter the public school system of North Carolina at the beginning~~
51 ~~of the next school term after qualifying for a certificate based upon the~~
52 ~~entry level degree or, in case of persons already teaching in the public~~
53 ~~schools, at the beginning of the next school term after the use of the~~
54 ~~loan. All teaching service for which the recipient of any scholarship~~

1 loan is obligated shall be rendered by August 31 of the seventh school
2 year following graduation.

3 ~~(5)(4)~~ For each full school year taught in a North Carolina public school, the
4 recipient of a scholarship loan shall receive credit upon the amount due
5 by reason of the loan equal to the loan amount for a school year as
6 provided in the note plus credit for the total interest accrued on that
7 amount. Also, the recipient of the loan shall receive credit upon the
8 total amount due by reason of all four years of the loan if the recipient
9 teaches for three consecutive years. The Authority shall forgive a
10 four-year loan if, within seven years after graduation, the recipient
11 teaches for four years at a North Carolina public school or at a school
12 operated by the United States government in North Carolina. The
13 Authority shall also forgive a four-year loan if, within seven years
14 after graduation, the recipient teaches for three consecutive years, or
15 for three years interrupted only by an approved leave of absence, at a
16 North Carolina public school that is in a low-performing school system
17 or a school system on warning status at the time the recipient accepts
18 employment with the local school administrative unit. In lieu of
19 teaching in the public school, a recipient may elect to pay in cash the
20 full amount of scholarship loans received plus interest then due
21 thereon or any part thereof that has not been canceled by the State
22 Board of Education by reason of teaching service rendered. For loans
23 of less than four years, the Authority shall forgive one year for each
24 year the recipient teaches, within four years of graduation, at a North
25 Carolina public school or a school operated by the United States
26 government in North Carolina.

27 ~~(6)(5)~~ If any recipient of a scholarship loan dies during the period of
28 attendance at a college or university under a scholarship loan or before
29 the scholarship loan is satisfied by payment or teaching service, any
30 balance shall be automatically canceled.

31 If any recipient of a scholarship loan fails to fulfill the recipient's
32 obligations under subdivision (4) of this section, other than as
33 provided above, the amount of the loan and accrued interest, if any,
34 shall be due and payable from the time of failure to fulfill the
35 recipient's obligations. The Authority may forgive or reduce any loan
36 payment if the Authority considers that extenuating circumstances
37 exist that would make teaching or repayment impossible.

38 ~~(7)(6)~~ The State Superintendent of Public Instruction shall award scholarship
39 loans with due consideration to factors and circumstances such as
40 aptitude, purposefulness, scholarship, character, financial need, and
41 geographic areas or subjects of instruction in which the demands for
42 teachers are greatest. Since the primary purpose of this Article is to
43 attract worthy young people to the teaching profession, preference for
44 scholarship loans, except for the scholarship loans from funds
45 earmarked for teacher assistants, shall be given to high school seniors
46 in the awarding of scholarships. In awarding scholarship loans from
47 funds earmarked for teacher assistants, preference shall be given to
48 applicants who have already earned a baccalaureate degree or who
49 have been formally admitted to an approved teacher education
50 program in North Carolina. The Authority shall ensure that all
51 repayments, including the accrued interest, are placed in the Fund.

52 (b) The State Education Assistance Authority, in consultation with the State
53 Board of Education, shall adopt rules to implement G.S. 116-209.33, 116-209.34, and
54 116-209.35."

1 **SECTION 9.17.(e)** This section becomes effective January 1, 2006, and
2 applies to scholarship loans awarded on or after that date.

3
4 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan
5 **UNIVERSITY SYSTEM AND COMMUNITY COLLEGE SYSTEM JOINT**
6 **STUDY OF HIGHER EDUCATION STRATEGY/AMEND REPORTING**
7 **REQUIREMENT**

8 **SECTION 9.18.** Section 6.2 of S.L. 2004-179 reads as rewritten:

9 **"SECTION 6.2.** These studies shall be designed to provide information and
10 recommendations that will assist the General Assembly in setting priorities for funding
11 to address the strategic higher education needs of the State. The Board of Governors, the
12 State Board, and their consultant shall periodically report their findings to a higher
13 education programming subcommittee of the Joint Legislative Education Oversight
14 Committee. The two boards and their consultant shall report the preliminary results of
15 the study to the General Assembly and to the Joint Legislative Education Oversight
16 Committee by ~~April 15, 2005, June 15, 2005,~~ and shall file a final report and
17 recommendations with the General Assembly and the Joint Legislative Education
18 Oversight Committee no later than ~~December 31, 2005.~~ December 31, 2006."

19
20 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan
21 **UNC RESEARCH INSTITUTIONS MAY INCREASE TUITION**

22 **SECTION 9.19.(a)** G.S. 116-143 reads as rewritten:

23 **"§ 116-143. State-supported institutions of higher education required to charge**
24 **tuition and fees.**

25 ~~The Except as provided in G.S. 116-143.6, the~~ Board of Governors of the University
26 of North Carolina shall fix the tuition and fees, not inconsistent with actions of the
27 General Assembly, at the institutions enumerated in G.S. 116-4 in such amount or
28 amounts as it may deem best, taking into consideration the nature of each institution and
29 program of study and the cost of equipment and maintenance; and each institution shall
30 charge and collect from each student, at the beginning of each semester or quarter,
31 tuition, fees, and an amount sufficient to pay other expenses for the term.

32 In the event that said students are unable to pay the cost of tuition and required
33 academic fees as the same may become due, in cash, the said several boards of trustees
34 are hereby authorized and empowered, in their discretion, to accept the obligation of the
35 student or students together with such collateral or security as they may deem necessary
36 and proper, it being the purpose of this Article that all students in State institutions of
37 higher learning shall be required to pay tuition, and that free tuition is hereby abolished.

38 Inasmuch as the giving of tuition and fee waivers, or especially reduced rates,
39 represent in effect a variety of scholarship awards, the said practice is hereby prohibited
40 except when expressly authorized by statute or by the Board of Governors of the
41 University of North Carolina; and, furthermore, it is hereby directed and required that
42 all budgeted funds expended for scholarships of any type must be clearly identified in
43 budget reports.

44 Notwithstanding the above provision relating to the abolition of free tuition, the
45 Board of Governors of the University of North Carolina may, in its discretion, provide
46 regulations under which a full-time faculty member of the rank of full-time instructor or
47 above, and any full-time staff member of the University of North Carolina may during
48 the period of normal employment enroll for not more than one course per semester in
49 the University of North Carolina free of charge for tuition, provided such enrollment
50 does not interfere with normal employment obligations and further provided that such
51 enrollments are not counted for the purpose of receiving general fund appropriations."

52 **SECTION 9.19.(b)** Article 14 of Chapter 116 of the General Statutes is
53 amended by adding a new section to read:

1 **"§ 116-143.6. Board of Trustees of a Doctoral/Research University-Extensive**
 2 **campus may increase tuition without approval of the Board of**
 3 **Governors.**

4 (a) Notwithstanding G.S. 116-11(7) and G.S. 116-143, the Board of Trustees of a
 5 constituent institution designated as a Doctoral/Research University-Extensive campus
 6 of The University of North Carolina may set undergraduate tuition for an academic
 7 year. In considering tuition, the Boards of Trustees shall take into account that
 8 undergraduate tuition for North Carolina residents shall remain affordable to ensure
 9 accessibility, as required by Section 9 of Article IX of the North Carolina Constitution,
 10 and shall take the appropriate steps to increase financial aid accordingly and to ensure
 11 that the annual undergraduate in-State tuition rate remains in the lowest quartile of that
 12 constituent institution's national public peers.

13 Any additional revenues derived from a tuition increase set under this section shall
 14 remain available for use on that campus and are in addition to the operating budgets
 15 approved by the General Assembly.

16 (b) If a Board of Trustees decides to increase tuition at a constituent institution,
 17 the institution shall notify the Board of Governors, the Office of State Budget and
 18 Management, and the Fiscal Research Division of the amount of increase, additional
 19 receipts anticipated, and the allocation of the funds among various programs in a format
 20 prescribed by the Board of Governors of The University of North Carolina."

21 **SECTION 9.19.(c)** This section applies to the 2005-2006 academic year and
 22 each subsequent academic year.
 23

24 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

25 **NC SPACE GRANT CONSORTIUM FUNDS**

26 **SECTION 9.20.** Funds appropriated by this act to the North Carolina Space
 27 Grant Consortium shall be allocated only to constituent institutions of The University of
 28 North Carolina participating in the Consortium; no funds shall be allocated to any
 29 private institution as defined by G.S. 116-15(a2) that participates in the Consortium.
 30

31 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

32 **DISTINGUISHED PROFESSORS ENDOWMENT TRUST FUND**

33 **SECTION 9.21.(a)** G.S. 116-41.15 reads as rewritten:

34 **"§ 116-41.15. Distinguished Professors Endowment Trust Fund; allocation;**
 35 **administration.**

36 (a) For constituent institutions other than focused growth institutions and special
 37 needs institutions, the amount appropriated to the trust shall be allocated by the Board
 38 as follows:

- 39 (1) On the basis of one three hundred thirty-four thousand dollar
 40 (\$334,000) challenge grant for each six hundred sixty-six thousand
 41 dollars (\$666,000) raised from private sources; or
- 42 (2) On the basis of one one hundred sixty-seven thousand dollar
 43 (\$167,000) challenge grant for each three hundred thirty-three
 44 thousand dollars (\$333,000) raised from private ~~sources~~; or
- 45 (3) On the basis of one challenge grant of up to six hundred sixty-seven
 46 thousand dollars (\$667,000) for funds raised from private sources in
 47 twice the amount of the challenge grant.

48 If an institution chooses to pursue the use of the allocated challenge grant funds
 49 described in either subdivision ~~(1) or (1)~~, subdivision ~~(2) (2)~~, or subdivision (3) of this
 50 subsection, the challenge grant funds shall be matched by funds from private sources on
 51 a two to one basis. ~~the basis of two dollars of private funds for every one dollar of State~~
 52 funds.

53 (b) For focused growth institutions and special needs institutions, the amount
 54 appropriated to the trust shall be allocated by the Board as follows:

- 1 (1) On the basis of one five hundred thousand dollar (\$500,000) challenge
 2 grant for each five hundred thousand dollars (\$500,000) raised from
 3 private sources; or
 4 (2) On the basis of one two hundred fifty thousand dollar (\$250,000)
 5 challenge grant for each two hundred fifty thousand dollars (\$250,000)
 6 raised from private sources; or
 7 (3) On the basis of one challenge grant of up to one million dollars
 8 (\$1,000,000) for funds raised from private sources in the same amount
 9 as the challenge grant.

10 If an institution chooses to pursue the use of the allocated challenge grant funds
 11 described in either subdivision ~~(1) or (1)~~, subdivision ~~(2)(2)~~, or subdivision (3) of this
 12 subsection, the challenge grant funds shall be matched by funds from private sources on
 13 a one-to-one basis; the basis of one dollar of private funds for every dollar of State
 14 funds.

15 (c) Matching funds shall come from contributions made after July 1, 1985, and
 16 pledged for the purposes specified by G.S. 116-41.14. Each participating constituent
 17 institution's board of trustees shall establish its own Distinguished Professors
 18 Endowment Trust Fund, and shall maintain it pursuant to the provision of G.S. 116-36
 19 to function as a depository for private contributions and for the State matching funds for
 20 the challenge grants. The State matching funds shall be transferred to the constituent
 21 institution's Endowment Fund upon notification that the institution has received and
 22 deposited the appropriate amount required by this section in its own Distinguished
 23 Professors Endowment Trust Fund. Only the net income from that account shall be
 24 expended in support of the distinguished professorship thereby created."

25 **SECTION 9.21.(b)** G.S. 116-41.16 reads as rewritten:

26 "**§ 116-41.16. Distinguished Professors Endowment Trust Fund; contribution**
 27 **commitments.**

28 (a) For constituent institutions other than focused growth institutions and special
 29 needs institutions, contributions may also be eligible for matching if there is:

- 30 (1) A commitment to make a donation of at least six hundred sixty-six
 31 thousand dollars (\$666,000), as prescribed by G.S. 143-31.4, and an
 32 initial payment of one hundred eleven thousand dollars (\$111,000) to
 33 receive a grant described in G.S. 116-41.15(a)(1); or
 34 (2) A commitment to make a donation of at least three hundred
 35 thirty-three thousand dollars (\$333,000), as prescribed by
 36 G.S. 143-31.4, and an initial payment of fifty-five thousand five
 37 hundred dollars (\$55,500) to receive a grant described in
 38 G.S. 116-41.15(a)~~(2);(2)~~; or
 39 (3) A commitment to make a donation in excess of six hundred sixty-six
 40 thousand dollars (\$666,000), as prescribed by G.S. 143-31.4, and an
 41 initial payment of one-sixth of the committed amount to receive a
 42 grant described in G.S. 116-41.15(a)(3);

43 and if the initial payment is accompanied by a written pledge to provide the balance
 44 within five years after the date of the initial payment. Each payment on the balance shall
 45 be no less than the amount of the initial payment and shall be made on or before the
 46 anniversary date of the initial payment. Pledged contributions may not be matched prior
 47 to the actual collection of the total funds. Once the income from the institution's
 48 Distinguished Professors Endowment Trust Fund can be effectively used pursuant to
 49 G.S. 116-41.17, the institution shall proceed to implement plans for establishing an
 50 endowed chair.

51 (b) For focused growth institutions and special needs institutions, contributions
 52 may also be eligible for matching if there is:

- 53 (1) A commitment to make a donation of at least five hundred thousand
 54 dollars (\$500,000), as prescribed by G.S. 143-31.4, and an initial

- 1 payment of eighty-three thousand three hundred dollars (\$83,300) to
 2 receive a grant described in G.S. 116-41.5(b)(1); or
 3 (2) A commitment to make a donation of at least two hundred fifty
 4 thousand dollars (\$250,000), as prescribed by G.S. 143-31.4, and an
 5 initial payment of forty-one thousand six hundred dollars (\$41,600) to
 6 receive a grant described in G.S. 116-41.15(b)(~~2~~);(2); or
 7 (3) A commitment to make a donation in excess of five hundred thousand
 8 dollars (\$500,000), as prescribed by G.S. 143-31.4, and an initial
 9 payment of one-sixth of the committed amount to receive a grant
 10 described in G.S. 116-41.15(b)(3);

11 and if the initial payment is accompanied by a written pledge to provide the balance
 12 within five years after the date of the initial payment. Each payment on the balance shall
 13 be no less than the amount of the initial payment. Pledged contributions may not be
 14 matched prior to the actual collection of the total funds. Once the income from the
 15 institution's Distinguished Professors Endowment Trust Fund can be effectively used
 16 pursuant to G.S. 116-41.17, the institution shall proceed to implement plans for
 17 establishing an endowed chair."

18 **SECTION 9.21.(c)** G.S. 116-41.17 reads as rewritten:

19 **"§ 116-41.17. Distinguished Professors Endowment Trust Fund; establishment of**
 20 **chairs.**

21 When the sum of the challenge grant and matching funds in the ~~Scholars'~~
 22 Distinguished Professors Endowment Trust Fund reaches:

- 23 (1) One million dollars (\$1,000,000), if the sum of funds described in
 24 ~~G.S. 116-41.15(1); or G.S. 116-41.15(a)(1) or G.S. 116-41.15(b)(1); or~~
 25 (2) Five hundred thousand dollars (\$500,000), if the sum of funds
 26 described in ~~G.S. 116-41.15(2);G.S. 116-41.15(a)(2) or~~
 27 G.S. 116-41.15(b)(2); or
 28 (3) An amount up to two million dollars (\$2,000,000), if the sum of funds
 29 described in G.S. 116-41.15(a)(3) or G.S. 116-41.15(b)(3);

30 the board of trustees may recommend to the Board, for its approval, the establishment of
 31 an endowed chair or chairs. The Board, in considering whether to approve the
 32 recommendation, shall include in its consideration the programs already existing in The
 33 University of North Carolina. If the Board approves the recommendation, the chair or
 34 chairs shall be established. The chair or chairs, the property of the constituent
 35 institution, may be named in honor of a donor, benefactor, or honoree of the institution,
 36 at the option of the board of trustees."
 37

38 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan
 39 **UNC MAY ENCOURAGE THE ESTABLISHMENT OF PRIVATE,**
 40 **NONPROFIT CORPORATIONS TO SUPPORT THE UNIVERSITY**
 41 **SYSTEM AND ASSIGN UNC EMPLOYEES TO ASSIST WITH THOSE**
 42 **CORPORATIONS**

43 **SECTION 9.22.** Article 1 of Chapter 116 of the General Statutes is amended
 44 by adding a new Part to read:

45 "Part 2B. Private, Nonprofit Corporations.

46 **"§ 116-30.20. Establishment of private, nonprofit corporations.**

47 The Board of Governors of The University of North Carolina shall encourage the
 48 establishment of private, nonprofit corporations to support the constituent institutions of
 49 The University of North Carolina and The University System. The President of The
 50 University of North Carolina and the chancellors of the constituent institutions may
 51 assign employees to assist with the establishment and operation of a nonprofit
 52 corporation and may make available to the corporation office space, equipment,
 53 supplies, and other related resources; provided, the sole purpose of the corporation is to
 54 support The University of North Carolina or one or more of its constituent institutions.

1 The board of directors of each such private, nonprofit corporation shall secure and
 2 pay for the services of The University System's internal auditors or employ a certified
 3 public accountant to conduct an audit of the financial accounts of the corporation. The
 4 board of directors shall transmit to the Board of Governors a copy of the annual
 5 financial audit report of the private, nonprofit corporation."
 6

7 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan
 8 **ELIMINATE REPORTING REQUIREMENT FOR SCHOOL**
 9 **ADMINISTRATOR TRAINING PROGRAMS**

10 **SECTION 9.23.** G.S. 116-74.21 reads as rewritten:

11 "**§ 116-74.21. Establishment of a competitive proposal process for school**
 12 **administrator programs.**

13 (a) The Board of Governors shall develop and implement a competitive proposal
 14 process and criteria for assessing proposals to establish school administrator training
 15 programs within the constituent institutions of The University of North Carolina. To
 16 facilitate the development of the programs, program criteria, and the proposal process,
 17 the Board of Governors may convene a panel of national school administrator program
 18 experts and other professional training program experts to assist it in designing the
 19 program, the proposal process, and criteria for assessing the proposals.

20 (b) No more than 12 school administrator programs shall be established under the
 21 competitive proposal program. In selecting campus sites, the Board of Governors shall
 22 be sensitive to the racial, cultural, and geographic diversity of the State. Special priority
 23 shall be given to the following factors: (i) the historical background of the institutions in
 24 training educators; (ii) the ability of the sites to serve the geographic regions of the
 25 State, such as, the far west, the west, the triad, the piedmont, and the east; and, (iii)
 26 whether the type of roads and terrain in a region make commuting difficult. A school
 27 administrator program may provide for instruction at one or more campus sites.

28 (c) The Board of Governors shall study the issue of supply and demand of school
 29 administrators to determine the number of school administrators to be trained in the
 30 programs in each year of ~~each biennium. The Board of Governors shall report the~~
 31 ~~results of this study to the Joint Legislative Education Oversight Committee no later~~
 32 ~~than March 1, 1994, and annually thereafter the biennium and report the results of this~~
 33 study to the Joint Legislative Education Oversight Committee no later than March 1
 34 annually.

35 (d) The Board of Governors shall develop a budget for the programs established
 36 under subsection (a) of this section that reflects the resources necessary to establish and
 37 operate school administrator programs that meet the vision of the report submitted to the
 38 1993 General Assembly by the Educational Leadership Task Force.

39 ~~(e) The Board of Governors shall report annually on the implementation of the~~
 40 ~~act no later than December 1 of each year."~~

41
 42 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan
 43 **CONTINUE ACADEMIC COMMON MARKET PROGRAM**

44 **SECTION 9.24.** Section 31.2 of S.L. 2001-424 reads as rewritten:

45 **"ACADEMIC COMMON MARKET PILOT PROGRAM**

46 **SECTION 31.2.(a)** The Southern Regional Education Board currently
 47 operates an Academic Common Market program. Under this program, qualified
 48 students from participating states may apply to attend programs at public universities in
 49 participating states that are not available in their home state's university system. North
 50 Carolina's participation for graduate programs would provide a cost-effective means of
 51 offering educational access for North Carolina residents. North Carolinians ~~would~~ will
 52 be able to attend graduate programs that are not available at The University of North
 53 Carolina at reduced rates, and the State would avoid the cost associated with the
 54 development of new academic programs.

1 **SECTION 31.2.(b)** The Board of Governors of The University of North
2 Carolina may ~~establish a pilot program for continue~~ participation in the Southern
3 Regional Education Board's Academic Common Market at the graduate program level.
4 The Board of Governors shall examine the graduate programs offered in The University
5 of North Carolina system and select for participation only those graduate programs that
6 are likely to be unique or are not commonly available in other Southern Regional
7 Education Board states. Out-of-state tuition shall be waived for students who are
8 residents of other Southern Regional Education Board states and who are participating
9 in the Academic Common Market program. If accepted into The University of North
10 Carolina graduate programs that are part of the Academic Common Market, these
11 students shall pay in-State tuition and shall be treated for all purposes of The University
12 of North Carolina as residents of North Carolina. ~~Prior to the beginning of this pilot, the~~
13 ~~Board of Governors shall submit its list of graduate programs selected to be a part of the~~
14 ~~pilot program to the Joint Legislative Education Oversight Committee.~~

15 **SECTION 31.2.(c)** ~~The pilot programs established under this section shall~~
16 ~~terminate July 1, 2005. However, once~~ Once a student is enrolled in The University of
17 North Carolina system under the Academic Common Market program, the student shall
18 be entitled to pay in-State tuition as long as the student is enrolled in that graduate
19 program. The Board of Governors shall ~~report the success of~~ provide a report on the
20 Academic Common Market program to the Joint Legislative Education Oversight
21 Committee by ~~December 31, 2003, and by January 31, 2005, and the Committee may~~
22 ~~recommend changes, if any are appropriate, to the pilot program at either of those~~
23 ~~times.~~ September 2007, and each biennium thereafter."

24
25 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

26 **TUITION WAIVER PROGRAM EXPANSION**

27 **SECTION 9.25.(a)** G.S. 116-143.1 is amended by adding a new subsection
28 to read:

29 "(m) Notwithstanding subsection (b) of this section, a person who is a full-time
30 employee of The University of North Carolina, or is the spouse or dependent child of a
31 full-time employee of The University of North Carolina, and who is a legal resident of
32 North Carolina, qualifies as a resident for tuition purposes without having maintained
33 that legal residence for at least 12 months immediately prior to his or her classification
34 as a resident for tuition purposes."

35 **SECTION 9.25.(b)** The Board of Governors of The University of North
36 Carolina and the State Board of Community Colleges shall study the feasibility of a
37 tuition waiver exchange program under which full-time employees of The University of
38 North Carolina would be allowed to take a specified number of courses at a community
39 college without paying tuition, and full-time employees of a community college would
40 be allowed to take a specified number of courses at a constituent institution of The
41 University of North Carolina without paying tuition. The Boards shall report the results
42 of this study to the Joint Legislative Education Oversight Committee by April 1, 2006.

43
44 Requested by: Senators Lucas, Swindell, Kerr, Jenkins, Garrou, Dalton, Hagan

45 **BRODY SCHOOL OF MEDICINE AT ECU/MEDICARE RECEIPTS/FAMILY**
46 **MEDICINE CENTER**

47 **SECTION 9.26.(a)** G.S. 116-36.6 reads as rewritten:

48 "**§ 116-36.6. Brody School of Medicine at East Carolina University School of**
49 **Medicine; University; Medicare receipts.**

50 The Brody School of Medicine at East Carolina University School of Medicine shall
51 request, on a regular basis consistent with the State's cash management plan, funds
52 earned by the School from Medicare reimbursements for education costs. Upon receipt,
53 these funds shall be allocated as follows:

- 54 (1) The portion of the Medicare reimbursement generated through the
55 effort and expense of the Brody School of Medicine's Medical Faculty

1 Practice Plan shall be transferred to the appropriate Medical Faculty
 2 Practice Plan account within the School of Medicine. The Medical
 3 Faculty Practice Plan shall assume responsibility for any of these funds
 4 that subsequently must be refunded due to final audit settlements.

5 ~~(2) The funds from this source budgeted by the General Assembly as part
 6 of the School of Medicine's General Fund budget code shall be
 7 credited to that code as a receipt.~~

8 ~~(3) The remainder of the funds shall be transferred to a special fund
 9 account on deposit with the State Treasurer. This special fund account
 10 shall be used for any necessary repayment of Medicare funds due to
 11 final audit settlements for funds allocated under subdivision (2) of this
 12 subsection. When the amount of these reimbursement funds has been
 13 finalized by audit for each year, those funds remaining in the special
 14 fund shall be available for specific capital improvement projects for
 15 the East Carolina University School of Medicine. Requests by East
 16 Carolina University for use of these funds shall be made to the Board
 17 of Governors of The University of North Carolina. Approval of
 18 projects by the Board of Governors shall be reported to the Joint
 19 Legislative Commission on Governmental Operations, and the reports
 20 shall include projected costs and sources of funds for operation of the
 21 approved projects.~~

22 (2a) Funds that were received pursuant to this section prior to July 1, 2005,
 23 and that were transferred to a special fund account on deposit with the
 24 State Treasurer are appropriated to the Brody School of Medicine at
 25 East Carolina University and may be expended by the Brody School of
 26 Medicine for the family medicine center and for purposes consistent
 27 with its stated mission."

28 **SECTION 9.26.(b)** Subsections (b) and (c) of Section 87 of Chapter 321 of
 29 the 1993 Session Laws are repealed.

30 **SECTION 9.26.(c)** Notwithstanding any other provisions of law, the Board
 31 of Governors of The University of North Carolina may authorize the design and
 32 construction of a new capital project, a family medicine center, on the Health Sciences
 33 Campus of the Brody School of Medicine at East Carolina University, that would
 34 replace the existing family medicine facility that has reached capacity. The family
 35 medicine center is also used as a clinical teaching site for medical students, and the
 36 existing facility is functionally outdated for this purpose. The cost of the facility is
 37 estimated to be thirty million dollars (\$30,000,000). The Board of Governors of The
 38 University of North Carolina may authorize the financing of the project with funds
 39 available to the Brody School of Medicine at East Carolina University from Medicare
 40 reimbursements for education costs, gifts, grants, receipts, self-liquidating indebtedness,
 41 or other funds, or any combination of these funds, but not including funds appropriated
 42 from the General Fund of the State.

43 **SECTION 9.26.(d)** Effective July 1, 2005, the Brody School of Medicine
 44 Medical Faculty Practice Plan shall no longer be required to reimburse the General
 45 Fund for use of outpatient facilities built with General Fund monies; the Brody School
 46 of Medicine Medical Faculty Practice Plan shall assume responsibility for payment of
 47 all operating costs, including utility costs, currently paid for by the General Fund. This
 48 subsection shall remain in effect until changed or repealed by the General Assembly.

49 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

50 **SCHOLARSHIP STUDENT**

51 **SECTION 9.27.(a)** Article 14 of Chapter 116 of the General Statutes is
 52 amended by adding a new section to read:

53 **"§ 116-143.6. Full scholarship students attending constituent institutions.**
 54

1 (a) Notwithstanding any other provision of law, any person who receives a full
 2 scholarship to a constituent institution and who attends the institution as an
 3 undergraduate student shall be considered and treated for all purposes of The University
 4 of North Carolina as a resident of North Carolina.

5 (b) The following definitions apply in this section:

6 (1) 'Full scholarship' means a grant that meets the full cost for a student to
 7 attend the constituent institution for an academic year.

8 (2) 'Full cost' means an amount calculated by the constituent institution
 9 that is no less than the sum of in-State tuition, required fees,
 10 on-campus room and board, and required course-related books.

11 (c) This section shall not be applied in any manner that violates federal law.

12 (d) No State funds shall be expended to offset any fiscal impact of this section."

13 **SECTION 9.27.(b)** This section applies to students who accept admission
 14 on or after July 1, 2005, to a constituent institution.

15
 16 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

17 **ENHANCE NUTRITION IN UNIVERSITY AND COMMUNITY COLLEGE**
 18 **FOOD PROGRAMS**

19 **SECTION 9.28.** For nutritional purposes, the Board of Governors of The
 20 University of North Carolina and the State Board of Community Colleges shall adopt
 21 policies governing any food programs operated by the constituent institutions or local
 22 community colleges that prohibit: (i) the use of cooking oils in those food programs that
 23 contain trans-fatty acids, or (ii) the sale of processed foods containing trans-fatty acids
 24 that were formed during the commercial processing of the foods.

25
 26 Requested by: Senators Lucas, Swindell, Snow, Garrou, Dalton, Hagan

27 **GRANT-IN-AID/FIRE TRUCK FOR CULLOWHEE VOLUNTEER FIRE DEPT.**
 28 **TO HELP ENSURE ADEQUATE FIRE PROTECTION SERVICES TO**
 29 **WESTERN CAROLINA UNIVERSITY**

30 **SECTION 9.29.** Of the funds appropriated from the General Fund to the
 31 Board of Governors of The University of North Carolina, the sum of seven hundred
 32 fifteen thousand dollars (\$715,000) for the 2005-2006 fiscal year shall be allocated to
 33 Western Carolina University as a grant-in-aid for the Cullowhee Volunteer Fire
 34 Department, Inc., to use to purchase a 95-foot platform truck and equipment to ensure
 35 adequate fire protection services to Western Carolina University.

36
 37 Requested by: Senators Shaw, Lucas, Swindell, Garrou, Dalton, Hagan

38 **WAIVE TUITION FOR A PERSON OF A CERTAIN AGE WHO IS OR WAS A**
 39 **WARD OF THE STATE AND WHO ATTENDS CLASSES AT ANY**
 40 **CONSTITUENT INSTITUTION OF THE UNIVERSITY OF NORTH**
 41 **CAROLINA OR ANY COMMUNITY COLLEGE**

42 **SECTION 9.30.(a)** G.S. 115B-2 is amended by adding a new subdivision to
 43 read:

44 "(5) Any child, if the child (i) is at least 17 years old but not yet 23 years
 45 old, (ii) is a ward of North Carolina or was a ward of the State at the
 46 time the child reached the age of 18, and (iii) is a resident of the State:"

47 **SECTION 9.30.(b)** G.S. 115B-5 is amended by adding a new subsection to
 48 read:

49 "(c) The officials of the institutions charged with administration of this Chapter
 50 may require proof to verify that a person applying to the institution under
 51 G.S. 115B-2(5) is eligible for the benefits provided by this Chapter."

52
 53 **PART X. DEPARTMENT OF HEALTH AND HUMAN SERVICES**

54
 55 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

INFORMATION TECHNOLOGY

SECTION 10.1.(a) To support its information technology initiatives, the Department of Health and Human Services shall develop the following:

- (1) A detailed business plan.
- (2) An information technology plan directly tied to business requirements.
- (3) An IT architecture.

The Department of Health and Human Services shall ensure that the planning documents extend three to five years and include detailed shortfall analyses and associated cost assessments. The Department of Health and Human Services shall forward the documents to the Office of Information Technology Services, the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division by December 1, 2005. The Office of Information Technology Services shall review the documents and report its findings and recommendations to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division by January 31, 2006.

SECTION 10.1.(b) The Department of Health and Human Services shall develop a project plan for each of its information technology projects. These plans shall include the following:

- (1) A detailed description of the project.
- (2) A description of how the project improves Department operations and service to customers.
- (3) The projected cost of the project by year and phase.
- (4) Deliverables required to implement each phase of the system.
- (5) The date that each deliverable is to be implemented.
- (6) The cost of implementing each deliverable.
- (7) What capabilities each deliverable adds to the project.

SECTION 10.1.(c) The Department of Health and Human Services shall provide the plans to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division no later than October 1, 2005, with subsequent updates provided quarterly. The Department of Health and Human Services shall notify the Division of Fiscal Research within 10 days when costs, completion dates, or system capabilities change and provide a report detailing the impact of the change.

SECTION 10.1.(d) The Department of Health and Human Services shall not spend more than the amounts appropriated by the General Assembly for information technology projects and may not allocate funds appropriated for one information technology project to any other information technology project.

SECTION 10.1.(e) The Department of Health and Human Services shall use funds appropriated for the 2005-2006 and 2006-2007 fiscal years for the North Carolina Families Accessing Services through Technology (NC FAST) program only for program-specific development, deliverables, and maintenance costs associated with the NC FAST program.

Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

OFFICE OF POLICY AND PLANNING

SECTION 10.2. Article 3 of Chapter 143B is amended by adding the following new Part to read:

"Part 34. Office of Policy and Planning.

"§ 143B-216.70. Office of Policy and Planning.

(a) To promote coordinated policy development and strategic planning for the State's health and human services systems, the Secretary of Health and Human Services shall establish an Office of Policy and Planning from existing resources across the

1 Department. The Director of the Office of Policy and Planning shall report directly to
2 the Secretary and shall have the following responsibilities:

- 3 (1) Coordinate the development of departmental policies, plans, and rules,
4 in consultation with the Divisions of the Department.
5 (2) Development of a departmental process for the development and
6 implementation of new policies, plans, and rules.
7 (3) Development of a departmental process for the review of existing
8 policies, plans, and rules to ensure that departmental policies, plans,
9 and rules are relevant.
10 (4) Coordination and review of all departmental policies before
11 dissemination to ensure that all policies are well-coordinated within
12 and across all programs.
13 (5) Implementation of ongoing strategic planning that integrates budget,
14 personnel, and resources with the mission and operational goals of the
15 Department.
16 (6) Review, disseminate, monitor, and evaluate best practice models.

17 (b) Under the direction of the Secretary of Health and Human Services, the
18 Director of the Office of Policy and Planning shall have the authority to direct
19 Divisions, offices, and programs within the Department to conduct periodic reviews of
20 policies, plans, and rules and shall advise the Secretary when it is determined to be
21 appropriate or necessary to modify, amend, and repeal departmental policies, plans, and
22 rules. All policy and management positions within the Office of Policy and Planning are
23 exempt positions as that term is defined in G.S. 126-5."
24

25 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

26 **SENIOR PRESCRIPTION DRUG ACCESS PROGRAM FUNDING**

27 **SECTION 10.3.** The Director of the Budget shall use available funds up to
28 seven million dollars (\$7,000,000) in the 2005-2006 fiscal year to fully fund the Senior
29 Prescription Drug Access Program through December 31, 2005, if there is a shortfall of
30 funds from the Health and Wellness Trust Fund, and the funds are not sufficient to
31 provide drug acquisition services under the Program through December 31, 2005.
32

33 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

34 **SENIOR CARES PROGRAM ADMINISTRATION**

35 **SECTION 10.4.(a)** The Department of Health and Human Services may
36 administer the "Senior Cares" prescription drug access program approved by the Health
37 and Wellness Trust Fund Commission and funded from the Health and Wellness Trust
38 Fund. The Department may use funds appropriated in this act to administer the Senior
39 Cares prescription drug access program.

40 **SECTION 10.4.(b)** This section expires December 31, 2005.
41

42 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

43 **NONMEDICAID REIMBURSEMENT CHANGES**

44 **SECTION 10.5.** Providers of medical services under the various State
45 programs, other than Medicaid, offering medical care to citizens of the State shall be
46 reimbursed at rates no more than those under the North Carolina Medical Assistance
47 Program.

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

54 Notwithstanding the provisions of paragraph one, the Department of Health
55 and Human Services may negotiate with providers of medical services under the various

1 Department of Health and Human Services programs, other than Medicaid, for rates as
 2 close as possible to Medicaid rates for the following purposes: contracts or agreements
 3 for medical services and purchases of medical equipment and other medical supplies.
 4 These negotiated rates are allowable only to meet the medical needs of its non-Medicaid
 5 eligible patients, residents, and clients who require such services which cannot be
 6 provided when limited to the Medicaid rate.

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

<u>Family Size</u>	<u>Medical Eye Care Adults</u>	<u>Rehabilitation Except DSB Over 55 Grant</u>	<u>Other</u>
1	\$4,860	\$8,364	\$4,200
2	5,940	10,944	5,300
3	6,204	13,500	6,400
4	7,284	16,092	7,500
5	7,821	18,648	7,900
6	8,220	21,228	8,300
7	8,772	21,708	8,800
8	9,312	22,220	9,300

19 The eligibility level for children in the Medical Eye Care Program in the
 20 Division of Services for the Blind shall be one hundred percent (100%) of the federal
 21 poverty guidelines, as revised annually by the United States Department of Health and
 22 Human Services and in effect on July 1 of each fiscal year. The eligibility level for
 23 adults 55 years of age or older who qualify for services through the Division of Services
 24 for the Blind, Independent Living Rehabilitation Program, shall be two hundred percent
 25 (200%) of the federal poverty guidelines, as revised annually by the United States
 26 Department of Health and Human Services and in effect on July 1 of each fiscal year.
 27 The eligibility level for adults in the Atypical Antipsychotic Medication Program in the
 28 Division of Mental Health, Developmental Disabilities, and Substance Abuse Services
 29 shall be one hundred fifty percent (150%) of the federal poverty guidelines, as revised
 30 annually by the United States Department of Health and Human Services and in effect
 31 on July 1 of each fiscal year. Additionally, those adults enrolled in the Atypical
 32 Antipsychotic Medication Program who become gainfully employed may continue to be
 33 eligible to receive State support, in decreasing amounts, for the purchase of atypical
 34 antipsychotic medication and related services up to three hundred percent (300%) of the
 35 poverty level.

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

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

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

49 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

50 **PHYSICIAN SERVICES**

51 **SECTION 10.6.** With the approval of the Office of State Budget and
 52 Management, the Department of Health and Human Services may use funds
 53 appropriated in this act for across-the-board salary increases and performance pay to
 54 offset similar increases in the costs of contracting with private and independent
 55 universities for the provision of physician services to clients in facilities operated by the

1 Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.
2 This offsetting shall be done in the same manner as is currently done with the
3 constituent institutions of The University of North Carolina.

4
5 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

6 **LIABILITY INSURANCE**

7 **SECTION 10.7.(a)** The Secretary of the Department of Health and Human
8 Services, the Secretary of the Department of Environment and Natural Resources, and
9 the Secretary of the Department of Correction may provide medical liability coverage
10 not to exceed one million dollars (\$1,000,000) per incident on behalf of employees of
11 the Departments licensed to practice medicine or dentistry, on behalf of all licensed
12 physicians who are faculty members of The University of North Carolina who work on
13 contract for the Division of Mental Health, Developmental Disabilities, and Substance
14 Abuse Services for incidents that occur in Division programs, and on behalf of
15 physicians in all residency training programs from The University of North Carolina
16 who are in training at institutions operated by the Department of Health and Human
17 Services. This coverage may include commercial insurance or self-insurance and shall
18 cover these individuals for their acts or omissions only while they are engaged in
19 providing medical and dental services pursuant to their State employment or training.

20 **SECTION 10.7.(b)** The coverage provided under this section shall not cover
21 any individual for any act or omission that the individual knows or reasonably should
22 know constitutes a violation of the applicable criminal laws of any state or the United
23 States or that arises out of any sexual, fraudulent, criminal, or malicious act or out of
24 any act amounting to willful or wanton negligence.

25 **SECTION 10.7.(c)** The coverage provided pursuant to this section shall not
26 require any additional appropriations and shall not apply to any individual providing
27 contractual service to the Department of Health and Human Services, the Department of
28 Environment and Natural Resources, or the Department of Correction, with the
29 exception that coverage may include physicians in all residency training programs from
30 The University of North Carolina who are in training at institutions operated by the
31 Department of Health and Human Services and licensed physicians who are faculty
32 members of The University of North Carolina who work for the Division of Mental
33 Health, Developmental Disabilities, and Substance Abuse Services.

34
35 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

36 **DHHS PAYROLL DEDUCTION FOR CHILD CARE SERVICES**

37 **SECTION 10.8.** Part 1 of Article 3 of Chapter 143B of the General Statutes
38 is amended by adding the following new section to read:

39 **"§ 143B-139.6B. Department of Health and Human Services; authority to deduct**
40 **payroll for child care services.**

41 Notwithstanding G.S. 143-3.3 and pursuant to rules adopted by the State Controller,
42 an employee of the Department of Health and Human Services may, in writing,
43 authorize the Department to periodically deduct from the employee's salary or wages
44 paid for employment by the State, a designated lump sum to be paid to satisfy the cost
45 of services received for child care provided by the Department."

46
47 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

48 **COMMUNITY HEALTH CENTERS FUNDS**

49 **SECTION 10.9.(a)** Of the funds appropriated in this act for Community
50 Health Grants for the 2005-2006 fiscal year, the sum of two million dollars (\$2,000,000)
51 in recurring funds shall be used for federally qualified health centers, for those health
52 centers that meet the criteria for federally qualified health centers, and for
53 State-designated rural health centers and public health departments and other clinics to:

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

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

17 **SECTION 10.9.(b)** The Office shall work with the North Carolina
 18 Community Health Center Association (hereafter "NCCHCA") and the North Carolina
 19 Public Health Association (hereafter "NCPHA") to establish an advisory committee to
 20 develop an objective and equitable process for awarding grant funds. The Office shall
 21 also develop auditing and accountability procedures. Not more than one percent (1%) of
 22 the funds appropriated in this section may be used to reimburse the Office for
 23 administering the grant program in collaboration with the NCCHCA and the NCPHA.

24 **SECTION 10.9.(c)** Recipients of grant funds shall provide to the Office
 25 annually a written report detailing the number of additional uninsured and medically
 26 indigent patients that are cared for, the types of services that were provided, and any
 27 other information requested by the Office as necessary for evaluating the success of the
 28 grant program.

29 **SECTION 10.9.(d)** The Office shall work with the NCCHCA and NCPHA
 30 to study and present recommendations for continuing funds to support the expansion of
 31 community health centers, State-designated rural health centers, and public health
 32 departments to serve more of the State's uninsured and indigent population. The Office
 33 shall submit the report to the 2006 Regular Session of the 2005 General Assembly upon
 34 its convening.

35
 36 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

37 **PROVIDER REIMBURSEMENT RATES**

38 **SECTION 10.10.** The Department of Health and Human Services shall
 39 maintain reimbursement rates paid to service providers at fiscal year 2004-2005 levels
 40 during the 2005-2006 fiscal year. Exceptions made by the Department shall be made on
 41 a case-by-case basis and must be approved by the Office of the Secretary. Changes in
 42 rate structures that result in lower payments to the providers are exempted from this
 43 requirement. As used in this section, "service providers" includes subcontractors, such
 44 as counties, area agencies on aging, departments of social services, departments of
 45 public health, child developmental services agencies, and local management entities.

46
 47 Requested by: Senators Purcell, Malone, Dalton, Garrou, Hagan

48 **MEDICAID**

49 **SECTION 10.11.(a)** Funds appropriated in this act for services provided in
 50 accordance with Title XIX of the Social Security Act (Medicaid) are for both the
 51 categorically needy and the medically needy. Funds appropriated for these services shall
 52 be expended in accordance with the following schedule of services and payment bases.
 53 All services and payments are subject to the language at the end of this subsection.

54 Services and payment bases:

- 1 (1) Hospital inpatient. – Payment for hospital inpatient services will be
2 prescribed in the State Plan as established by the Department of Health
3 and Human Services.
- 4 (2) Hospital outpatient. – Eighty percent (80%) of allowable costs or a
5 prospective reimbursement plan as established by the Department of
6 Health and Human Services.
- 7 (3) Nursing facilities. – Payment for nursing facility services will be
8 prescribed in the State Plan as established by the Department of Health
9 and Human Services. Nursing facilities providing services to Medicaid
10 recipients who also qualify for Medicare must be enrolled in the
11 Medicare program as a condition of participation in the Medicaid
12 program. State facilities are not subject to the requirement to enroll in
13 the Medicare program. Residents of nursing facilities who are eligible
14 for Medicare coverage of nursing facility services must be placed in a
15 Medicare-certified bed. Medicaid shall cover facility services only
16 after the appropriate services have been billed to Medicare. The
17 Division of Medical Assistance shall allow nursing facility providers
18 sufficient time from the effective date of this act to certify additional
19 Medicare beds if necessary. In determining the date that the
20 requirements of this subdivision become effective, the Division of
21 Medical Assistance shall consider the regulations governing
22 certification of Medicare beds and the length of time required for this
23 process to be completed.
- 24 (4) Intermediate care facilities for the mentally retarded. – As prescribed
25 in the State Plan as established by the Department of Health and
26 Human Services.
- 27 (5) Drugs. – Drug costs as allowed by federal regulations plus a
28 professional services fee per month, excluding refills for the same drug
29 or generic equivalent during the same month. Reimbursement shall be
30 available for up to six prescriptions per recipient per month, including
31 refills. The Department may override the six-prescription limit up to
32 two additional prescriptions for a total of not more than eight
33 prescriptions per recipient per month, for recipients that meet the
34 Department's override policy requirements. Payments for drugs are
35 subject to the provisions of subsection (h) of this section and to the
36 provisions at the end of this subsection or in accordance with the State
37 Plan adopted by the Department of Health and Human Services,
38 consistent with federal reimbursement regulations. Payment of the
39 professional services fee shall be made in accordance with the State
40 Plan adopted by the Department of Health and Human Services,
41 consistent with federal reimbursement regulations. The professional
42 services fee shall be five dollars and sixty cents (\$5.60) per
43 prescription for generic drugs and four dollars (\$4.00) per prescription
44 for brand-name drugs. Adjustments to the professional services fee
45 shall be established by the General Assembly. In addition to the
46 professional services fee, the Department may pay an enhanced fee for
47 pharmacy services.
- 48 (6) Physicians, chiropractors, podiatrists, optometrists, dentists, certified
49 nurse midwife services, nurse practitioners. – Fee schedules as
50 developed by the Department of Health and Human Services.
51 Payments for dental services are subject to the provisions of subsection
52 (g) of this section.
- 53 (7) Community Alternative Program, EPSDT screens. – Payment to be
54 made in accordance with the rate schedule developed by the
55 Department of Health and Human Services.

- 1 (8) Home health and related services, private duty nursing, clinic services,
2 prepaid health plans, durable medical equipment. – Payment to be
3 made according to reimbursement plans developed by the Department
4 of Health and Human Services.
- 5 (9) Medicare Buy-In. – Social Security Administration premium.
- 6 (10) Ambulance services. – Uniform fee schedules as developed by the
7 Department of Health and Human Services. Public ambulance
8 providers will be reimbursed at cost.
- 9 (11) Hearing aids. – Wholesale cost plus a dispensing fee to the provider.
- 10 (12) Rural health clinic services. – Provider-based, reasonable cost;
11 nonprovider-based, single-cost reimbursement rate per clinic visit.
- 12 (13) Family planning. – Negotiated rate for local health departments. For
13 other providers, see specific services, for instance, hospitals,
14 physicians.
- 15 (14) Independent laboratory and X-ray services. – Uniform fee schedules as
16 developed by the Department of Health and Human Services.
- 17 (15) Optical supplies. – Payment for materials is made to a contractor in
18 accordance with 42 C.F.R. § 431.54(d). Fees paid to dispensing
19 providers are negotiated fees established by the State agency based on
20 industry charges.
- 21 (16) Ambulatory surgical centers. – Payment as prescribed in the
22 reimbursement plan established by the Department of Health and
23 Human Services.
- 24 (17) Medicare crossover claims. – By not later than October 1, 2005, the
25 Department shall apply Medicaid medical policy to Medicare claims
26 for dually eligible recipients. The Department shall pay an amount up
27 to the actual coinsurance or deductible or both, in accordance with the
28 State Plan, as approved by the Department of Health and Human
29 Services.
- 30 (18) Physical therapy and speech therapy. – Services limited to
31 EPSDT-eligible children. Payments are to be made only to qualified
32 providers at rates negotiated by the Department of Health and Human
33 Services. Physical therapy (including occupational therapy) and speech
34 therapy services are subject to prior approval and utilization review.
- 35 (19) Personal care services. – Payment in accordance with the State Plan
36 approved by the Department of Health and Human Services.
- 37 (20) Case management services. – Reimbursement in accordance with the
38 availability of funds to be transferred within the Department of Health
39 and Human Services.
- 40 (21) Hospice. – Services may be provided in accordance with the State Plan
41 developed by the Department of Health and Human Services.
- 42 (22) Other mental health services. – Unless otherwise covered by this
43 section, coverage is limited to:
 - 44 a. Services as defined by the Division of Mental Health,
45 Developmental Disabilities, and Substance Abuse Services and
46 approved by the Centers for Medicare and Medicaid Services
47 (CMS) when provided in agencies meeting the requirements of
48 the rules established by the Commission for Mental Health,
49 Developmental Disabilities, and Substance Abuse Services and
50 reimbursement is made in accordance with a State Plan
51 developed by the Department of Health and Human Services
52 not to exceed the upper limits established in federal regulations,
53 and
 - 54 b. For children eligible for EPSDT services provided by:

- 1 1. Licensed or certified psychologists, licensed clinical
2 social workers, certified clinical nurse specialists in
3 psychiatric mental health advanced practice, nurse
4 practitioners certified as clinical nurse specialists in
5 psychiatric mental health advanced practice, licensed
6 psychological associates, licensed professional
7 counselors, licensed marriage and family therapists,
8 certified clinical addictions specialists, and certified
9 clinical supervisors, when Medicaid-eligible children are
10 referred by the Community Care of North Carolina
11 primary care physician, a Medicaid-enrolled psychiatrist,
12 or the area mental health program or local management
13 entity, and
- 14 2. Institutional providers of residential services as defined
15 by the Division of Mental Health, Developmental
16 Disabilities, and Substance Abuse Services and approved
17 by the Centers for Medicare and Medicaid Services
18 (CMS) for children and Psychiatric Residential
19 Treatment Facility services that meet federal and State
20 requirements as defined by the Department.
- 21 c. For Medicaid-eligible adults, services provided by licensed or
22 certified psychologists, licensed clinical social workers,
23 certified clinical nurse specialists in psychiatric mental health
24 advanced practice, and nurse practitioners certified as clinical
25 nurse specialists in psychiatric mental health advanced practice,
26 licensed psychological associates, licensed professional
27 counselors, licensed marriage and family therapists, certified
28 clinical addictions specialists, and certified clinical supervisors,
29 Medicaid-eligible adults may be self-referred.
- 30 d. Payments made for services rendered in accordance with this
31 subdivision shall be to qualified providers in accordance with
32 approved policies and the State Plan. Nothing in
33 sub-subdivision b. or c. of this subdivision shall be interpreted
34 to modify the scope of practice of any service provider,
35 practitioner, or licensee, nor to modify or attenuate any
36 collaboration or supervision requirement related to the
37 professional activities of any service provider, practitioner, or
38 licensee. Nothing in sub-subdivision b. or c. of this subdivision
39 shall be interpreted to require any private health insurer or
40 health plan to make direct third-party reimbursements or
41 payments to any service provider, practitioner, or licensee.
- 42 e. The Department of Health and Human Services shall not enroll
43 licensed psychological associates, licensed professional
44 counselors, licensed marriage and family therapists, certified
45 clinical addiction specialists, and certified clinical supervisors
46 until all of the following conditions have been met:
 - 47 1. The fiscal impact of payments to these qualified
48 providers has been projected;
 - 49 2. Funding for any projected requirements in excess of
50 budgeted Division of Medical Assistance funding has
51 been identified from within State funds appropriated to
52 the Department of Health and Human Services, Division
53 of Mental Health, Developmental Disabilities, and
54 Substance Abuse Services to support area mental health

- 1 programs or county programs, or identified from other
 2 sources; and
 3 3. Approval has been obtained from the Office of State
 4 Budget and Management to transfer these State or other
 5 source funds from the Division of Mental Health,
 6 Developmental Disabilities, and Substance Abuse
 7 Services to the Division of Medical Assistance. Upon
 8 approval and implementation, the Department of Health
 9 and Human Services shall, on a quarterly basis, provide a
 10 status report to the Office of State Budget and
 11 Management and the Fiscal Research Division.

12 Notwithstanding G.S. 150B-21.1(a), the Department of Health and
 13 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 defined by
 17 the Division of Mental Health, Developmental Disabilities, and
 18 Substance Abuse Services under sub-subdivisions a. and b.2 of this
 19 subdivision shall be established by the Division of Medical Assistance.

- 20 (23) Medically necessary prosthetics or orthotics. – Reimbursement in
 21 accordance with the State Plan approved by the Department of Health
 22 and Human Services, except that in order to be eligible for
 23 reimbursement, providers must be Board certified not later than July 1,
 24 2005. Medically necessary prosthetics and orthotics are subject to prior
 25 approval and utilization review.
 26 (24) Health insurance premiums. – Payments to be made in accordance
 27 with the State Plan adopted by the Department of Health and Human
 28 Services consistent with federal regulations.
 29 (25) Medical care/other remedial care. – Services not covered elsewhere in
 30 this section include related services in schools; health professional
 31 services provided outside the clinic setting to meet maternal and infant
 32 health goals; and services to meet federal EPSDT mandates. Services
 33 addressed by this subdivision are limited to those prescribed in the
 34 State Plan as established by the Department of Health and Human
 35 Services.
 36 (26) Pregnancy-related services. – Covered services for pregnant women
 37 shall include nutritional counseling, psychosocial counseling, and
 38 predelivery and postpartum home visits by maternity care coordinators
 39 and public health nurses.

40 Services and payment bases may be changed with the approval of the Director of the
 41 Budget.

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

1 Reimbursement is available for up to 24 visits per recipient per year to any
 2 one or combination of the following: physicians, clinics, hospital outpatient,
 3 optometrists, chiropractors, and podiatrists. Prenatal services, all EPSDT children,
 4 emergency rooms, and mental health services subject to independent utilization review
 5 are exempt from the visit limitations contained in this paragraph. Exceptions may be
 6 authorized by the Department of Health and Human Services where the life of the
 7 patient would be threatened without such additional care.

8 **SECTION 10.11.(b)** Allocation of Nonfederal Cost of Medicaid. – The State
 9 shall pay eighty-five percent (85%); the county shall pay fifteen percent (15%) of the
 10 nonfederal costs of all applicable services listed in this section. In addition, the State
 11 shall pay eighty-five percent (85%); the county shall pay fifteen percent (15%) of the
 12 federal Medicare Part D clawback payments under the Medicare Modernization Act of
 13 2004.

14 **SECTION 10.11.(c)** Co-Payment for Medicaid Services. – The Department
 15 of Health and Human Services may establish co-payments up to the maximum
 16 permitted by federal law and regulation and required by this subsection in order to
 17 achieve reductions in the budget in fiscal years 2005-2006 and 2006-2007. The
 18 co-payment for inpatient hospitalization services is fifty dollars (\$50.00).

19 **SECTION 10.11.(d)** Medicaid and Work First Family Assistance, Income
 20 Eligibility Standards. – The maximum net family annual income eligibility standards for
 21 Medicaid and Work First Family Assistance and the Standard of Need for Work First
 22 Family Assistance shall be as follows:

	<u>Categorically Needy</u>		<u>Medically Needy</u>	
	<u>WFFA*</u>			
	<u>Family</u>	<u>Standard</u>	<u>Families and</u>	
	<u>Size</u>	<u>of Need</u>	<u>Children</u>	
			<u>Level</u>	<u>AA, AB, AD*</u>
29	1	\$4,344	\$2,172	\$2,900
30	2	5,664	2,832	3,800
31	3	6,528	3,264	4,400
32	4	7,128	3,564	4,800
33	5	7,776	3,888	5,200
34	6	8,376	4,188	5,600
35	7	8,952	4,476	6,000
36	8	9,256	4,680	6,300

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

39
 40 The payment level for Work First Family Assistance shall be fifty percent (50%) of the
 41 standard of need.

42 These standards may be changed with the approval of the Director of the
 43 Budget with the advice of the Advisory Budget Commission.

44 **SECTION 10.11.(e)** The Department of Health and Human Services,
 45 Division of Medical Assistance, shall provide Medicaid coverage to all elderly, blind,
 46 and disabled people who have incomes equal to or less than one hundred percent
 47 (100%) of the federal poverty guidelines, as revised each April 1. This subsection
 48 expires December 31, 2005.

49 **SECTION 10.11.(f)** ICF and ICF/MR Work Incentive Allowances. – The
 50 Department of Health and Human Services may provide an incentive allowance to
 51 Medicaid-eligible recipients of ICF and ICF/MR facilities who are regularly engaged in
 52 work activities as part of their developmental plan and for whom retention of additional
 53 income contributes to their achievement of independence. The State funds required to
 54 match the federal funds that are required by these allowances shall be provided from

1 savings within the Medicaid budget or from other unbudgeted funds available to the
 2 Department. The incentive allowances may be as follows:

<u>Monthly Net Wages</u>	<u>Monthly Incentive Allowance</u>
\$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.

9 **SECTION 10.11.(g)** Dental Coverage Limits. – Dental services shall be
 10 provided on a restricted basis in accordance with rules adopted by the Department to
 11 implement this subsection.

12 **SECTION 10.11.(h)** Dispensing of Generic Drugs. – Notwithstanding
 13 G.S. 90-85.27 through G.S. 90-85.31, or any other law to the contrary, under the
 14 Medical Assistance Program (Title XIX of the Social Security Act), and except as
 15 otherwise provided in this subsection for atypical antipsychotic drugs and drugs listed in
 16 the narrow therapeutic index, a prescription order for a drug designated by a trade or
 17 brand name shall be considered to be an order for the drug by its established or generic
 18 name, except when the prescriber has determined, at the time the drug is prescribed, that
 19 the brand-name drug is medically necessary and has written on the prescription order
 20 the phrase "medically necessary". An initial prescription order for an atypical
 21 antipsychotic drug or a drug listed in the narrow therapeutic drug index that does not
 22 contain the phrase "medically necessary" shall be considered an order for the drug by its
 23 established or generic name, except that a pharmacy shall not substitute a generic or
 24 established name prescription drug for subsequent brand or trade name prescription
 25 orders of the same prescription drug without explicit oral or written approval of the
 26 prescriber given at the time the order is filled. Generic drugs shall be dispensed at a
 27 lower cost to the Medical Assistance Program rather than trade or brand name drugs. As
 28 used in this subsection, "brand name" means the proprietary name the manufacturer
 29 places upon a drug product or on its container, label, or wrapping at the time of
 30 packaging; and "established name" has the same meaning as in section 502(e)(3) of the
 31 Federal Food, Drug, and Cosmetic Act as amended, 21 U.S.C. § 352(e)(3).

32 **SECTION 10.11.(i)** The Department of Health and Human Services shall
 33 not impose prior authorization requirements or other restrictions under the State
 34 Medical Assistance Program on medications prescribed for Medicaid recipients for the
 35 treatment of: (i) mental illness, including, but not limited to, medications for
 36 schizophrenia, bipolar disorder, and major depressive disorder, or (ii) HIV/AIDS.

37 **SECTION 10.11.(j)** Exceptions to Service Limitations, Eligibility
 38 Requirements, and Payments. – Service limitations, eligibility requirements, and
 39 payments bases in this section may be waived by the Department of Health and Human
 40 Services, with the approval of the Director of the Budget, to allow the Department to
 41 carry out pilot programs for prepaid health plans, contracting for services, managed care
 42 plans, or community-based services programs in accordance with plans approved by the
 43 United States Department of Health and Human Services or when the Department
 44 determines that such a waiver will result in a reduction in the total Medicaid costs for
 45 the recipient. The Department of Health and Human Services may proceed with
 46 planning and development work on the Program of All-Inclusive Care for the Elderly.

47 **SECTION 10.11.(k)** Volume Purchase Plans and Single Source
 48 Procurement. – The Department of Health and Human Services, Division of Medical
 49 Assistance, may, subject to the approval of a change in the State Medicaid Plan,
 50 contract for services, medical equipment, supplies, and appliances by implementation of
 51 volume purchase plans, single source procurement, or other contracting processes in
 52 order to improve cost containment.

53 **SECTION 10.11.(l)** Cost-Containment Programs. – The Department of
 54 Health and Human Services, Division of Medical Assistance, may undertake
 55 cost-containment programs, including contracting for services, preadmissions to

1 hospitals, and prior approval for certain outpatient surgeries before they may be
2 performed in an inpatient setting.

3 **SECTION 10.11.(m)** For all Medicaid eligibility classifications for which
4 the federal poverty level is used as an income limit for eligibility determination, the
5 income limits will be updated each April 1 immediately following publication of federal
6 poverty guidelines.

7 **SECTION 10.11.(n)** The Department of Health and Human Services shall
8 provide Medicaid to 19-, 20-, and 21-year-olds in accordance with federal rules and
9 regulations.

10 **SECTION 10.11.(o)** The Department of Health and Human Services shall
11 provide coverage to pregnant women and to children according to the following
12 schedule:

- 13 (1) Pregnant women with incomes equal to or less than one hundred
14 eighty-five percent (185%) of the federal poverty guidelines as revised
15 each April 1 shall be covered for Medicaid benefits.
- 16 (2) Infants under the age of one with family incomes equal to or less than
17 one hundred eighty-five percent (185%) of the federal poverty
18 guidelines as revised each April 1 shall be covered for Medicaid
19 benefits.
- 20 (3) Children aged one through five with family incomes equal to or less
21 than one hundred thirty-three percent (133%) of the federal poverty
22 guidelines as revised each April 1 shall be covered for Medicaid
23 benefits.
- 24 (4) Children aged six through 18 with family incomes equal to or less than
25 the federal poverty guidelines as revised each April 1 shall be covered
26 for Medicaid benefits.
- 27 (5) The Department of Health and Human Services shall provide Medicaid
28 coverage for adoptive children with special or rehabilitative needs
29 regardless of the adoptive family's income.

30 Services to pregnant women eligible under this subsection continue
31 throughout the pregnancy but include only those related to pregnancy and to those other
32 conditions determined by the Department as conditions that may complicate pregnancy.
33 In order to reduce county administrative costs and to expedite the provision of medical
34 services to pregnant women, to infants, and to children described in subdivisions (3) and
35 (4) of this subsection, no resources test shall be applied.

36 **SECTION 10.11.(p)** Medicaid enrollment of categorically needy families
37 with children shall be continuous for one year without regard to changes in income or
38 assets.

39 **SECTION 10.11.(q)** The Division of Medical Assistance, Department of
40 Health and Human Services, may provide incentives to counties that successfully
41 recover fraudulently spent Medicaid funds by sharing State savings with counties
42 responsible for the recovery of the fraudulently spent funds.

43 **SECTION 10.11.(r)** If first approved by the Office of State Budget and
44 Management, the Division of Medical Assistance, Department of Health and Human
45 Services, may use funds that are identified to support the cost of development and
46 acquisition of equipment and software through contractual means to improve and
47 enhance information systems that provide management information and claims
48 processing. The Department of Health and Human Services shall identify adequate
49 funds to support the implementation and first year's operational costs that exceed the
50 currently allocated funds for the new contract for the fiscal agent for the Medicaid
51 Management Information System.

52 **SECTION 10.11.(s)** The Department of Health and Human Services may
53 adopt temporary or emergency rules according to the procedures established in
54 G.S. 150B-21.1 and G.S. 150B-21.1A when it finds that these rules are necessary to
55 maximize receipt of federal funds within existing State appropriations, to reduce

1 Medicaid expenditures, and to reduce fraud and abuse. Prior to the filing of these
2 temporary or emergency rules with the Rules Review Commission and the Office of
3 Administrative Hearings, the Department shall consult with the Office of State Budget
4 and Management on the possible fiscal impact of the temporary or emergency rule and
5 its effect on State appropriations and local governments.

6 **SECTION 10.11.(t)** The Department shall report to the Fiscal Research
7 Division of the Legislative Services Office and to the House of Representatives
8 Appropriations Subcommittee on Health and Human Services and the Senate
9 Appropriations Committee on Health and Human Services or the Joint Legislative
10 Health Care Oversight Committee on any change it anticipates making in the Medicaid
11 program that impacts the type or level of service, reimbursement methods, or waivers,
12 any of which require a change in the State Plan or other approval by the Centers for
13 Medicare and Medicaid Services (CMS). The reports shall be provided at the same time
14 they are submitted to CMS for approval.

15 **SECTION 10.11.(u)** Upon approval of a demonstration waiver by the
16 Centers for Medicare and Medicaid Services (CMS), the Department of Health and
17 Human Services may provide Medicaid coverage for family planning services to men
18 and women of childbearing age with family incomes equal to or less than one hundred
19 eighty-five percent (185%) of the federal poverty level. Coverage shall be contingent
20 upon federal approval of the waiver.

21 **SECTION 10.11.(v)** The Department of Health and Human Services may
22 apply federal transfer of assets policies, as described in Title XIX, section 1917(c) of the
23 Social Security Act, including the attachment of liens, to real property excluded as
24 "income producing", tenancy-in-common, or as nonhomesite property made "income
25 producing" under Title XIX, section 1902(r)(2) of the Social Security Act. The transfer
26 of assets policy shall apply only to an institutionalized individual or the individual's
27 spouse as defined in Title XIX, section 1917(c) of the Social Security Act. This
28 subsection becomes effective no earlier than October 1, 2001. Federal transfer of asset
29 policies and attachment of liens to properties excluded as tenancy-in-common or as
30 nonhomesite property made "income producing" in accordance with this subsection
31 shall become effective not earlier than November 1, 2002.

32 **SECTION 10.11.(w)** When implementing the Supplemental Security
33 Income (SSI) method for considering equity value of income producing property, the
34 Department shall, to the maximum extent possible, employ procedures to mitigate the
35 hardship to Medicaid enrollees occurring from application of the Supplemental Security
36 Income (SSI) method.

37 **SECTION 10.11.(x)** Unless required for compliance with federal law, the
38 Department shall not change medical policy affecting the amount, sufficiency, duration,
39 and scope of health care services and who may provide services until the Division of
40 Medical Assistance has prepared a five-year fiscal analysis documenting the increased
41 cost of the proposed change in medical policy and submitted it for Departmental review.
42 If the fiscal impact indicated by the fiscal analysis for any proposed medical policy
43 change exceeds three million dollars (\$3,000,000) in total requirements for a given
44 fiscal year, then the Department shall submit the proposed policy change with the fiscal
45 analysis to the Office of State Budget and Management and the Fiscal Research
46 Division. The Department shall not implement any proposed medical policy change
47 exceeding three million dollars (\$3,000,000) in total requirements for a given fiscal year
48 unless the source of State funding is identified and approved by the Office of State
49 Budget and Management. The Department shall provide the Office of State Budget and
50 Management and the Fiscal Research Division a quarterly report itemizing all medical
51 policy changes with total requirements of less than three million dollars (\$3,000,000).

52 **SECTION 10.11.(y)** The Department shall develop, amend, and adopt
53 medical coverage policy in accordance with the following:

- 54 (1) During the development of new medical coverage policy or
55 amendment to existing medical coverage policy, consult with and seek

1 the advice of the Physician Advisory Group of the North Carolina
 2 Medical Society and other organizations the Secretary deems
 3 appropriate. The Secretary shall also consult with and seek the advice
 4 of officials of the professional societies or associations representing
 5 providers who are affected by the new medical coverage policy or
 6 amendments to existing medical coverage policy.

- 7 (2) At least 45 days prior to the adoption of new or amended medical
 8 coverage policy, the Department shall:
- 9 a. Publish the proposed new or amended medical coverage policy
 10 on the Department's Web site;
 - 11 b. Notify all Medicaid providers of the proposed, new, or amended
 12 policy; and
 - 13 c. Upon request, provide persons copies of the proposed medical
 14 coverage policy.
- 15 (3) During the 45-day period immediately following publication of the
 16 proposed new or amended medical coverage policy, accept oral and
 17 written comments on the proposed new or amended policy.
- 18 (4) If, following the comment period, the proposed new or amended
 19 medical coverage policy is modified, then the Department shall, at
 20 least 15 days prior to its adoption:
- 21 a. Notify all Medicaid providers of the proposed policy;
 - 22 b. Upon request, provide persons notice of amendments to the
 23 proposed policy; and
 - 24 c. Accept additional oral or written comments during this 15-day
 25 period.

26 **SECTION 10.11.(z)** For the purposes of investigating and reducing client
 27 fraud and abuse, the Department of Health and Human Services, Division of Medical
 28 Assistance, shall include in the Medicaid enrollment process the requirement that the
 29 applicant for Medicaid consent to or authorize in writing the release of the applicant's
 30 medical records for the three years immediately preceding the application for Medicaid
 31 benefits. The Department shall obtain and use information from the applicant's medical
 32 records in a manner and form that complies with the Health Insurance Portability and
 33 Accountability Act of 1996 ("HIPAA"), P.L. 104-191, as amended, and that protects the
 34 privacy of the information as required by other applicable federal or State law. In
 35 addition to fraud and abuse detection, the Department may require the applicant's
 36 consent for other purposes permitted by HIPAA and required or authorized by other
 37 applicable federal or State law.

38
 39 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

40 **DISPOSITION OF DISPROPORTIONATE SHARE RECEIPTS**

41 **SECTION 10.12.(a)** Disproportionate share receipts reserved at the end of
 42 the 2005-2006 and 2006-2007 fiscal years shall be deposited with the Department of
 43 State Treasurer as nontax revenue for each of those fiscal years.

44 **SECTION 10.12.(b)** For each year of the 2005-2007 fiscal biennium, as it
 45 receives funds associated with Disproportionate Share Payments from State hospitals,
 46 the Department of Health and Human Services, Division of Medical Assistance, shall
 47 deposit up to one hundred million dollars (\$100,000,000) of these Disproportionate
 48 Share Payments to the Department of State Treasurer for deposit as nontax revenue.
 49 Any Disproportionate Share Payments collected in excess of one hundred million
 50 dollars (\$100,000,000) shall be reserved by the State Treasurer for future
 51 appropriations.

52
 53 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

54 **COUNTY MEDICAID COST SHARE**

1 **SECTION 10.13.(a)** Effective July 1, 2000, the county share of the cost of
2 Medicaid services currently and previously provided by area mental health authorities
3 shall be increased incrementally each fiscal year until the county share reaches fifteen
4 percent (15%) of the nonfederal share by State fiscal year 2009-2010.

5 **SECTION 10.13.(b)** Effective July 1, 2000, the county share of the cost of
6 Medicaid Personal Care Services paid to adult care homes shall be decreased
7 incrementally each fiscal year until the county share reaches fifteen percent (15%) of
8 the nonfederal share by State fiscal year 2009-2010.

9
10 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

11 **MEDICAID COST CONTAINMENT ACTIVITIES**

12 **SECTION 10.14.** The Department of Health and Human Services may use
13 not more than three million dollars (\$3,000,000) in the 2005-2006 fiscal year and not
14 more than three million dollars (\$3,000,000) in the 2006-2007 fiscal year in Medicaid
15 funds budgeted for program services to support the cost of administrative activities
16 when cost-effectiveness and savings are demonstrated. The funds shall be used to
17 support activities that will contain the cost of the Medicaid Program, including
18 contracting for services or hiring additional staff. Medicaid cost-containment activities
19 may include prospective reimbursement methods, incentive-based reimbursement
20 methods, service limits, prior authorization of services, periodic medical necessity
21 reviews, revised medical necessity criteria, service provision in the least costly settings,
22 plastic magnetic stripped Medicaid identification cards for issuance to Medicaid
23 enrollees, fraud detection software or other fraud detection activities, technology that
24 improves clinical decision making, credit balance recovery and data mining services,
25 and other cost-containment activities. Funds may be expended under this section only
26 after the Office of State Budget and Management has approved a proposal for the
27 expenditure submitted by the Department. Proposals for expenditure of funds under this
28 section shall include the cost of implementing the cost-containment activity and
29 documentation of the amount of savings expected to be realized from the
30 cost-containment activity. The Department shall provide a copy of proposals for
31 expenditures under this section to the Fiscal Research Division.

32
33 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

34 **MEDICAID RESERVE FUND TRANSFER**

35 **SECTION 10.15.** Of the funds transferred to the Department of Health and
36 Human Services for Medicaid programs pursuant to G.S. 143-23.2, the sum of fifty
37 million dollars (\$50,000,000) for the 2005-2006 fiscal year and the sum of fifty million
38 dollars (\$50,000,000) for the 2006-2007 fiscal year shall be allocated as prescribed by
39 G.S. 143-23.2(b) for Medicaid programs. Notwithstanding the prescription in
40 G.S. 143-23.2(b) that these funds not reduce State general revenue funding, these funds
41 shall replace the reduction in general revenue funding effected in this act.

42
43 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

44 **NO PRIOR AUTHORIZATION FOR CERTAIN PRESCRIPTION DRUGS**
45 **UNDER MEDICAID**

46 **SECTION 10.16.** The Department of Health and Human Services, Division
47 of Medical Assistance, shall not establish prior authorization requirements or other
48 restrictions under the State Medical Assistance Program for FDA-approved medications
49 indicated for the treatment of life-threatening respiratory conditions due to chronic
50 obstructive pulmonary disease (COPD) or stroke. In developing a disease management
51 program, the Department of Health and Human Services shall include initiatives that
52 positively impact COPD and stroke-related health care costs.

53
54 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

1 **EXPAND COMMUNITY CARE OF NORTH CAROLINA MANAGEMENT TO**
2 **ADDITIONAL MEDICAID RECIPIENTS**

3 **SECTION 10.17.(a)** The Department of Health and Human Services shall
4 expand the scope of Community Care of NC care management model to recipients of
5 Medicaid and dually eligible individuals with a chronic condition and long-term care
6 needs. In expanding the scope, the Department shall focus on the Aged, Blind, and
7 Disabled, and CAP-DA populations for improvement in management,
8 cost-effectiveness, and local coordination of services through Community Care of NC
9 and in collaboration with local providers of care. The Department shall target personal
10 care services, private duty nursing, home health, durable medical equipment, ancillary
11 professional services, specialty care, residential services, including skilled nursing
12 facilities, home infusion therapy, pharmacy, and other services determined
13 target-worthy by the Department. The Department shall pilot communitywide
14 initiatives and shall expand statewide successful models.

15 **SECTION 10.17.(b)** The Department of Health and Human Services may
16 work with the federal government to attain the necessary regulatory and policy relief to
17 better align policy and economic incentives to improve care in the most cost-effective
18 manner and attain savings through controlled utilization of services.

19 **SECTION 10.17.(c)** The Department of Health and Human Services may
20 pay network and primary care providers an enhanced PMPM care management fee and
21 shall also provide additional block grant funds for start-up during the pilot phase.

22 **SECTION 10.17.(d)** The Department of Health and Human Services shall
23 report on the implementation of this section, including resulting savings and quality
24 improvement benchmarks to the Senate Appropriations Committee on Health and
25 Human Services, the House of Representatives Appropriations Subcommittee on Health
26 and Human Services, and the Fiscal Research Division not later than March 1, 2007.

27
28 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

29 **TICKET TO WORK/MEDICAID ELIGIBILITY**

30 **SECTION 10.18.(a)** Article 2 of Chapter 108A of the General Statutes is
31 amended by adding the following new section to read:

32 **"§ 108A-54.1. Medicaid buy-in for workers with disabilities.**

33 (a) Title. – This act may be cited as the Health Coverage for Workers With
34 Disabilities Act. The Department shall implement a Medicaid buy-in eligibility category
35 as permitted under P.L. 106-170, Ticket to Work and Work Incentives Improvement
36 Act of 1999. The Department shall establish rules, policies, and procedures to
37 implement this act in accordance with this section.

38 (b) Definitions. – As used in this section, unless the context clearly requires
39 otherwise:

40 (1) 'FPG' means the federal poverty guidelines.

41 (2) 'HCWD' means Health Coverage for Workers With Disabilities.

42 (3) 'SSI' means Supplemental Security Income.

43 (4) 'Ticket to Work' means the Ticket to Work and Work Incentives
44 Improvement Act of 1999.

45 (c) Eligibility. – An individual is eligible for HCWD if:

46 (1) The individual is at least 16 years of age and is less than 65 years of
47 age;

48 (2) The individual meets Social Security Disability criteria, or the
49 individual has been enrolled in HCWD and then becomes medically
50 improved as defined in Ticket to Work and as further specified by the
51 Department. An individual shall be determined to be eligible under this
52 section without regard to the individual's ability to engage in, or actual
53 engagement in, substantial gainful activity as defined in section 223 of
54 the Social Security Act (42 U.S.C. § 423(d)(4)). In conducting annual
55 redetermination of eligibility, the Department may not determine that

1 an individual participating in HCWD is no longer disabled based
2 solely on the individual's participation in employment or earned
3 income;

4 (3) The individual's unearned income does not exceed one hundred fifty
5 percent (150%) of FPG, and countable resources for the individual do
6 not exceed the resource limit for the minimum community spouse
7 resource standard under 42 U.S.C. § 1396r, and as further determined
8 by the Department. In determining an individual's countable income
9 and resources, the Department may not consider income or resources
10 that are disregarded under the State Medical Assistance Plan's
11 financial methodology, including the sixty-five-dollar (\$65.00)
12 disregard, impairment-related work expenses, student earned-income
13 exclusions, and other SSI program work incentive income disregards;
14 and

15 (4) The individual is engaged in a substantial and reasonable work effort
16 (employed) as provided in this subdivision and as further defined by
17 the Department and allowable under federal law. For purposes of this
18 subsection, "engaged in substantial and reasonable work effort" means
19 all of the following:

- 20 a. Working in a competitive, inclusive work setting, or
21 self-employed.
22 b. Earning at least the applicable minimum wage.
23 c. Having monthly earnings above the SSI basic sixty-five-dollar
24 (\$65.00) earned-income disregard.
25 d. Being able to provide evidence of paying applicable Medicare,
26 Social Security, and State and federal income taxes.

27 The Department may impose additional earnings requirements in
28 defining "engaged in substantial and reasonable work effort" for
29 individuals who are eligible for HCWD based on medical
30 improvement.

31 Individuals who participate in HCWD but thereafter become
32 unemployed for involuntary reasons, including health reasons, shall
33 have continued eligibility in HCWD for up to 12 months from the time
34 of involuntary unemployment, so long as the individual (i) maintains a
35 connection with the workforce, as determined by the Department, (ii)
36 meets all other eligibility criteria for HCWD during the period, and
37 (iii) pays applicable fees, premiums, and co-payments.

38 (d) Fees, Premiums, and Co-Payments. – Individuals who participate in HCWD
39 and have countable income greater than one hundred fifty percent (150%) of FPG shall
40 pay an annual enrollment fee of fifty dollars (\$50.00) to their county department of
41 social services. Individuals who participate in HCWD and have countable income
42 greater than or equal to two hundred percent (200%) of FPG shall pay a monthly
43 premium in addition to the annual fee. The Department shall set a sliding scale for
44 premiums, which is consistent with applicable federal law. An individual with countable
45 income equal to or greater than four hundred fifty percent (450%) of FPG shall pay not
46 less than one hundred percent (100%) of the cost of the premium, as determined by the
47 Department. The premium shall be based on the experience of all individuals
48 participating in the Medical Assistance Program. Individuals who participate in HCWD
49 are subject to co-payments equal to those required under the North Carolina Health
50 Choice Program."

51 **SECTION 10.18.(b)** Of the funds appropriated in this act to the Department
52 of Health and Human Services, Division of Medical Assistance, the sum of one hundred
53 fifty thousand dollars (\$150,000) for the 2006-2007 fiscal year shall be used to support
54 the expansion of Medicaid eligibility authorized under subsection (a) of this section.

1 **SECTION 10.18.(c)** Subsection (b) of this section becomes effective July 1,
2 2006. Subsection (a) of this section becomes effective January 1, 2007. The remainder
3 of this section is effective when it becomes law.

4
5 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

6 **MEDICAID PERSONAL CARE SERVICES LIMITATIONS**

7 **SECTION 10.19.(a)** The Department of Health and Human Services,
8 Division of Medical Assistance, shall apply the following minimum criteria for
9 eligibility for personal care services under Medicaid:

- 10 (1) Personal care services shall not exceed three hours per day and 40
11 hours per month.
12 (2) Before services are authorized, the individual must be assessed by a
13 physician who has examined the individual. The assessing physician
14 must use an assessment tool identified by the Division.
15 (3) The physician must see the individual at least every six months after
16 service is approved to determine if the need for services continues to
17 exist.
18 (4) The provider of personal care services must ensure that a nurse
19 reviews the individual's services every 90 days or less, as determined
20 by the Division of Medical Assistance.

21 The Division may include additional criteria for eligibility for personal care
22 services.

23 **SECTION 10.19.(b)** The Division of Medical Assistance shall work with
24 Community Care of North Carolina (CCNC) to determine how CCNC can help with the
25 review of the need for personal care services.

26 **SECTION 10.19.(c)** The Division of Medical Assistance shall study and
27 determine appropriate utilization/prior authorization systems for personal care services
28 and other home and community-based services that can be provided to individuals who
29 meet medical criteria and that can be implemented when the new MMIS goes into
30 effect. The Department of Health and Human Services, Division of Medical Assistance,
31 shall report the plan for implementation of this section, including costs, not later than
32 May 1, 2006, to the Senate Appropriations Committee on Health and Human Services,
33 the House of Representatives Appropriations Subcommittee on Health and Human
34 Services, and the Fiscal Research Division.

35
36 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

37 **CAP-DA CHANGES**

38 **SECTION 10.20.(a)** The Department of Health and Human Services,
39 Division of Medical Assistance, shall develop a new system for reimbursing the
40 CAP-DA program. The new system shall:

- 41 (1) Use a case-mix reimbursement system, similar to the one used by
42 nursing facilities, to determine the level of care provided and the
43 amount paid for the care provided; and
44 (2) Use the Resource Utilization Groups-III (RUG-III) to determine level
45 of need for CAP-DA services.

46 **SECTION 10.20.(b)** When determining eligibility and service level for
47 CAP-DA services, the Division shall include criteria that consider the ability and
48 availability of family members to provide care.

49 **SECTION 10.20.(c)** Not later than May 1, 2006, the Department of Health
50 and Human Services, Division of Medical Assistance, shall report on the development
51 of the new system, including an implementation schedule. Full implementation of the
52 new system shall be not later than January 1, 2007. The Department shall submit the
53 report to the Senate Appropriations Committee on Health and Human Services, the
54 House of Representatives Appropriations Subcommittee on Health and Human
55 Services, and the Fiscal Research Division.

Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

**DMA ACCESS TO HEALTH INSURANCE INFORMATION TO ENSURE
RECOUPMENT OF MEDICAID FUNDS SPENT ON MEDICAL CARE
COVERED BY INSURANCE**

SECTION 10.21.(a) Part 1 of Article 50 of Chapter 58 of the General Statutes is amended by adding the following new section to read:

"§ 58-50-46. Insurers to provide certain information to Department of Health and Human Services.

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

(1) 'Department' means the Department of Health and Human Services.

(2) 'Division' means the Division of Medical Assistance of the Department of Health and Human Services.

(3) 'Health benefit plan' and 'insurer' have the meaning applicable under G.S. 58-3-167.

(4) 'Medical assistance' means medical assistance benefits provided under the State Medical Assistance Plan.

(b) Every insurer issuing a health benefit plan shall provide to the Department of Health and Human Services, upon its request, information, including automated data matches conducted under the direction of the Department of Health and Human Services, Division of Medical Assistance, as necessary for the purpose of identifying individuals covered under the insurer's health benefit plans who are also recipients of medical assistance. To facilitate the Division in obtaining this and other related information, every insurer shall:

(1) Cooperate with the Division to determine whether a named individual who is a recipient of medical assistance may be covered under the insurer's health benefit plan and eligible to receive benefits under the health benefit plan for services provided under the State Medical Assistance Plan;

(2) Accept the Division's authorization for the provision of medical services on behalf of the recipient of medical assistance as the insurer's authorization for the provision of the services; and

(3) Respond to the request for information within 15 working days after receipt of written proof of loss or claim for payment for health care services provided to a recipient of medical assistance who is covered by the insurer's health benefit plan.

(c) An insurer that complies with this section shall not be liable on that account in any civil or criminal action or proceedings brought by an individual covered under the insurer's health benefit plan, or the individual's beneficiaries."

SECTION 10.21.(b) G.S. 108A-70 reads as rewritten:

"§ 108A-70. Recoupment of amounts spent on medical care.

(a) The Department may garnish the wages, salary, or other employment income of, and the Secretary of Revenue shall withhold amounts from State tax refunds to, any person who:

(1) Is required by court or administrative order to provide health benefit plan coverage for the cost of health care services to a child eligible for medical assistance under Medicaid; and

(2) Has received payment from a third party for the costs of such services; but

(3) Has not used such payments to reimburse, as appropriate, either the other parent or guardian of the child or the provider of the services;

to the extent necessary to reimburse the Department for expenditures for such costs under this Part; provided, however, claims for current and past due child support shall take priority over any such claims for the costs of such services.

1 (b) To the extent that payment for covered services has been made under
2 G.S. 108A-55 for health care items or services furnished to an individual, in any case
3 where a third party has a legal liability to make payments, the Department of Health and
4 Human Services is considered to have acquired the rights of the individual to payment
5 by any other party for those health care items or services.

6 (c) The Department of Health and Human Services, Division of Medical
7 Assistance, may request, receive, and use information obtained pursuant to
8 G.S. 58-50-46 in order to enforce this section."
9

10 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan
11 **NC HEALTH CHOICE APPROPRIATIONS; CLAIMS PROCESSING;**
12 **MEDICAID RATES**

13 **SECTION 10.22.(a)** The total amount of funds appropriated to the North
14 Carolina Health Choice for Children Program for the 2005-2007 fiscal biennium may be
15 increased through budget transfers, subject to the approval of the Office of State Budget
16 and Management, if needed to match available federal funds to support program
17 expenditures.

18 **SECTION 10.22.(b)** The Department of Health and Human Services shall
19 issue a Request for Proposal to contract for administration and claims processing of the
20 NC Health Choice Program. The contract shall provide for applying Medicaid rates for
21 service providers as provided by law. The Department shall schedule the review process
22 for proposals received such that the Department has signed a contract with the selected
23 contractor not later than July 1, 2006. The contract shall provide for full implementation
24 of administration and claims processing, including the application of Medicaid rates for
25 service providers other than prescription drug and dental care providers, not later than
26 July 1, 2007. The Department shall study the impact of paying dental care providers at
27 Medicaid rates and shall make its recommendation to the Senate Appropriations
28 Committee on Health and Human Services, the House of Representatives
29 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research
30 Division not later than May 1, 2006.

31 **SECTION 10.22.(c)** Effective July 1, 2007, G.S. 108A-70.22,
32 G.S. 108A-70.24, and Part 5 of Article 3 of Chapter 135 of the General Statutes are
33 repealed.

34 **SECTION 10.22.(d)** Effective July 1, 2007, G.S. 108A-70.20 reads as
35 rewritten:

36 "**§ 108A-70.20. Program established.**

37 The Health Insurance Program for Children is established. The Program shall be
38 administered by the Department of Health and Human Services in accordance with this
39 Part and as required under Title XXI and related federal rules and regulations.
40 ~~Administration of Program benefits and claims processing shall be as provided under~~
41 ~~Part 5 of Article 3 of Chapter 135 of the General Statutes."~~

42 **SECTION 10.22.(e)** Effective July 1, 2007, G.S. 108A-70.21(b) reads as
43 rewritten:

44 "**§ 108A-70.21. Program eligibility; benefits; enrollment fee and other**
45 **cost-sharing; coverage from private plans; purchase of extended**
46 **coverage.**

47 ...
48 (b) Benefits. – Except as otherwise provided for eligibility, fees, deductibles,
49 copayments, and other cost-sharing charges, health benefits coverage provided to
50 children eligible under the Program shall be equivalent to coverage provided for
51 dependents under the North Carolina Teachers' and State Employees' Comprehensive
52 Major Medical Plan, including optional prepaid plans. Prescription drug providers shall
53 accept as payment in full, for outpatient prescriptions filled, ninety percent (90%) of the
54 average wholesale price for the prescription drug or the amounts published by the
55 Centers for Medicare and Medicaid Services plus a dispensing fee of five dollars and

1 sixty cents (\$5.60) per prescription for generic drugs and four dollars (\$4.00) per
2 prescription for brand name drugs. Except for dental care providers, All other health
3 care providers providing services to Program enrollees shall accept as payment in full
4 for services rendered the maximum allowable charges under the North Carolina
5 Teachers' and State Employees' Comprehensive Major Medical Plan State Medical
6 Assistance Program for services less any copayments assessed to enrollees under this
7 Part. Dental care providers providing services to Program enrollees shall accept as
8 payment in full for services rendered the maximum allowable charges under the North
9 Carolina Teachers' and State Employees' Comprehensive Major Medical Plan for
10 services less any co-payments assessed to enrollees under this Part. No child enrolled in
11 the Plan's self-insured indemnity program shall be required by the Plan to change health
12 care providers as a result of being enrolled in the Program.

13 In addition to the benefits provided under the Plan, the following services and
14 supplies are covered under the Health Insurance Program for Children established under
15 this Part:

- 16 (1) Dental: Oral examinations, teeth cleaning, and scaling twice during a
17 12-month period, full mouth X-rays once every 60 months, supplemental bitewing X-rays showing the back of the teeth once
18 during a 12-month period, fluoride applications twice during a 12-month period, fluoride varnish, sealants, simple extractions,
19 therapeutic pulpotomies, prefabricated stainless steel crowns, and routine fillings of amalgam or other tooth-colored filling material to
20 restore diseased teeth. No benefits are to be provided for services under this subsection that are not performed by or upon the direction
21 of a dentist, doctor, or other professional provider approved by the Plan nor for services and materials that do not meet the standards
22 accepted by the American Dental Association.
- 23 (2) Vision: Scheduled routine eye examinations once every 12 months, eyeglass lenses or contact lenses once every 12 months, routine
24 replacement of eyeglass frames once every 24 months, and optical supplies and solutions when needed. Optical services, supplies, and
25 solutions must be obtained from licensed or certified ophthalmologists, optometrists, or optical dispensing laboratories. Eyeglass lenses are
26 limited to single vision, bifocal, trifocal, or other complex lenses necessary for a Plan enrollee's visual welfare. Coverage for oversized
27 lenses and frames, designer frames, photosensitive lenses, tinted contact lenses, blended lenses, progressive multifocal lenses, coated
28 lenses, and laminated lenses is limited to the coverage for single vision, bifocal, trifocal, or other complex lenses provided by this
29 subsection. Eyeglass frames are limited to those made of zylonite, metal, or a combination of zylonite and metal. All visual aids covered
30 by this subsection require prior approval of the Plan. Upon prior approval by the Plan, refractions may be covered more often than once
31 every 12 months.
- 32 (3) Hearing: Auditory diagnostic testing services and hearing aids and accessories when provided by a licensed or certified audiologist,
33 otolaryngologist, or other hearing aid specialist approved by the Plan. Prior approval of the Plan is required for hearing aids, accessories,
34 earmolds, repairs, loaners, and rental aids.

35 The Department may provide services to children aged birth through five years enrolled
36 in the Program through the State Medical Assistance managed care program. Services
37 provided through the managed care program shall be paid from Program funds."
38

39 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54

1 **LONG-TERM PLAN FOR MEETING MENTAL HEALTH,**
2 **DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES**
3 **NEEDS**

4 **SECTION 10.24.(a)** The Secretary of the Department of Health and Human
5 Services shall, in consultation with interested advocacy groups and affected State and
6 local agencies, develop a long-range plan for addressing the mental health,
7 developmental disabilities, and substance abuse services needs of the State. The plan
8 shall be consistent with the plan developed pursuant to G.S. 122C-102, and shall
9 address the following:

- 10 (1) The services needed at the community level within each LME in order
11 to ensure an adequate level of services to the average number of
12 persons needing the services based on population projections.
- 13 (2) The full continuum of services needed for each disability group within
14 an LME, including:
15 a. Which services could be regional or multi-LME based;
16 b. What percent of the population each LME would expect to use
17 State-level facilities; and
18 c. An inventory of existing services within each LME for each
19 disability group, and the gaps that exist;
- 20 (3) Projected growth in services for each disability group within each
21 LME or region that can reasonably be managed over the ensuing
22 five-year period; and
- 23 (4) Projected start-up costs and the total funding needed in each year from
24 the Trust Fund for Mental Health, Developmental Disabilities, and
25 Substance Abuse Services and Bridge Funding Needs to implement the
26 long-range plan.

27 Funds shall not be transferred from the Trust Fund for Mental Health,
28 Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs
29 until the Secretary has consulted with the Joint Legislative Commission on
30 Governmental Operations, the Joint Legislative Oversight Committee on Mental Health,
31 Developmental Disabilities, and Substance Abuse Services, and the Chairs of the Senate
32 Appropriations Committee on Health and Human Services and the House of
33 Representatives Appropriations Subcommittee on Health and Human Services.

34 **SECTION 10.24.(b)** Moneys in the Trust Fund established pursuant to
35 G.S. 143-15D shall be used to establish or expand community-based services only if
36 sufficient recurring funds can be identified within the Department from funds currently
37 budgeted for mental health, developmental disabilities, and substance abuse services,
38 area mental health programs or county programs, or local government.

39 **SECTION 10.24.(c)** Not later than January 1, 2006, the Department of
40 Health and Human Services shall report on the implementation of this section to the
41 Senate Appropriations Committee on Health and Human Services, the House of
42 Representatives Appropriations Subcommittee on Health and Human Services, and the
43 Fiscal Research Division.

44
45 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

46 **COMPREHENSIVE TREATMENT SERVICES PROGRAM**

47 **SECTION 10.25.(a)** The Department of Health and Human Services shall
48 continue the Comprehensive Treatment Services Program for children at risk for
49 institutionalization or other out-of-home placement. The Program shall be implemented
50 by the Department in consultation with the Department of Juvenile Justice and
51 Delinquency Prevention, the Department of Public Instruction, and other affected State
52 agencies. The purpose of the Program is to provide appropriate and medically
53 necessary residential and nonresidential treatment alternatives for children at risk of
54 institutionalization or other out-of-home placement. Program funds shall be targeted for
55 non-Medicaid eligible children. Program funds may also be used to expand a

1 system-of-care approach for services to children and their families statewide. The
2 program shall include the following:

- 3 (1) Behavioral health screening for all children at risk of
4 institutionalization or other out-of-home placement.
- 5 (2) Appropriate and medically necessary residential and nonresidential
6 services for deaf children.
- 7 (3) Appropriate and medically necessary residential and nonresidential
8 treatment services including placements for sexually aggressive youth.
- 9 (4) Appropriate and medically necessary residential and nonresidential
10 treatment services including placements for youths needing substance
11 abuse treatment services and children with serious emotional
12 disturbances.
- 13 (5) Multidisciplinary case management services, as needed.
- 14 (6) A system of utilization review specific to the nature and design of the
15 Program.
- 16 (7) Mechanisms to ensure that children are not placed in department of
17 social services custody for the purpose of obtaining mental health
18 residential treatment services.
- 19 (8) Mechanisms to maximize current State and local funds and to expand
20 use of Medicaid funds to accomplish the intent of this Program.
- 21 (9) Other appropriate components to accomplish the Program's purpose.
- 22 (10) The Secretary of the Department of Health and Human Services may
23 enter into contracts with residential service providers.
- 24 (11) A system of identifying and tracking children placed outside of the
25 family unit in group homes, therapeutic foster care home settings, and
26 other out-of-home placements.

27 **SECTION 10.25.(b)** In order to ensure that children at risk for
28 institutionalization or other out-of-home placement are appropriately served by the
29 mental health, developmental disabilities, and substance abuse services system, the
30 Department of Health and Human Services, Division of Mental Health, Developmental
31 Disabilities, and Substance Abuse Services, shall do the following with respect to
32 services provided to these children:

- 33 (1) Provide only those treatment services that are medically necessary.
- 34 (2) Implement utilization review of services provided.
- 35 (3) Adopt the following guiding principles for the provision of services:
 - 36 a. Service delivery system must be outcome-oriented and
37 evaluation-based.
 - 38 b. Services should be delivered as close as possible to the child's
39 home.
 - 40 c. Services selected should be those that are most efficient in
41 terms of cost and effectiveness.
 - 42 d. Services should not be provided solely for the convenience of
43 the provider or the client.
 - 44 e. Families and consumers should be involved in decision making
45 throughout treatment planning and delivery.
- 46 (4) Implement all of the following cost-reduction strategies:
 - 47 a. Preauthorization for all services except emergency services.
 - 48 b. Levels of care to assist in the development of treatment plans.
 - 49 c. Clinically appropriate services.

50 **SECTION 10.25.(c)** The Department shall collaborate with other affected
51 State agencies such as the Department of Juvenile Justice and Delinquency Prevention,
52 the Department of Public Instruction, the Administrative Office of the Courts, and with
53 local departments of social services, area mental health programs, and local education
54 agencies to eliminate cost shifting and facilitate cost-sharing among these governmental
55 agencies with respect to the treatment and placement services.

1 **SECTION 10.25.(d)** The Department shall not allocate funds appropriated
2 for Program services until a Memorandum of Agreement has been executed between the
3 Department of Health and Human Services, the Department of Public Instruction, and
4 other affected State agencies. The Memorandum of Agreement shall address
5 specifically the roles and responsibilities of the various departmental divisions and
6 affected State agencies involved in the administration, financing, care, and placement of
7 children at risk of institutionalization or other out-of-home placement. The Department
8 shall not allocate funds appropriated in this act for the Program until Memoranda of
9 Agreement between local departments of social services, area mental health programs,
10 local education agencies, and the Administrative Office of the Courts and the
11 Department of Juvenile Justice and Delinquency Prevention, as appropriate, are
12 executed to effectuate the purpose of the Program. The Memoranda of Agreement shall
13 address issues pertinent to local implementation of the Program, including provision for
14 the immediate availability of student records to a local school administrative unit
15 receiving a child placed in a residential setting outside the child's home county.

16 **SECTION 10.25.(e)** Notwithstanding any other provision of law to the
17 contrary, services under the Comprehensive Treatment Services Program are not an
18 entitlement for non-Medicaid eligible children served by the Program.

19 **SECTION 10.25.(f)** Of the funds appropriated in this act for the
20 Comprehensive Treatment Services Program, the Department of Health and Human
21 Services shall establish a reserve of three percent (3%) to ensure availability of these
22 funds to address specialized needs for children with unique or highly complex
23 problems.

24 **SECTION 10.25.(g)** The Department of Health and Human Services, in
25 conjunction with the Department of Juvenile Justice and Delinquency Prevention, the
26 Department of Public Instruction, and other affected agencies, shall report on the
27 following Program information:

- 28 (1) The number and other demographic information of children served.
- 29 (2) The amount and source of funds expended to implement the Program.
- 30 (3) Information regarding the number of children screened, specific
31 placement of children including the placement of children in programs
32 or facilities outside of the child's home county, and treatment needs of
33 children served.
- 34 (4) The average length of stay in residential treatment, transition, and
35 return to home.
- 36 (5) The number of children diverted from institutions or other out-of-home
37 placements such as training schools and State psychiatric hospitals and
38 a description of the services provided.
- 39 (6) Recommendations on other areas of the Program that need to be
40 improved.
- 41 (7) Other information relevant to successful implementation of the
42 Program.

43 **SECTION 10.25.(h)** The Department shall submit a report on December 1,
44 2005, on the implementation of this section and a final report not later than April 1,
45 2006, to the House of Representatives Appropriations Subcommittee on Health and
46 Human Services, the Senate Appropriations Committee on Health and Human Services,
47 the Joint Legislative Oversight Committee on Mental Health, Developmental
48 Disabilities, and Substance Abuse Services, and the Fiscal Research Division.

49 **SECTION 10.25.(i)** This section expires July 1, 2006.

50
51 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

52 **SERVICES TO MULTIPLY DIAGNOSED ADULTS**

53 **SECTION 10.26.(a)** In order to ensure that multiply diagnosed adults are
54 appropriately served by the mental health, developmental disabilities, and substance
55 abuse services system, the Department of Health and Human Services, Division of

1 Mental Health, Developmental Disabilities, and Substance Abuse Services, shall do the
2 following with respect to services provided to these adults:

- 3 (1) Implement the following guiding principles for the provision of
4 services:
5 a. Service delivery system must be outcome-oriented and
6 evaluation-based.
7 b. Services should be delivered as close as possible to the
8 consumer's home.
9 c. Services selected should be those that are most efficient in
10 terms of cost and effectiveness.
11 d. Services should not be provided solely for the convenience of
12 the provider or the client.
13 e. Families and consumers should be involved in decision making
14 throughout treatment planning and delivery.
15 (2) Provide those treatment services that are medically necessary.
16 (3) Implement utilization review of services provided.

17 **SECTION 10.26.(b)** The Department of Health and Human Services shall
18 implement all of the following cost-reduction strategies:

- 19 (1) Preauthorization for all services except emergency services.
20 (2) Criteria for determining medical necessity.
21 (3) Clinically appropriate services.

22 **SECTION 10.26.(c)** No State funds shall be used for the purchase of
23 single-family or other residential dwellings to house multiply diagnosed adults.

24 **SECTION 10.26.(d)** The Department shall submit a progress report on
25 implementation of this section not later than February 1, 2006, and a final report not
26 later than May 1, 2006, to the Senate Appropriations Committee on Health and Human
27 Services, the House of Representatives Appropriations Subcommittee on Health and
28 Human Services, the Joint Legislative Oversight Committee on Mental Health,
29 Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research
30 Division.

31 **SECTION 10.26.(e)** This section expires July 1, 2006.
32

33 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

34 **EXTEND MENTAL HEALTH CONSUMER ADVOCACY PROGRAM**
35 **CONTINGENT UPON FUNDS APPROPRIATED BY THE 2007 GENERAL**
36 **ASSEMBLY**

37 **SECTION 10.27.** Section 4 of S.L. 2001-437, as amended by Section 10.30
38 of S.L. 2002-126, and as further amended by Section 10.10 of S.L. 2003-284, reads as
39 rewritten:

40 "**SECTION 4.** Sections 1.1 through 1.21(b) of this act become effective July 1,
41 2002. ~~Section 2 of this act becomes effective only if funds are appropriated by the 2005~~
42 ~~General Assembly for that purpose.~~ Section 2 of this act becomes effective July 1 of the
43 fiscal year for which funds are appropriated by the ~~2005~~ General Assembly for that
44 purpose. The remainder of this act is effective when it becomes law."
45

46 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

47 **TRANSITION PLANNING FOR STATE PSYCHIATRIC HOSPITALS**

48 **SECTION 10.28.(a)** In keeping with the United States Supreme Court
49 decision in Olmstead vs. L.C. & E.W. and State policy to provide appropriate services
50 to clients in the least restrictive and most appropriate environment, the Department of
51 Health and Human Services shall continue to implement a plan for the transition of
52 patients from State psychiatric hospitals to the community or to other long-term care
53 facilities, as appropriate. The goal is to develop mechanisms and identify resources
54 needed to enable patients and their families to receive the necessary services and
55 supports based on the following guiding principles:

- 1 (1) Individuals shall be provided acute psychiatric care in non-State
- 2 facilities when appropriate.
- 3 (2) Individuals shall be provided acute psychiatric care in State facilities
- 4 only when non-State facilities are unavailable.
- 5 (3) Individuals shall receive evidenced-based psychiatric services and care
- 6 that are cost-efficient.
- 7 (4) The State shall minimize cost shifting to other State and local facilities
- 8 or institutions.

9 **SECTION 10.28.(b)** The Department of Health and Human Services shall
10 conduct an analysis of the individual patient service needs and shall develop and
11 implement an individual transition plan, as appropriate, for patients in each hospital.
12 The State shall ensure that each individual transition plan, as appropriate, shall take into
13 consideration the availability of appropriate alternative placements based on the needs
14 of the patient and within resources available for the mental health, developmental
15 disabilities, and substance abuse services system. In developing each plan, the
16 Department shall consult with the patient and the patient's family or other legal
17 representative.

18 **SECTION 10.28.(c)** In accordance with the plan established in subsections
19 (a) and (b) of this section, any nonrecurring savings in State appropriations that result
20 from reductions in beds or services shall be placed in the Trust Fund for Mental Health,
21 Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs.
22 These funds shall be used to facilitate the transition of clients into appropriate
23 community-based services and supports in accordance with G.S. 143-15.3D. Recurring
24 savings realized through implementation of this section shall be retained by the
25 Department of Health and Human Services, Division of Mental Health, Developmental
26 Disabilities, and Substance Abuse Services, (i) for implementation of subsections (a)
27 and (b) of this section and (ii) to support the recurring costs of additional
28 community-based placements from Division facilities in accordance with Olmstead vs.
29 L.C. & E.W.

30 **SECTION 10.28.(d)** The Department of Health and Human Services shall
31 submit reports on the status of implementation of this section to the Joint Legislative
32 Commission on Governmental Operations, the Senate Appropriations Committee on
33 Health and Human Services, the House of Representatives Appropriations
34 Subcommittee on Health and Human Services, the Joint Legislative Oversight
35 Committee on Mental Health, Developmental Disabilities, and Substance Abuse
36 Services, and the Fiscal Research Division. These reports shall be submitted on
37 December 1, 2005, and May 1, 2006.

38
39 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

40 **MENTAL RETARDATION CENTER DOWNSIZING**

41 **SECTION 10.29.(a)** In accordance with the Department of Health and
42 Human Services' plan for downsizing the State's regional mental retardation facilities by
43 four percent (4%) each year, the Department shall implement cost-containment and
44 reduction strategies to ensure the corresponding financial and staff downsizing of each
45 facility. The Department shall manage the client population of the mental retardation
46 centers in order to ensure that placements for ICF/MR level of care shall be made in
47 non-State facilities. Admissions to State ICF/MR facilities are permitted only as a last
48 resort and only upon approval of the Department. The corresponding budgets for each
49 of the State mental retardation centers shall be reduced, and positions shall be
50 eliminated as the census of each facility decreases. At no time shall mental retardation
51 center positions be transferred to other units within a facility or assigned nondirect care
52 activities such as outreach.

53 **SECTION 10.29.(b)** The Department of Health and Human Services shall
54 apply any savings in State appropriations in each year of the 2005-2007 fiscal biennium
55 that result from reductions in beds or services as follows:

- 1 (1) The Department shall place nonrecurring savings in the Trust Fund for
2 Mental Health, Developmental Disabilities, and Substance Abuse
3 Services and Bridge Funding Needs and use the savings to facilitate
4 the transition of clients into appropriate community-based services and
5 support in accordance with G.S. 143-15.3D;
- 6 (2) The Department of Health and Human Services, Division of Mental
7 Health, Developmental Disabilities, and Substance Abuse Services,
8 shall retain recurring savings realized through implementation of this
9 section to support the recurring costs of additional community-based
10 placements from Division facilities in accordance with Olmstead vs.
11 L.C. & E.W. In determining the savings in this section, savings shall
12 include all savings realized from the downsizing of the State mental
13 retardation centers, including the savings in direct State appropriations
14 in the budgets of the State mental retardation centers; and
- 15 (3) The Department of Health and Human Services, Division of Medical
16 Assistance, shall transfer any recurring Medicaid savings resulting
17 from the downsizing of State-operated MR centers from the ICF-MR
18 line in Medicaid to the CAP-MR/DD line.

19 **SECTION 10.29.(c)** The Department of Health and Human Services shall
20 report on its progress in complying with this section to the Senate Appropriations
21 Committee on Health and Human Services, the House of Representatives
22 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research
23 Division. The Department shall submit the progress report no later than January 15,
24 2006, and submit a final report no later than May 1, 2006.

25 **SECTION 10.29.(d)** The Department of Health and Human Services shall
26 maintain downsizing of mental retardation centers occurring in the 2005-2006 fiscal
27 year for the 2006-2007 fiscal year. The Department shall accomplish downsizing in
28 accordance with this section and the State Plan for Mental Health, Developmental
29 Disabilities, and Substance Abuse Services. The Department shall use all savings
30 resulting from downsizing occurring on and after July 1, 2005, as set forth in subsection
31 (b) of this section.

32
33 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan
34 **PRIVATE AGENCY UNIFORM COST FINDING REQUIREMENT**

35 **SECTION 10.30.(a)** To ensure uniformity in rates charged to area programs
36 and funded with State-allocated resources, the Division of Mental Health,
37 Developmental Disabilities, and Substance Abuse Services of the Department of Health
38 and Human Services may require a private agency that provides services under contract
39 with an area program or county program, except for hospital services that have an
40 established Medicaid rate, to complete an agency-wide uniform cost finding in
41 accordance with G.S. 122C-147.2. The resulting cost shall be the maximum included
42 for the private agency in the contracting area program's unit cost finding.

43 **SECTION 10.30.(b)** If a private agency fails to timely and accurately
44 complete the required agency-wide uniform cost finding in a manner acceptable to the
45 Department's controller's office, the Department may suspend all Department funding
46 and payment to the private agency until such time as an acceptable cost finding has been
47 completed by the private agency and approved by the Department's controller's office.

48
49 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan
50 **DHHS POLICIES AND PROCEDURES IN DELIVERING COMMUNITY**
51 **MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND**
52 **SUBSTANCE ABUSE SERVICES**

53 **SECTION 10.31.** The Department of Health and Human Services, Division
54 of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall in
55 cooperation with area mental health authorities and county programs, identify and

1 eliminate administrative and fiscal barriers created by existing State and local policies
2 and procedures in the delivery of community-based mental health, developmental
3 disabilities, and substance abuse services provided through the area programs and
4 county programs, including services provided through the Comprehensive Treatment
5 Services Program for Children and services delivered to multiply diagnosed adults. The
6 Department shall implement changes in policies and procedures in order to facilitate all
7 of the following:

- 8 (1) The provision of services to adults and children as defined in the
9 Mental Health System Reform State Plan as priority or targeted
10 populations.
- 11 (2) A revised system of allocating State and federal funds to area mental
12 health authorities and county programs that reflects projected needs,
13 including the impact of system reform efforts rather than historical
14 allocation practices and spending patterns.
- 15 (3) The provision of services to children not deemed eligible for the
16 Comprehensive Treatment Services Program for Children, but who
17 would otherwise be in need of medically necessary treatment services
18 to prevent out-of-home placement.
- 19 (4) The provision of services in the community to adults remaining in and
20 being placed in State institutions addressed in Olmstead v. L.C.

21 Area mental health, developmental disabilities, and substance abuse services
22 authorities and county programs shall use all funds appropriated for and necessary to
23 provide mental health, developmental disabilities, and substance abuse services to meet
24 the need for these services. If excess funds are available after expending appropriated
25 funds to fully meet service needs, one-half of these excess funds shall not revert to the
26 General Fund but shall be transferred to the Trust Fund for Mental Health,
27 Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs,
28 except that one-half of the funds appropriated for the Comprehensive Treatment
29 Services Program for Children that are unexpended and unencumbered shall not revert
30 to the General Fund but shall be carried forward and used only for services for children
31 and adolescents.

32 The Department, in consultation with the area mental health authorities and
33 county programs, shall report to the House of Representatives Appropriations
34 Subcommittee on Health and Human Services, the Senate Appropriations Committee on
35 Health and Human Services, and the Joint Legislative Oversight Committee on Mental
36 Health, Developmental Disabilities, and Substance Abuse Services on the progress in
37 implementing these changes. The report shall be submitted on October 1, 2005, and
38 February 1, 2006.

39
40 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

41 **IMMUNITY FOR REPORTING ABUSE AND NEGLECT**

42 **SECTION 10.32.** G.S. 122C-66 reads as rewritten:

43 **"§ 122C-66. Protection from abuse and exploitation; reporting.**

44 (a) An employee of or a volunteer at a facility who, other than as a part of
45 generally accepted medical or therapeutic procedure, knowingly causes pain or injury to
46 a client or borrows or takes personal property from a client is guilty of a Class 1
47 misdemeanor. Any employee or volunteer who uses reasonable force to carry out the
48 provisions of G.S. 122C-60 or to protect himself or others from a violent client does not
49 violate this subsection.

50 (a1) An individual who witnesses or has knowledge of abuse, neglect, or
51 exploitation of a client of a residential facility may report the incident of abuse, neglect,
52 or exploitation to an authorized employee of the facility.

53 (b) An employee of a facility who witnesses or has knowledge of a violation of
54 subsection (a) or of an accidental injury to a client shall report the violation or
55 accidental injury to authorized personnel designated by the facility. No employee

1 making a report may be threatened or harassed by any other employee or volunteer on
 2 account of the report. Violation of this subsection is a Class 3 misdemeanor punishable
 3 only by a fine, not to exceed five hundred dollars (\$500.00).

4 (c) The identity of an individual who makes a report under this section or who
 5 cooperates in an ensuing investigation may not be disclosed without his consent, except
 6 to persons authorized by the facility or by State or federal law to investigate or
 7 prosecute these incidents, or in a grievance or personnel hearing or civil or criminal
 8 action in which a reporting individual is testifying, or when disclosure is legally
 9 compelled or authorized by judicial discovery. This subsection shall not be interpreted
 10 to require the disclosure of the identity of an individual where it is otherwise prohibited
 11 by law.

12 (d) An employee or citizen who makes a report in good faith under this section is
 13 immune from any civil liability that might otherwise occur for the report. In any case
 14 involving liability, making of a report under this section is prima facie evidence that the
 15 maker acted in good faith.

16 (e) The duty imposed by this section is in addition to any duty imposed by
 17 G.S. 7B-301 or G.S. 108A-102.

18 (f) The facility shall investigate or provide for the investigation of all reports
 19 made under the provisions of this section."
 20

21 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

22 **RULES PERTAINING TO CONFLICT OF INTEREST IN REFERRALS TO**
 23 **PROVIDER AGENCIES**

24 **SECTION 10.33.** G.S. 122C-26 reads as rewritten:

25 **"§ 122C-26. Powers of the Commission.**

26 In addition to other powers and duties, the Commission shall exercise the following
 27 powers and duties:

- 28 (1) Adopt, amend, and repeal rules consistent with the laws of this State
 29 and the laws and regulations of the federal government to implement
 30 the provisions and purposes of this Article;
- 31 (2) Issue declaratory rulings needed to implement the provisions and
 32 purposes of this Article;
- 33 (3) Adopt rules governing appeals of decisions to approve or deny
 34 licensure under this Article;
- 35 (4) Adopt rules for the waiver of rules adopted under this Article; and
- 36 (5) Adopt rules applicable to facilities licensed under this Article:
 - 37 a. Establishing personnel requirements of staff employed in
 38 facilities;
 - 39 b. Establishing qualifications of facility administrators or
 40 directors;
 - 41 c. Establishing requirements for death reporting including
 42 confidentiality provisions related to death reporting; ~~and~~
 - 43 d. Establishing requirements for patient ~~advocates~~; ~~advocates~~; ~~and~~
 - 44 e. Requiring facility personnel who refer clients to provider
 45 agencies to disclose any pecuniary interest the referring person
 46 has in the provider agency, or other interest that may give rise
 47 to the appearance of impropriety."

48
 49 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

50 **LEGISLATIVE OVERSIGHT COMMITTEE ON MENTAL HEALTH,**
 51 **DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES**
 52 **TO STUDY OVERSIGHT AND MONITORING BY DEPARTMENT OF**
 53 **HEALTH AND HUMAN SERVICES OF SERVICES TO MENTAL HEALTH**
 54 **CONSUMERS**

SECTION 10.34. The Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services shall study the oversight and monitoring roles and activities of the Divisions of: Social Services, Facility Services, Medical Assistance, and Mental Health, Developmental Disabilities, and Substance Abuse Services, of the Department of Health and Human Services. The study shall focus on how the oversight and monitoring activities benefit consumers of mental health, developmental disabilities, and substance abuse services in residential settings, and shall include in its report recommendations on ensuring quality of care and increasing efficiency in the provision of services. The Oversight Committee shall report its findings and recommendations to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than April 1, 2006.

Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan
APPEALS PROCESS FOR CLIENTS OF MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES PROGRAMS

SECTION 10.35. G.S. 122C-151.2 reads as rewritten:
 "§ 122C-151.2. Appeal by area authorities and county ~~programs~~.~~programs~~; rules governing appeals process for clients of area authorities or county ~~programs~~.

(a) The area authority or county program may appeal to the Commission any action regarding rules under the jurisdiction of the Commission or rules under the joint jurisdiction of the Commission and the Secretary.

(b) The area authority or county program may appeal to the Secretary any action regarding rules under the jurisdiction of the Secretary.

(b1) The Commission shall adopt rules governing an appeals process for clients to the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services and the Secretary. The appeals process shall ensure that area authority and county program services meet the requirements of applicable statutes and the rules of the Commission and the Secretary.

(c) Appeals shall be conducted according to rules adopted by the Commission and Secretary and in accordance with Chapter 150B of the General Statutes."

Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan
CONTROLLED SUBSTANCES REPORTING

SECTION 10.36.(a) Chapter 90 of the General Statutes is amended by adding a new Article to read:

"Article 5D.

"North Carolina Controlled Substances Reporting Act.

"§ 90-113.60. Short title.

This Article shall be known and may be cited as the "North Carolina Controlled Substances Reporting System Act."

"§ 90-113.61. Legislative findings.

The General Assembly makes the following findings:

- (1) North Carolina is experiencing an epidemic of poisoning deaths from unintentional drug overdoses.
- (2) Since 1997, the number of deaths from unintentional drug overdoses has increased threefold, from 228 deaths in 1997 to 690 deaths in 2003.
- (3) The number of unintentional deaths from illicit drugs in North Carolina has decreased since 1992 while unintentional deaths from licit drugs, primarily prescriptions, have increased.

- 1 (4) Licit drugs are now responsible for over half of the fatal unintentional
2 poisonings in North Carolina.
- 3 (5) Over half of the prescription drugs associated with unintentional
4 deaths are narcotics (opioids).
- 5 (6) Of these licit drugs, deaths from methadone, usually prescribed as an
6 analgesic for severe pain, have increased sevenfold since 1997.
- 7 (7) Methadone from opioid treatment program clinics is a negligible
8 source of the methadone that has contributed to the dramatic increase
9 in unintentional methadone-related deaths in North Carolina.
- 10 (8) Review of the experience of the 19 states that have active controlled
11 substances reporting systems clearly documents that implementation of
12 these reporting systems do not create a "chilling" effect on prescribing.
- 13 (9) Review of data from controlled substances reporting systems help:
- 14 a. Support the legitimate medical use of controlled substances.
- 15 b. Identify and prevent diversion of prescribed controlled
16 substances.
- 17 c. Reduce morbidity and mortality from unintentional drug
18 overdoses.
- 19 d. Reduce the costs associated with the misuse and abuse of
20 controlled substances.
- 21 e. Assist clinicians in identifying and referring for treatment
22 patients misusing controlled substances.
- 23 f. Reduce the cost for law enforcement of investigating cases of
24 diversion and misuse.
- 25 g. Inform the public, including health care professionals, of the
26 use and abuse trends related to prescription drugs.

27 **"§ 90-113.62. Definitions.**

28 The following definitions apply in this Article:

- 29 (1) "Controlled substance" means a controlled substance as defined in
30 G.S. 90-87(5).
- 31 (2) "Department" means the Department of Health and Human Services.
- 32 (3) "Dispenser" means a person who delivers a Schedule II through V
33 controlled substance to an ultimate user in North Carolina, but does
34 not include any of the following:
- 35 a. A licensed hospital or long-term care pharmacy that dispenses
36 such substances for the purpose of inpatient administration.
- 37 b. A person authorized to administer such a substance pursuant to
38 Chapter 90 of the General Statutes.
- 39 c. A wholesale distributor of a Schedule II through V controlled
40 substance.
- 41 (4) "Ultimate user" means a person who has lawfully obtained, and who
42 possesses, a Schedule II through V controlled substance for his or her
43 own use, for the use of a member of his or her household, or for the
44 use of an animal owned or controlled by him or her or by a member of
45 his or her household.

46 **"§ 90-113.63. Requirements for controlled substances reporting system.**

47 The Department shall establish and maintain a reporting system of prescriptions for
48 all Schedule II through V controlled substances. Each dispenser shall submit the
49 information in accordance with transmission methods and frequency established by rule
50 by the Commission. The Department may issue a waiver to a dispenser that is unable to
51 submit prescription information by electronic means. Such waiver may permit the
52 dispenser to submit prescription information by paper form or other means, provided all
53 information required of electronically submitted data is submitted.

54 **"§ 90-113.64. Confidentiality.**

1 (a) Prescription information submitted to the Department shall be confidential
2 and shall not be public records pursuant to G.S. 132-1. The Department may use such
3 information for purposes of administration and enforcement. Any contractor shall be
4 bound to maintain the confidentiality of prescription information in accordance with this
5 section. The information may only be disclosed in accordance with subsections (b) and
6 (c) of this section.

7 (b) The Department shall, upon request, release data in the controlled substances
8 reporting system to the following persons:

9 (1) Persons authorized to prescribe or dispense controlled substances for
10 the purpose of providing medical or pharmaceutical care for their
11 patients.

12 (2) An individual who requests the individual's own controlled substances
13 reporting system information.

14 (3) Other agencies authorized to have access to such information pursuant
15 to the provisions of G.S. 90-107.

16 (4) Primary monitoring authorities for other states if information concerns
17 the dispensing of a Schedule II through V controlled substance to an
18 ultimate user who resides in such state or the dispensing of a Schedule
19 II through V controlled substance prescribed by a licensed health care
20 practitioner whose principal place of business is located in such other
21 state.

22 (5) To a court pursuant to a lawful court order.

23 (c) The Department may provide data to public or private entities for statistical,
24 research, or educational purposes after removing information that could be used to
25 identify individual patients who received prescriptions from dispensers.

26 **"§ 90-113.65. Commission for Mental Health, Developmental Disabilities, and**
27 **Substance Abuse Services to adopt rules.**

28 The Commission for Mental Health, Developmental Disabilities, and Substance
29 Abuse Services shall adopt rules necessary to implement this act."

30 **SECTION 10.36.(b)** This section becomes effective January 1, 2006.

31
32 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

33 **SENIOR CENTER OUTREACH**

34 **SECTION 10.37.(a)** Funds appropriated to the Department of Health and
35 Human Services, Division of Aging and Adult Services, for the 2005-2007 fiscal
36 biennium, shall be used by the Division of Aging and Adult Services to enhance senior
37 center programs as follows:

38 (1) To expand the outreach capacity of senior centers to reach unserved or
39 underserved areas; or

40 (2) To provide start-up funds for new senior centers.

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

42 **SECTION 10.37.(b)** Prior to funds being allocated pursuant to this section
43 for start-up funds for a new senior center, the county commissioners of the county in
44 which the new center will be located shall:

45 (1) Formally endorse the need for such a center;

46 (2) Formally agree on the sponsoring agency for the center; and

47 (3) Make a formal commitment to use local funds to support the ongoing
48 operation of the center.

49 **SECTION 10.37.(c)** State funding shall not exceed seventy-five percent
50 (75%) of reimbursable costs.

51
52 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

53 **STATE/COUNTY SPECIAL ASSISTANCE**

54 **SECTION 10.38.(a)** The eligibility of Special Assistance recipients residing
55 in adult care homes on August 1, 1995, shall not be affected by an income reduction in

1 the Special Assistance eligibility criteria resulting from adoption of the Rate Setting
2 Methodology Report and Related Services, providing these recipients are otherwise
3 eligible. The maximum monthly rate for these residents in adult care home facilities
4 shall be one thousand two hundred thirty-one dollars (\$1,231) per month per resident.

5 **SECTION 10.38.(b)** Effective July 1, 2005, the maximum monthly rate for
6 residents in adult care home facilities shall be one thousand eighty-four dollars (\$1,084)
7 per month per resident unless adjusted by the Department in accordance with subsection
8 (d) of this section.

9 **SECTION 10.38.(c)** It is the intent of the General Assembly to protect
10 individuals who meet current eligibility standards for State/County Special Assistance
11 from becoming disenfranchised from the program as a result of any changes proposed in
12 this section. Therefore, subject to any necessary approvals by the Center for Medicare
13 & Medicaid Services (CMS):

14 (1) The eligibility of Special Assistance recipients who resided in adult
15 care homes on September 30, 2003, and remain continuously eligible
16 shall not be affected by an income reduction in the Special Assistance
17 eligibility criteria, providing these recipients are otherwise eligible.
18 The maximum monthly rate for these residents in adult care home
19 facilities shall be one thousand ninety-one dollars (\$1,091) per month
20 per resident; and

21 (2) The standard of need level for coverage eligibility under State/County
22 Special Assistance, for individuals not enrolled or recipients of the
23 program on September 30, 2003, shall be not less than one thousand
24 ninety-one dollars (\$1,091) per month per individual, but the monthly
25 reimbursement rate for such individuals shall be the amount
26 established under subsections (c) and (d) of this section. However, the
27 Department of Health and Human Services, in its determination of
28 reimbursement rates, may establish a minimum monthly
29 reimbursement rate of not more than five dollars (\$5.00) per month for
30 any resident of an adult care home facility meeting the established
31 standard of need level for coverage.

32 **SECTION 10.38.(d)** Notwithstanding any other provision of this section, the
33 Department of Health and Human Services shall review activities and costs related to
34 the provision of care in adult care homes and shall determine what costs may be
35 considered to properly maximize allowable reimbursement available through Medicaid
36 personal care services for adult care homes (ACH-PCS) under federal law. As
37 determined, and with any necessary approval from the Centers for Medicare and
38 Medicaid Services (CMS), and the approval of the Office of State Budget and
39 Management, the Department may transfer necessary funds from the State/County
40 Special Assistance program within the Division of Social Services to the Division of
41 Medical Assistance and may use those funds as State match to draw down federal
42 matching funds to pay for such activities and costs under Medicaid's personal care
43 services for adult care homes (ACH-PCS), thus maximizing available federal funds.
44 The established rate for State/County Special Assistance set forth in subsection (c) of
45 this section shall be adjusted by the Department to reflect any transfer of funds from the
46 Division of Social Services to the Division of Medical Assistance, and related transfer
47 costs and responsibilities from State/County Special Assistance to the Medicaid
48 personal care services for adult care homes (ACH-PCS). Such rate adjustments to the
49 Special Assistance rate shall be effective with the effective date of increased
50 reimbursement under ACH-PCS. In no event shall the reimbursement for services
51 through the ACH-PCS exceed the average cost of such services as determined by the
52 Department from review of cost reports as required and submitted by adult care homes.
53 The Department shall report any transfers of funds and modifications of rates to the
54 House of Representatives Appropriations Subcommittee on Health and Human

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

3
4 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

5 **SPECIAL ASSISTANCE IN-HOME**

6 **SECTION 10.39.(a)** The Department of Health and Human Services may
7 use funds from the existing State-County Special Assistance for Adults budget to
8 provide Special Assistance payments to eligible individuals in in-home living
9 arrangements. These payments may be made for up to 800 individuals during the
10 2005-2006 fiscal year and the 2006-2007 fiscal year. The standard monthly payment to
11 individuals enrolled in the Special Assistance in-home program shall be fifty percent
12 (50%) of the monthly payment the individual would receive if the individual resided in
13 an adult care home and qualified for Special Assistance, except if a lesser payment
14 amount is appropriate for the individual as determined by the local case manager. For
15 State fiscal year 2005-2006, qualified individuals shall not receive payments at rates
16 less than they would have been eligible to receive in State fiscal year 2004-2005. The
17 Department shall implement Special Assistance in-home eligibility policies and
18 procedures to assure that in-home program participants are those individuals who need
19 and, but for the in-home program, would seek placement in an adult care home facility.
20 The Department's policies and procedures shall include the use of a functional
21 assessment. The Department shall make this in-home option available to all counties on
22 a voluntary basis. To the maximum extent possible, the Department shall consider
23 geographic balance in the dispersion of payments to individuals across the State.

24 **SECTION 10.39.(b)** The Department shall report on or before January 1,
25 2006, and on or before January 1, 2007, to the cochairs of the House of Representatives
26 Appropriations Committee, the House of Representatives Appropriations Subcommittee
27 on Health and Human Services, the cochairs of the Senate Appropriations Committee,
28 and the cochairs of the Senate Appropriations Committee on Health and Human
29 Services. This report shall include the following information:

- 30 (1) A description of cost savings that result from allowing individuals
31 eligible for State-County Special Assistance the option of remaining in
32 the home.
- 33 (2) A complete fiscal analysis of the in-home option to include all federal,
34 State, and local funds expended.
- 35 (3) How much case management is needed and which types of individuals
36 are most in need of case management.
- 37 (4) The geographic location of individuals receiving payments under this
38 section.
- 39 (5) A description of the services purchased with these payments.
- 40 (6) A description of the income levels of individuals who receive
41 payments under this section and the impact on the Medicaid program.
- 42 (7) Findings and recommendations as to the feasibility of continuing or
43 expanding the in-home program.
- 44 (8) The level and quantity of services (including personal care services)
45 provided to the demonstration project participants compared to the
46 level and quantity of services for residents in adult care homes.

47 **SECTION 10.39.(c)** The Department shall incorporate data collection tools
48 designed to compare quality of life among institutionalized versus noninstitutionalized
49 populations (i.e., an individual's perception of his or her own health and well-being,
50 years of healthy life, and activity limitations). To the extent national standards are
51 available, the Department shall utilize those standards.

52
53 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

54 **LICENSURE OF RESIDENTIAL TREATMENT FACILITIES**

1 **SECTION 10.40.(a)** Article 2 of Chapter 122C of the General Statutes is
2 amended by adding the following new section to read:

3 **"§ 122C-23.1. Licensure of residential treatment facilities.**

4 The General Assembly finds:

- 5 (1) That much of the care for residential treatment facility residents is paid
6 by the State and the counties;
7 (2) That the cost to the State for care for residents of residential treatment
8 facilities is substantial, and high vacancy rates in residential treatment
9 facilities further increase the cost of care;
10 (3) That the proliferation of residential treatment facilities results in costly
11 duplication and underuse of facilities and may result in lower quality
12 service;
13 (4) There is currently no ongoing relationship between some applicants for
14 licensure and local management entities (LMEs) that are responsible
15 for the placement of children and adults in residential treatment
16 facilities; and
17 (5) That it is necessary to protect the general welfare and lives, health, and
18 property of the people of the State for the local management entity
19 (LME) to verify that additional beds are needed in the LME's
20 catchment area before new residential treatment facilities are licensed.
21 This process is established to ensure that unnecessary costs to the State
22 do not result, residential treatment facility beds are available where
23 needed, and that individuals who need care in residential treatment
24 facilities may have access to quality care.

25 Based on these findings, the Department of Health and Human Services may license
26 new residential treatment facilities if the applicant for licensure submits with the
27 application a letter of support obtained from the local management entity in whose
28 catchment area the facility will be located. The letter of support shall be submitted to the
29 Department of Health and Human Services, Division of Facility Services and Division
30 of Mental Health, Developmental Disabilities, and Substance Abuse Services, and shall
31 specify the number of existing beds in the same type of facility in the catchment area
32 and the projected need for additional beds of the same type of facility. As used in this
33 subsection, "residential treatment facility" means a "residential facility" as defined in
34 and licensed under this Chapter, but not subject to Certificate of Need requirements
35 under Article 9 of Chapter 131E of the General Statutes.

36 **SECTION 10.40.(b)** This section applies to license applications pending
37 and license applications submitted on and after the effective date of this act.

38
39 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan
40 **PLAN FOR STAR-RATING SYSTEM FOR ADULT CARE HOMES**

41 **SECTION 10.41.** The Department of Health and Human Services shall
42 develop a plan for implementing a star-rating system for adult care homes to improve
43 quality of care. The Department shall report on the status and details of the plan,
44 including a recommended timeline for implementation, to the Senate Appropriations
45 Committee on Health and Human Services, the House of Representatives
46 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research
47 Division not later than March 1, 2006.

48
49 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan
50 **SOCIAL SERVICES COMMISSION TECHNICAL CORRECTION**

51 **SECTION 10.42.** G.S. 108A-14(a)(8) reads as rewritten:

52 **"§ 108A-14. Duties and responsibilities.**

53 (a) The director of social services shall have the following duties and
54 responsibilities:

55 ...

- 1 (8) To supervise adult care homes under the rules and regulations of the
2 ~~Social Services~~Medical Care Commission;
3"
4

5 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

6 **CHILD SUPPORT PROGRAM/ENHANCED STANDARDS**

7 **SECTION 10.43.(a)** The Department of Health and Human Services shall
8 develop and implement performance standards for each of the State and county child
9 support enforcement offices across the State. To develop these performance standards,
10 the Department of Health and Human Services shall evaluate other private and public
11 child support models and national standards as well as other successful collections
12 models. These performance standards shall include the following:

- 13 (1) Cost per collections.
14 (2) Consumer satisfaction.
15 (3) Paternity establishments.
16 (4) Administrative costs.
17 (5) Orders established.
18 (6) Collections on arrearages.
19 (7) Location of absent parents.
20 (8) Other related performance measures.

21 The Department of Health and Human Services shall monitor the
22 performance of each office and shall implement a system of reporting that allows each
23 local office to review its performance as well as the performance of other local offices.
24 The Department of Health and Human Services shall publish an annual performance
25 report that shall include the statewide and local office performance of each child support
26 office.

27 **SECTION 10.43.(b)** The Department of Health and Human Services shall
28 report on its progress, in compliance with this section, to the Senate Appropriations
29 Committee on Health and Human Services, the House of Representatives
30 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research
31 Division by May 1, 2006.

32
33 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

34 **CHILD WELFARE SYSTEM STUDY**

35 **SECTION 10.44.** The Department of Health and Human Services shall
36 conduct a study to document variations in the implementation of the Child Welfare
37 System within North Carolina counties. The study shall include recommendations for
38 correcting identified disparities. The study shall identify systemic issues associated with
39 North Carolina's Child Welfare System and provide recommendations for resolving
40 these issues. The Department shall report the results of its study to the Senate
41 Appropriations Committee on Health and Human Services, the House of
42 Representatives Appropriations Subcommittee on Health and Human Services, and the
43 Fiscal Research Division no later than January 1, 2006.
44

45 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

46 **MULTIPLE RESPONSE SYSTEM**

47 **SECTION 10.45.(a)** The Department of Health and Human Services,
48 Division of Social Services, shall continue working with local departments of social
49 services to implement an alternative response system of child protection. Local
50 departments of social services shall continue systems already in place. The alternative
51 response system shall provide a family-centered approach to child protective services in
52 which local departments of social services use family assessment tools and family
53 support principles when responding to selected reports of suspected child abuse,
54 neglect, and dependency, including establishing a system of care with child and family
55 teams.

1 **SECTION 10.45.(b)** The Department of Health and Human Services shall
2 expand this project using both State appropriations and any non-State funding sources
3 that can be identified for this purpose. Counties may also implement the system using
4 existing resources.
5

6 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

7 **FOSTER CARE AND ADOPTION ASSISTANCE PAYMENTS**

8 **SECTION 10.46.(a)** The maximum rates for State participation in the foster
9 care assistance program are established on a graduated scale as follows:

- 10 (1) \$390.00 per child per month for children aged birth through 5;
- 11 (2) \$440.00 per child per month for children aged 6 through 12; and
- 12 (3) \$490.00 per child per month for children aged 13 through 18.

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

15 **SECTION 10.46.(b)** The maximum rates for State participation in the
16 adoption assistance program are established on a graduated scale as follows:

- 17 (1) \$390.00 per child per month for children aged birth through 5;
- 18 (2) \$440.00 per child per month for children aged 6 through 12; and
- 19 (3) \$490.00 per child per month for children aged 13 through 18.

20 **SECTION 10.46.(c)** In addition to providing board payments to foster and
21 adoptive families of HIV-infected children, as prescribed in Section 23.28 of Chapter
22 324 of the 1995 Session Laws, any additional funds remaining that were appropriated
23 for this purpose shall be used to provide medical training in avoiding HIV transmission
24 in the home.

25 **SECTION 10.46.(d)** The maximum rates for the State participation in HIV
26 foster care and adoption assistance are established on a graduated scale as follows:

- 27 (1) \$800.00 per child per month with indeterminate HIV status;
- 28 (2) \$1,000 per child per month confirmed HIV-infected, asymptomatic;
- 29 (3) \$1,200 per child per month confirmed HIV-infected, symptomatic; and
- 30 (4) \$1,600 per child per month terminally ill with complex care needs.

31
32 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

33 **CHILD CARING INSTITUTIONS**

34 **SECTION 10.47.(a)** The Office of the State Auditor shall conduct an audit
35 to evaluate overhead rates and reimbursements for child caring institutions receiving
36 State funding. Of the funds appropriated to the Department of Health and Human
37 Services, Office of the Controller, the sum of one hundred fifty thousand dollars
38 (\$150,000) shall be transferred to the State Auditor to conduct the audit. The audit shall
39 include the following:

- 40 (1) A detailed evaluation of each child caring institution's cost allocation
41 processes.
- 42 (2) A determination of whether the allocated costs are consistent in
43 different agencies.
- 44 (3) A determination of the basis used for cost allocation by each agency.
- 45 (4) The methodology used to assign direct and indirect costs to specific
46 child caring institution programs.
- 47 (5) A determination of whether the overhead charged is reasonable for that
48 specific type of nonprofit, based on national surveys.
- 49 (6) A determination of how agency utilization rates impact the child
50 caring institutions' cost allocation and subsequent State
51 reimbursements.
- 52 (7) An examination of rate-setting methodologies used by other states and
53 how North Carolina's payment to child caring institutions compare to
54 other states.
- 55 (8) Recommendations on how to develop equitable, reasonable rates.

- 1 (9) An examination of the feasibility of providing child caring institutions
2 with the opportunity to compete based on providing the best service at
3 least cost.

4 The Office of the State Auditor shall report to the Senate Appropriations
5 Committee on Health and Human Services, the House of Representatives
6 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research
7 Division no later than March 1, 2006. The written report shall include copies of working
8 papers developed during the course of the audit.

9 **SECTION 10.47.(b)** The Department of Health and Human Services shall
10 establish standardized rates for child caring institutions in this State. These rates shall be
11 effective January 1, 2006, and shall be updated annually on July 1. Rate-setting
12 recommendations provided by the Office of the State Auditor shall be incorporated into
13 the Department of Social Services rate-setting methodology.

14 **SECTION 10.47.(c)** Until standardized rates are set, child caring
15 institutions' maximum reimbursement shall not exceed the rate established for the
16 specific child caring institution by the Department of Health and Human Services Office
17 of the Controller. In determining the maximum reimbursement, counties shall include
18 county and IV-E reimbursements.

19 **SECTION 10.47.(d)** Minimum reimbursement for foster parents providing
20 services through child caring institutions shall not be lower than the rates established by
21 the General Assembly.

22
23 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

24 **SPECIAL CHILDREN ADOPTION FUND**

25 **SECTION 10.48.(a)** Of the funds appropriated to the Department of Health
26 and Human Services in this act, the sum of one hundred thousand dollars (\$100,000)
27 shall be used to support the Special Children Adoption Fund for the 2005-2006 fiscal
28 year. The Division of Social Services, in consultation with the North Carolina
29 Association of County Directors of Social Services and representatives of licensed
30 private adoption agencies, shall develop guidelines for the awarding of funds to licensed
31 public and private adoption agencies upon the adoption of children described in
32 G.S. 108A-50 and in foster care. Payments received from the Special Children Adoption
33 Fund by participating agencies shall be used exclusively to enhance the adoption
34 services. No local match shall be required as a condition for receipt of these funds. In
35 accordance with State rules for allowable costs, the Special Children Adoption Fund
36 may be used for post-adoption services for families whose income exceeds two hundred
37 percent (200%) of the federal poverty level.

38 **SECTION 10.48.(b)** Of the total funds appropriated for the Special Children
39 Adoption Fund each year, twenty percent (20%) of the total funds available shall be
40 reserved for payment to participating private adoption agencies. If the funds reserved in
41 this subsection for payments to private agencies have not been spent on or before March
42 31, 2006, the Division of Social Services may reallocate those funds, in accordance with
43 this section, to other participating adoption agencies.

44 **SECTION 10.48.(c)** The Division of Social Services shall monitor the total
45 expenditures in the Special Children Adoption Fund and redistribute unspent funds to
46 ensure that the funds are used according to the guidelines established in subsection (a)
47 of this section. The Division shall implement strategies to ensure that funds that have
48 historically reverted for this program are used for the intended purpose. The Division
49 shall report to the House of Representatives Appropriations Subcommittee on Health
50 and Human Services, the Senate Appropriations Committee on Health and Human
51 Services, and the Fiscal Research Division on the expenditures and activities of the
52 program no later than December 1, 2005, and June 30, 2006.

53
54 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

1 **STUDY TO IDENTIFY ADOPTION INCENTIVES FOR CHILDREN WHO**
2 **ARE DIFFICULT TO PLACE**

3 **SECTION 10.49.** The Department of Health and Human Services shall
4 conduct a study to identify potential incentives for adoption of children who are difficult
5 to place and the associated costs for each incentive. The study shall identify incentives
6 currently in place in individual counties and the associated costs. The study shall
7 identify funding sources available to support each incentive. The Department shall
8 report the results of its study to the Senate Appropriations Committee on Health and
9 Human Services, the House of Representatives Appropriations Subcommittee on Health
10 and Human Services, and the Fiscal Research Division no later than October 1, 2005.
11

12 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

13 **LIMITATION ON STATE ABORTION FUND**

14 **SECTION 10.50.** The limitations on funding of the performance of abortion
15 established in Section 23.27 of Chapter 324 of the 1995 Session Laws, as amended by
16 Section 23.8A of Chapter 507 of the 1995 Session Laws, apply to the 2005-2006 and
17 2006-2007 fiscal years.
18

19 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

20 **TANF BENEFIT IMPLEMENTATION**

21 **SECTION 10.51.(a)** The General Assembly approves the plan titled "North
22 Carolina Temporary Assistance for Needy Families State Plan FY 2005-2007", prepared
23 by the Department of Health and Human Services and presented to the General
24 Assembly as revised in accordance with subsection (b) of this section, except that the
25 provision contained in the approved North Carolina Temporary Assistance for Needy
26 Families State Plan FY 2005-2007 eliminating pay-after-performance as a benefit
27 delivery method for two-parent families will only be implemented if the federal
28 two-parent work participation rate is eliminated. The North Carolina Temporary
29 Assistance for Needy Families State Plan covers the period October 1, 2005, through
30 September 30, 2007. The Department shall submit the State Plan, as revised in
31 accordance with subsection (b) of this section, to the United States Department of
32 Health and Human Services, as amended by this act or any other act of the 2005
33 General Assembly.
34

35 **SECTION 10.51.(b)** The counties approved as Electing Counties in North
36 Carolina's Temporary Assistance for Needy Families State Plan FY 2005-2007 as
37 approved by this section are: Beaufort, Caldwell, Catawba, Iredell, Lenoir, Lincoln,
38 Macon, McDowell, Sampson, and Stokes.

39 **SECTION 10.51.(c)** Counties that submitted the letter of intent to remain as
40 an Electing County or to be redesignated as an Electing County and the accompanying
41 county plan for fiscal years 2005 through 2007, pursuant to G.S. 108A-27(e), shall
42 operate under the Electing County budget requirements effective July 1, 2005. For
43 programmatic purposes, all counties referred to in this subsection shall remain under
44 their current county designation through September 30, 2005.

45 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

46 **RESIDENTIAL SCHOOLS REPORTING**

47 **SECTION 10.52.** The Office of Education Services shall report not later
48 than December 1, 2005, to the Senate Appropriations Committee on Health and Human
49 Services, the House of Representatives Appropriations Subcommittee on Health and
50 Human Services, and the Fiscal Research Division on the activities of the Eastern North
51 Carolina School for the Deaf at Wilson, the North Carolina School for the Deaf at
52 Morganton, and the Governor Morehead School for the Blind. The report shall include
53 enrollment numbers at the schools, the budgets, and the academic status of the schools
54 as defined under the ABCs program.
55

1 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

2 **FUNDS FOR SCHOOL NURSES**

3 **SECTION 10.53.** Of the funds appropriated in this act to the Department of
4 Health and Human Services, the sum of two million five hundred thousand dollars
5 (\$2,500,000) for the 2005-2006 fiscal year, and the sum of two million five hundred
6 thousand dollars (\$2,500,000) for the 2006-2007 fiscal year shall be used for the school
7 nurse funding initiative. The Department of Health and Human Services, Division of
8 Public Health, in conjunction with the Department of Public Instruction, shall provide
9 funds to communities to hire school nurses. The program will fund 50 permanent local
10 nurses. The criteria shall include determining the areas in greatest need for school
11 nurses with the greatest inability to pay for these nurses. Other criteria to be considered
12 shall include: (i) the current nurse-to-student ratio; (ii) the economic status of the
13 community; and (iii) the health needs of area children.

14 There shall be no supplanting of local, State, or federal funds with these
15 funds. Communities shall maintain their current level of effort and funding for school
16 nurses. These funds shall not be used for funding nurses for State agencies. All funding
17 shall be used for direct services.

18 The Department of Health and Human Services shall report on the use of
19 funds allocated under this section by December 1, 2005, to the Senate Appropriations
20 Committee on Health and Human Services, the House of Representatives
21 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research
22 Division.

23
24 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

25 **EARLY INTERVENTION REPORTING AND EVALUATION**

26 **SECTION 10.54.(a)** The Department of Health and Human Services,
27 Division of Public Health, shall report on Early Intervention services. The report shall
28 include the number of children served, the number and types of services and evaluations
29 provided, and the budget for each Children's Developmental Services Agency. In
30 addition, the Division of Public Health shall evaluate its Early Intervention Program
31 provider network, including provider certification and continuing education
32 requirements.

33 **SECTION 10.54.(b)** The Department of Health and Human Services shall
34 analyze the reimbursement rates for Early Intervention services, and may adjust rates
35 according to the findings of the analysis.

36 **SECTION 10.54.(c)** The Division of Public Health shall analyze the
37 program funding for the Children with Special Needs Program and shall develop a plan
38 to utilize these funds within the Early Intervention Program. The Division shall report
39 its findings and recommendations to the Senate Appropriations Committee on Health
40 and Human Services, the House of Representatives Appropriations Subcommittee on
41 Health and Human Services, and the Fiscal Research Division not later than December
42 1, 2005.

43
44 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

45 **CONTRACTING FOR MORE EFFECTIVE COMBINATION VACCINES**

46 **SECTION 10.55.** The Department of Health and Human Services may
47 contract for the purchase of new combination vaccines that are more expensive than
48 currently used combination or single component vaccines only if the new, more
49 expensive combination vaccine is more effective than the currently used combination or
50 single component vaccine it replaces.

51
52 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

53 **CHRONIC DISEASE PREVENTION ACTIVITIES INVENTORY**

54 **SECTION 10.56.** In order to reduce costs and eliminate duplication of
55 effort, the Department of Health and Human Services shall create an inventory of all

1 chronic disease prevention activities, funding, staffing, and other resources for these
2 activities, including funding and resources for related task forces and committees. The
3 inventory shall include at a minimum, heart disease, stroke, diabetes, osteoporosis, and
4 cancer. The Department shall create a plan to combine task forces and activities for
5 chronic disease prevention and shall explore collapsing these task forces and
6 committees into the Healthy Carolinians structure. The Department shall report on the
7 inventory and the Department's recommendations not later than February 1, 2006, to the
8 Senate Appropriations Committee on Health and Human Services, the House of
9 Representatives Appropriations Subcommittee on Health and Human Services, and the
10 Fiscal Research Division.

11
12 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

13 **PILOT PROGRAM FOR AUTOMATIC EXTERNAL DEFIBRILLATORS IN**
14 **PUBLIC BUILDINGS**

15 **SECTION 10.57.(a)** The Department of Health and Human Services,
16 Division of Public Health, shall develop a pilot program to place Automated External
17 Defibrillators (AED) in public buildings, including public gymnasiums, that do not have
18 an operational AED in place. In selecting pilot sites, the Department shall ensure
19 geographic representation of the State.

20 **SECTION 10.57.(b)** Of the funds appropriated in this act to the Department
21 of Health and Human Services, the sum of seventeen thousand dollars (\$17,000) for the
22 2005-2006 fiscal year, and the sum of six thousand dollars (\$6,000) for the 2006-2007
23 fiscal year shall be used to purchase AED units, conduct on-site training at the pilot
24 sites, and conduct ongoing education and awareness campaigns to the general public in
25 the piloted sites. The Department shall ensure that training in the use of an AED shall be
26 conducted in accordance with G.S. 90-21.15(b)(3). The Heart Disease and Stroke
27 Prevention Branch of the Division of Public Health shall be responsible for the purchase
28 of AEDs, the training of pilot program participants, and evaluation of the pilot program.

29 **SECTION 10.57.(c)** The Department of Health and Human Services shall
30 report on the location, establishment, and implementation of the pilot sites to the Senate
31 Appropriations Committee on Health and Human Services, the House of
32 Representatives Appropriations Subcommittee on Health and Human Services, and the
33 Fiscal Research Division on or before March 1, 2006.

34
35 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

36 **IMMUNIZATION PROGRAM FUNDING**

37 **SECTION 10.58.(a)** Of the funds appropriated in this act to the Department
38 of Health and Human Services for childhood immunization programs for positions,
39 operating support, equipment, and pharmaceuticals, the sum of one million dollars
40 (\$1,000,000) for the 2005-2006 fiscal year and the sum of one million dollars
41 (\$1,000,000) for the 2006-2007 fiscal year may be used for projects and activities that
42 are also designed to increase childhood immunization rates in North Carolina. These
43 projects and activities shall include the following:

- 44 (1) Outreach efforts at the State and local levels to improve service
45 delivery of vaccines. Outreach efforts may include educational
46 seminars, media advertising, support services to parents to enable
47 children to be transported to clinics, longer operating hours for clinics,
48 and mobile vaccine units.
- 49 (2) Continued development of an automated immunization registry.

50 **SECTION 10.58.(b)** Funds authorized to be used for immunization efforts
51 under subsection (a) of this section shall not be used to fund additional State positions in
52 the Department of Health and Human Services or contracts, except for contracts to
53 develop an automated immunization registry or contracts with local health departments
54 for outreach.

1 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

2 **AIDS DRUG ASSISTANCE PROGRAM**

3 **SECTION 10.59.(a)** For the 2005-2006 fiscal year and for the 2006-2007
4 fiscal year, HIV-positive individuals with incomes at or below one hundred twenty-five
5 percent (125%) of the federal poverty level are eligible for participation in ADAP.
6 Eligibility for participation in ADAP during the 2005-2007 fiscal biennium shall not be
7 extended to individuals with incomes above one hundred twenty-five percent (125%) of
8 the federal poverty level.

9 **SECTION 10.59.(b)** The Department of Health and Human Services shall
10 make an interim report on ADAP program utilization by January 1, 2006, and a final
11 report on ADAP program utilization by May 1, 2006, to the Senate Appropriations
12 Committee on Health and Human Services, the House of Representatives
13 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research
14 Division on ADAP. The reports shall include ADAP program utilization as follows:

- 15 (1) Monthly data on total cumulative AIDS/HIV cases reported in North
16 Carolina.
- 17 (2) Monthly data on the number of individuals who have applied to
18 participate in ADAP that have been determined to be ineligible.
- 19 (3) Monthly data on the income level of participants in ADAP and of
20 individuals who have applied to participate in ADAP who have been
21 determined to be ineligible.
- 22 (4) Monthly data on fiscal year-to-date expenditures of ADAP. The
23 interim report shall contain monthly data on the calendar year-to-date
24 expenditures of ADAP.
- 25 (5) An update on the status of the information management system.
- 26 (6) Monthly data on ADAP usage patterns and demographics of
27 participants in ADAP.
- 28 (7) Fiscal year-to-date budget information.
- 29 (8) The status of the new system of management for ADAP, the costs
30 savings realized from the new system, and recommendations for
31 improving the system.

32
33 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

34 **CHILD CARE FUNDS MATCHING REQUIREMENT**

35 **SECTION 10.60.** No local matching funds may be required by the
36 Department of Health and Human Services as a condition of any locality's receiving any
37 State child care funds appropriated by this act unless federal law requires a match. This
38 shall not prohibit any locality from spending local funds for child care services.
39

40 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

41 **CHILD CARE ALLOCATION FORMULA**

42 **SECTION 10.61.(a)** The Department of Health and Human Services shall
43 allocate child care subsidy voucher funds to pay the costs of necessary child care for
44 minor children of needy families. The mandatory thirty percent (30%) Smart Start
45 subsidy allocation under G.S. 143B-168.15(g) shall constitute the base amount for each
46 county's child care subsidy allocation. The Department of Health and Human Services
47 shall use the following method when allocating federal and State child care funds, not
48 including the aggregate mandatory thirty percent (30%) Smart Start subsidy allocation:

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

1 **SECTION 10.61.(b)** The Department of Health and Human Services may
 2 reallocate unused child care subsidy voucher funds in order to meet the child care needs
 3 of low-income families. Any reallocation of funds shall be based upon the expenditures
 4 of all child care subsidy voucher funding, including Smart Start funds, within a county.
 5

6 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

7 **CHILD CARE SUBSIDY RATES**

8 **SECTION 10.62.(a)** The maximum gross annual income for initial
 9 eligibility, adjusted biennially, for subsidized child care services shall be seventy-five
 10 percent (75%) of the State median income, adjusted for family size.

11 **SECTION 10.62.(b)** Fees for families who are required to share in the cost
 12 of care shall be established based on a percent of gross family income and adjusted for
 13 family size. Fees shall be determined as follows:

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

14 **SECTION 10.62.(c)** Payments for the purchase of child care services for
 15 low-income children shall be in accordance with the following requirements:
 16

- 17 (1) Religious-sponsored child care facilities operating pursuant to
 18 G.S. 110-106 and licensed child care centers and homes that meet the
 19 minimum licensing standards that are participating in the subsidized
 20 child care program shall be paid the one-star county market rate or the
 21 rate they charge privately paying parents, whichever is lower.
- 22 (2) Licensed child care centers and homes with two or more stars shall
 23 receive the market rate for that rated license level for that age group or
 24 the rate they charge privately paying parents, whichever is lower.
- 25 (3) Nonlicensed homes shall receive fifty percent (50%) of the county
 26 market rate or the rate they charge privately paying parents, whichever
 27 is lower.
- 28 (4) Maximum payment rates shall also be calculated periodically by the
 29 Division of Child Development and School Readiness for
 30 transportation to and from child care provided by the child care
 31 provider, individual transporter, or transportation agency, and for fees
 32 charged by providers to parents. These payment rates shall be based
 33 upon information collected by market rate surveys.

34 **SECTION 10.62.(d)** Provisions of payment rates for child care providers in
 35 counties that do not have at least 50 children in each age group for center-based and
 36 home-based care are as follows:
 37

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

46 **SECTION 10.62.(e)** A market rate shall be calculated for child care centers
 47 and homes at each rated license level for each county and for each age group or age
 48 category of enrollees and shall be representative of fees charged to unsubsidized
 49 privately paying parents for each age group of enrollees within the county. The Division
 50 of Child Development and School Readiness shall also calculate a statewide rate and
 51 regional market rates for each rated license level for each age category.
 52

53 **SECTION 10.62.(f)** Facilities licensed pursuant to Article 7 of Chapter 110
 54 of the General Statutes and facilities operated pursuant to G.S. 110-106 may participate
 55

1 in the program that provides for the purchase of care in child care facilities for minor
2 children of needy families. No separate licensing requirements shall be used to select
3 facilities to participate. In addition, child care facilities shall be required to meet any
4 additional applicable requirements of federal law or regulations. Child care
5 arrangements exempt from State regulation pursuant to Article 7 of Chapter 110 of the
6 General Statutes shall meet the requirements established by other State law and by the
7 Social Services Commission.

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

12 **SECTION 10.62.(g)** Payment for subsidized child care services provided
13 with Work First Block Grant funds shall comply with all regulations and policies issued
14 by the Division of Child Development and School Readiness for the subsidized child
15 care program.

16 **SECTION 10.62.(h)** Noncitizen families who reside in this State legally
17 shall be eligible for child care subsidies if all other conditions of eligibility are met. If
18 all other conditions of eligibility are met, noncitizen families who reside in this State
19 illegally shall be eligible for child care subsidies only if at least one of the following
20 conditions is met:

- 21 (1) The child for whom a child care subsidy is sought is receiving child
22 protective services or foster care services.
- 23 (2) The child for whom a child care subsidy is sought is developmentally
24 delayed or at risk of being developmentally delayed.
- 25 (3) The child for whom a child care subsidy is sought is a citizen of the
26 United States.

27
28 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

29 **CHILD CARE REVOLVING LOAN**

30 **SECTION 10.63.** Notwithstanding any law to the contrary, funds budgeted
31 for the Child Care Revolving Loan Fund may be transferred to and invested by the
32 financial institution contracted to operate the Fund. The principal and any income to the
33 Fund may be used to make loans, reduce loan interest to borrowers, serve as collateral
34 for borrowers, pay the contractor's cost of operating the Fund, or pay the Department's
35 cost of administering the program.

36
37 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

38 **EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES** 39 **ENHANCEMENTS**

40 **SECTION 10.64.(a)** Administrative costs shall be equivalent to, on an
41 average statewide basis for all local partnerships, not more than eight percent (8%) of
42 the total statewide allocation to all local partnerships. For purposes of this subsection,
43 administrative costs shall include costs associated with partnership oversight, business
44 and financial management, general accounting, human resources, budgeting,
45 purchasing, contracting, and information systems management.

46 **SECTION 10.64.(b)** The North Carolina Partnership for Children, Inc., and
47 all local partnerships shall use competitive bidding practices in contracting for goods
48 and services on contract amounts as follows:

- 49 (1) For amounts of five thousand dollars (\$5,000) or less, the procedures
50 specified by a written policy to be developed by the Board of Directors
51 of the North Carolina Partnership for Children, Inc.
- 52 (2) For amounts greater than five thousand dollars (\$5,000), but less than
53 fifteen thousand dollars (\$15,000), three written quotes.
- 54 (3) For amounts of fifteen thousand dollars (\$15,000) or more, but less
55 than forty thousand dollars (\$40,000), a request for proposal process.

- 1 (4) For amounts of forty thousand dollars (\$40,000) or more, a request for
2 proposal process and advertising in a major newspaper.

3 **SECTION 10.64.(c)** The North Carolina Partnership for Children, Inc., and
4 all local partnerships shall, in the aggregate, be required to match no less than fifty
5 percent (50%) of the total amount budgeted for the program in each fiscal year of the
6 biennium as follows: contributions of cash equal to at least fifteen percent (15%) and
7 in-kind donated resources equal to no more than five percent (5%) for a total match
8 requirement of twenty percent (20%) for each fiscal year. The North Carolina
9 Partnership for Children, Inc., may carry-forward any amount in excess of the required
10 match for a fiscal year in order to meet the match requirement of the succeeding fiscal
11 year. Only in-kind contributions that are quantifiable shall be applied to the in-kind
12 match requirement. Volunteer services may be treated as an in-kind contribution for the
13 purpose of the match requirement of this subsection. Volunteer services that qualify as
14 professional services shall be valued at the fair market value of those services. All other
15 volunteer service hours shall be valued at the statewide average wage rate as calculated
16 from data compiled by the Employment Security Commission in the Employment and
17 Wages in North Carolina Annual Report for the most recent period for which data are
18 available. Expenses, including both those paid by cash and in-kind contributions,
19 incurred by other participating non-State entities contracting with the North Carolina
20 Partnership for Children, Inc., or the local partnerships, also may be considered
21 resources available to meet the required private match. In order to qualify to meet the
22 required private match, the expenses shall:

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

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

48 **SECTION 10.64.(d)** The Department of Health and Human Services shall
49 continue to implement the performance-based evaluation system.

50 **SECTION 10.64.(e)** The Department of Health and Human Services and the
51 North Carolina Partnership for Children, Inc., shall ensure that the allocation of funds
52 for Early Childhood Education and Development Initiatives for State fiscal years
53 2005-2006 and 2006-2007 shall be administered and distributed in the following
54 manner:

1 (1) Capital expenditures are prohibited for fiscal years 2005-2006 and
2 2006-2007. For the purposes of this section, "capital expenditures"
3 means expenditures for capital improvements as defined in
4 G.S. 143-34.40.

5 (2) Expenditures of State funds for advertising and promotional activities
6 are prohibited for fiscal years 2005-2006 and 2006-2007.

7 **SECTION 10.64.(f)** A county may use the county's allocation of State and
8 federal child care funds to subsidize child care according to the county's Early
9 Childhood Education and Development Initiatives Plan as approved by the North
10 Carolina Partnership for Children, Inc. The use of federal funds shall be consistent with
11 the appropriate federal regulations. Child care providers shall, at a minimum, comply
12 with the applicable requirements for State licensure pursuant to Article 7 of Chapter 110
13 of the General Statutes.

14
15 Requested by: Senators Purcell, Malone, Hagan, Garrou, Dalton

16 **SMART START FUNDING STUDY**

17 **SECTION 10.65.(a)** The North Carolina Partnership for Children, Inc., shall
18 study its allocation of funds to local partnerships. The North Carolina Partnership for
19 Children, Inc., shall study funding equity among all counties and local partnerships
20 based on population, the number of children from birth to five years of age residing in
21 the county region, economic indicators, and the quality of existing child care. The North
22 Carolina Partnership for Children, Inc., shall develop strategies to alleviate the inequity
23 of funds to local partnerships.

24 **SECTION 10.65.(b)** The North Carolina Partnership for Children, Inc., shall
25 report its findings and recommendations to the Senate Appropriations Committee on
26 Health and Human Services, the House of Representatives Appropriations
27 Subcommittee on Health and Human Services, and the Fiscal Research Division on or
28 before March 1, 2006.

29
30 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

31 **ANALYZE CHILD CARE SUBSIDY REIMBURSEMENT SYSTEM**

32 **SECTION 10.66.(a)** The Department of Health and Human Services,
33 Division of Child Development and School Readiness, shall conduct an analysis of the
34 child care subsidy reimbursement system. The Division of Child Development and
35 School Readiness shall conduct the analysis as follows:

36 (1) Compare surveyed rates from the 2005 child care market survey to
37 existing reimbursement rates and identify counties and levels of
38 disparity of current market rates to subsidy reimbursements.

39 (2) Compare overall compensation for child care workers by county and
40 determine if there is a correlation with child care quality and subsidy
41 reimbursements.

42 (3) Examine the impact of North Carolina Partnership for Children, Inc.,
43 funding on child care market rates and quality of child care by
44 comparing the length of time local partnerships have been present in
45 counties, the amount local partnerships spend on child care quality
46 initiatives, the number of higher quality child care centers and homes,
47 and the allocation to the county by percentage of need.

48 (4) Examine, by county, the prevalence of child care providers who charge
49 parents a differential fee to make up the difference between private and
50 subsidy reimbursement rates.

51 (5) Examine the impact that child care reimbursement rates have on
52 providing families access to all levels of child care.

53 **SECTION 10.66.(b)** The Division of Child Development and School
54 Readiness shall develop strategies to implement market rate equity among counties and
55 submit a report of its findings and recommendations to the Senate Appropriations

1 Committee on Health and Human Services, the House of Representatives
2 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research
3 Division by January 30, 2006.

4
5 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

6 **MORE AT FOUR**

7 **SECTION 10.67.(a)** Of the funds appropriated in this act to the Department
8 of Health and Human Services, the sum of sixty-six million five hundred forty-six
9 thousand six hundred fifty-three dollars (\$66,546,653) for the 2005-2006 fiscal year and
10 the sum of seventy-nine million one hundred nine thousand seven hundred seventy-nine
11 dollars (\$79,109,779) for the 2006-2007 fiscal year shall be used to implement "More
12 At Four", a voluntary prekindergarten program for at-risk four-year-olds.

13 **SECTION 10.67.(b)** The Department of Health and Human Services,
14 Division of Child Development and School Readiness, shall continue the
15 implementation of the "More At Four" prekindergarten program for at-risk
16 four-year-olds who are at risk of failure in kindergarten. The program is available
17 statewide to all counties that choose to participate, including underserved areas. The
18 goal of the program is to provide quality prekindergarten services to a greater number of
19 at-risk children in order to enhance kindergarten readiness for these children. The
20 program shall be consistent with standards and assessments established jointly by the
21 Department of Health and Human Services and the Department of Public Instruction.
22 The program shall include:

- 23 (1) A process and system for identifying children at risk of academic
24 failure.
- 25 (2) A process and system for identifying children who are not being
26 served first priority in formal early education programs, such as child
27 care, public or private preschools, Head Start, Early Head Start, early
28 intervention programs, or other such programs, who demonstrate
29 educational needs, and who are eligible to enter kindergarten the next
30 school year, as well as children who are underserved.
- 31 (3) A curriculum or several curricula that are recommended by the North
32 Carolina Child Development and School Readiness Task Force
33 (hereinafter "Task Force"). The Task Force will identify and approve
34 appropriate research-based curricula. These curricula shall: (i) focus
35 primarily on oral language and emergent literacy; (ii) engage children
36 through key experiences and provide background knowledge requisite
37 for formal learning and successful reading in the early elementary
38 years; (iii) involve active learning; (iv) promote measurable
39 kindergarten language-readiness skills that focus on emergent literacy
40 and mathematical skills; and (v) develop skills that will prepare
41 children emotionally and socially for kindergarten.
- 42 (4) An emphasis on ongoing family involvement with the prekindergarten
43 program.
- 44 (5) Evaluation of child progress through pre- and postassessment of
45 children in the statewide evaluation, as well as ongoing assessment of
46 the children by teachers.
- 47 (6) Guidelines for a system to reimburse local school boards and systems,
48 private child care providers, and other entities willing to establish and
49 provide prekindergarten programs to serve at-risk children.
- 50 (7) A system built upon existing local school boards and systems, private
51 child care providers, and other entities that demonstrate the ability to
52 establish or expand prekindergarten capacity.
- 53 (8) A quality-control system. Participating providers shall comply with
54 standards and guidelines as established by the Department of Health
55 and Human Services, the Department of Public Instruction, and the

1 Task Force. The Department may use the child care rating system to
2 assist in determining program participation.

3 (9) Standards for minimum teacher qualifications. A portion of the
4 classroom sites initially funded shall have at least one teacher who is
5 certified or provisionally certified in birth-to-kindergarten education.

6 (10) A local contribution. Programs must demonstrate that they are
7 accessing resources other than "More At Four".

8 (11) A system of accountability.

9 (12) Consideration of the reallocation of existing funds. In order to
10 maximize current funding and resources, the Department of Health and
11 Human Services, the Department of Public Instruction, and the Task
12 Force shall consider the reallocation of existing funds from State and
13 local programs that provide prekindergarten-related care and services.

14 **SECTION 10.67.(c)** The Department of Health and Human Services shall
15 plan for expansion of the "More At Four" program within existing resources to include
16 four- and five-star-rated centers and schools serving four-year-olds and develop
17 guidelines for these programs. The Department shall analyze guidelines for use of the
18 "More At Four" funds, State subsidy funds, and Smart Start subsidy funds and devise a
19 complementary plan for administration of funds for all four-year-old classrooms. The
20 four- and five-star-rated centers that choose to become a "More At Four" program shall,
21 at a minimum, receive curricula and access to training and workshops for "More At
22 Four" programs and be considered along with other "More At Four" programs for
23 T.E.A.C.H. funding. The Department shall ensure that no individual receives funding
24 from more than one source for the same purpose or activity during the same funding
25 period. For purposes of this subsection, sources shall include T.E.A.C.H., W.A.G.E.\$.,
26 and T.E.A.C.H. Health Insurance programs for individual recipients.

27 The "More At Four" program shall review the number of slots filled by
28 counties on a monthly basis and shift the unfilled slots to counties with waiting lists.
29 The shifting of slots shall occur through December 30, 2005, at which time any
30 remaining funds for slots unfilled shall be used to meet the needs of the waiting list for
31 subsidized child care.

32 **SECTION 10.67.(d)** The Department of Health and Human Services,
33 Division of Child Development and School Readiness, and the Task Force shall submit
34 a report by February 1, 2006, to the Joint Legislative Commission on Governmental
35 Operations, the Joint Legislative Education Oversight Committee, the Senate
36 Appropriations Committee on Health and Human Services, the House of
37 Representatives Appropriations Subcommittee on Health and Human Services, and the
38 Fiscal Research Division. This final report shall include the following:

39 (1) The number of children participating in the program.

40 (2) The number of children participating in the program who have never
41 been served in other early education programs, such as child care,
42 public or private preschool, Head Start, Early Head Start, or early
43 intervention programs.

44 (3) The expected expenditures for the programs and the source of the local
45 match for each grantee.

46 (4) The location of program sites and the corresponding number of
47 children participating in the program at each site.

48 (5) Activities involving Child Find in counties.

49 (6) A comprehensive cost analysis of the program, including the cost per
50 child served by the program.

51 (7) The plan for expansion of "More At Four" through existing resources
52 as outlined in this section.

53 **SECTION 10.67.(e)** For the 2005-2006 and the 2006-2007 fiscal years, the
54 "More At Four" program shall establish income eligibility requirements for the program
55 not to exceed seventy-five percent (75%) of the State median income to make the

1 program consistent with the child care subsidy requirements. Up to twenty percent
2 (20%) of children enrolled may have family incomes in excess of seventy-five percent
3 (75%) of median income if they have other designated risk factors.

4 **SECTION 10.67.(f)** The "More At Four" program funding shall not supplant
5 any funding for classrooms serving four-year-olds as of the 2003-2004 fiscal year.

6 **SECTION 10.67.(g)** The Department of Health and Human Services,
7 Division of Child Development and School Readiness, shall review and evaluate the
8 early literacy project in Davie County and consider incorporation of this curriculum into
9 the "More At Four" program.

10 **SECTION 10.67.(h)** The "More At Four" program shall contract with
11 Prevent Blindness of North Carolina for one hundred fifty thousand dollars (\$150,000)
12 for vision screenings for children in the "More At Four" program and other child care
13 classrooms.

14 **SECTION 10.67.(i)** The "More At Four" program shall provide a grant of
15 one hundred seventy-seven thousand dollars (\$177,000) to the Carolina Children's
16 Communicative Disorders Program at the University of North Carolina at Chapel Hill.

17
18 Requested by: Senators Garrou, Dalton, Hagan

19 **ESTABLISH THE DIVISION OF CHILD DEVELOPMENT AND SCHOOL**
20 **READINESS IN THE DEPARTMENT OF HEALTH AND HUMAN**
21 **SERVICES**

22 **SECTION 10.68.(a)** The Division of Child Development of the Department
23 of Health and Human Services is renamed the Division of Child Development and
24 School Readiness (hereinafter "the Division"). The purpose of the Division is to
25 regulate and license child care facilities, administer the five-star rating system of child
26 care facilities, and ensure school readiness for North Carolina's children through
27 increased coordination and effectiveness of the State's early care and education
28 programs and through improved transitions for at-risk children into kindergarten. In
29 addition, the Division shall have oversight of all prekindergarten programs serving
30 three- and four-year-olds, which includes the More at Four prekindergarten programs,
31 and shall expand the focus of the programs, thereby developing increased collaboration
32 between local Head Start programs and the State's prekindergarten programs as well as
33 private child care programs. The Division shall collaborate with the Department of
34 Public Instruction to develop a common statewide assessment and to promote improved
35 transition practices for children entering kindergarten.

36 **SECTION 10.68.(b)** The More at Four Prekindergarten Program is
37 transferred from the Office of the Governor to the Department of Health and Human
38 Services, Division of Child Development and School Readiness. This transfer shall
39 have all the elements of a Type I transfer, as defined in G.S. 143A-6.

40 **SECTION 10.68.(c)** The Head Start Collaboration Office shall remain in the
41 Department of Health and Human Services under the Division of Child Development
42 and School Readiness.

43 **SECTION 10.68.(d)** The North Carolina Partnership for Children, Inc., shall
44 continue to be funded through, and work cooperatively with, the Department of Health
45 and Human Services, the Division of Child Development and School Readiness.

46 **SECTION 10.68.(e)** The More at Four Task Force shall be reconstituted and
47 renamed the North Carolina Child Development and School Readiness Task Force. The
48 Secretary of the Department of Health and Human Services shall appoint the members
49 of the North Carolina Child Development and School Readiness Task Force from
50 representatives of publicly funded programs and services for children age birth to five
51 years, including the More at Four Prekindergarten Program, the North Carolina
52 Partnership for the Children, Inc., Early Intervention, preschool programs in the public
53 schools and other stakeholders, including Head Start.

54 The Task Force shall study the integration of public funds and programs to
55 ensure that all North Carolina's children age birth to five years are prepared to come to

1 school ready to achieve. In conducting the study, the Task Force shall consider and
2 develop recommendations for the following:

- 3 (1) Creating principles, rationale, strategies, structure, and outcomes for
4 the integration of all funding and programs that serve children age
5 birth to five years to achieve improved school readiness;
- 6 (2) Eliminating the duplication of programs;
- 7 (3) Enhancing the quality and performance of current programs;
- 8 (4) Creating performance measures that will document outcomes for
9 programs and children and will provide accessible service for families;
- 10 (5) Creating effective transition plans as children move from one program
11 or service to another;
- 12 (6) Documenting all current funding and programs for children ages birth
13 to kindergarten entry and coordination of existing data systems; and
- 14 (7) Equalizing the funding of the various programs that provide services to
15 children from birth to the age of five years to ensure equity in
16 accessibility to these programs.

17 The Task Force shall submit a report by April 1, 2006, to the President Pro
18 Tempore of the Senate, the Speaker of the House of Representatives, the Chairs of the
19 Senate Appropriations Committee on Health and Human Services, the Chairs of the
20 House of Representatives Appropriations Subcommittee on Health and Human
21 Services, and the Fiscal Research Division.

22 **SECTION 10.68.(f)** The Revisor of Statutes shall substitute the term
23 "Division of Child Development and School Readiness" for the term "Division of Child
24 Development" everywhere those terms appear in the following sections of the General
25 Statutes:

26 G.S. 110-90.2. Mandatory child care providers' criminal history checks.

27 G.S. 110-102. Information for parents.

28 G.S. 114-19.5. Criminal record checks of child care providers.

29 G.S. 143B-138.1. Department of Health and Human Service functions and
30 organization.

31 **SECTION 10.68.(g)** This section becomes effective July 1, 2005, for
32 organizational changes. The budgetary adjustments required by this section become
33 effective October 1, 2005.

34 **PART XI. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

35 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

36 **PESTICIDE DISPOSAL PROGRAM**

37 **SECTION 11.1.** G.S. 143-468(b) reads as rewritten:

38 "(b) The Pesticide Environmental Trust Fund is established as a nonreverting
39 account within the Department of Agriculture and Consumer Services. The Department
40 of Agriculture and Consumer Services shall administer the Fund. The additional
41 assessment imposed by G.S. 143-442(b) on the registration of a brand or grade of
42 pesticide shall be credited to the Fund. The Department shall distribute money in the
43 Fund as follows:

- 44 (1) Two and one-half percent (2.5%) to North Carolina State University
45 Cooperative Extension Service to enhance its agromedicine efforts in
46 cooperation with East Carolina University School of Medicine.
- 47 (2) Two and one-half percent (2.5%) to East Carolina University School
48 of Medicine to enhance its agromedicine efforts in cooperation with
49 North Carolina State University Cooperative Extension Service.
- 50 (3) Twenty percent (20%) to North Carolina State University, Department
51 of Toxicology, to establish and maintain an extension agromedicine
52 specialist position.
53
54

- 1 (4) Seventy-five percent (75%) to the Department of Agriculture and
2 Consumer Services for the costs of administering its pesticide disposal
3 program, including the salaries and support of staff for the pesticide
4 disposal program, and for its environmental programs, as directed by
5 the Board, including establishing a pesticide container management
6 program to enhance its pesticide disposal program and its water quality
7 initiatives."
8

9 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

10 **TIMBER SALES RECEIPTS FOR CAPITAL IMPROVEMENTS AT**
11 **AGRICULTURAL RESEARCH STATIONS AND FARMS**

12 **SECTION 11.2.** The sum of one million thirty-three thousand one hundred
13 dollars (\$1,033,100) shall be transferred from the Department of Agriculture and
14 Consumer Services' timber sales capital improvement account in the Department of
15 Agriculture and Consumer Services as such funds become available during the
16 2005-2006 fiscal year, and used by the Department for the following capital
17 improvements projects at agricultural research stations and research farms:

- 18 (1) \$378,000 for improvements at the swine facility at the Cherry
19 Research Farm.
20 (2) \$285,500 for renovation of dairy facilities at the Cherry Research
21 Farm.
22 (3) \$369,600 for land acquisition and development at the Tidewater
23 Research Station.
24

25 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

26 **PLANT CONSERVATION PROGRAM FUNDS**

27 **SECTION 11.3.** From funds received from the sale of timber that are
28 deposited with the State Treasurer pursuant to G.S. 146-30 to the credit of the
29 Department of Agriculture and Consumer Services in a capital improvement account,
30 the sum of twenty thousand dollars (\$20,000) shall be transferred to the Department of
31 Agriculture and Consumer Services to be used by the Department for its plant
32 conservation program under Article 19B of Chapter 106 of the General Statutes for
33 costs incidental to the acquisition of land, such as land appraisals, land surveys, title
34 searches, and environmental studies.
35

36 Requested by: Senators Kerr, Garrou, Dalton, Hagan

37 **INCREASE FUNDS FOR NORTH CAROLINA GRAPE GROWERS COUNCIL**

38 **SECTION 11.4.** G.S. 105-113.81A reads as rewritten:

39 **"§ 105-113.81A. Distribution of part of wine taxes attributable to North Carolina**
40 **wine.**

41 The Secretary shall on a quarterly basis credit to the Department of Agriculture and
42 Consumer Services the net proceeds of the excise tax collected on unfortified wine
43 bottled in North Carolina during the previous quarter and the net proceeds of the excise
44 tax collected on fortified wine bottled in North Carolina during the previous quarter,
45 except that the amount credited to the Department of Agriculture and Consumer
46 Services under this section shall not exceed ~~three hundred fifty thousand dollars~~
47 ~~(\$350,000)~~ five hundred thousand dollars (\$500,000) per fiscal year. The Department of
48 Agriculture and Consumer Services shall allocate the funds received under this section
49 to the North Carolina Grape Growers Council to be used to promote the North Carolina
50 grape and wine industry and to contract for research and development services to
51 improve viticultural and enological practices in North Carolina. Any funds credited to
52 the Department of Agriculture and Consumer Services under this section that are not
53 expended by June 30 of any fiscal year may not revert to the General Fund, but shall
54 remain available to the Department for the uses set forth in this section."
55

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

3
4 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

5 **STATE MATCH FOR FEDERAL SAFE DRINKING WATER ACT FUNDS**

6 **SECTION 12.1.** Notwithstanding the provisions of Chapter 159G of the
7 General Statutes, the Department of Environment and Natural Resources may transfer
8 from the General Water Supply Revolving Loan Account up to one million five hundred
9 thousand dollars (\$1,500,000) to the Department of Environment and Natural Resources
10 to be used to match the federal grant moneys authorized by section 1452 of the federal
11 Safe Drinking Water Act amendments of 1996 for the 2005-2006 fiscal year. The
12 General Water Supply Revolving Loan Account is an account under the Clean Water
13 Revolving Loan and Grant Fund and is established under G.S. 159G-4. The Clean
14 Water Revolving Loan and Grant Fund is established by G.S. 159G-5.

15
16 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

17 **EXPAND EXPRESS REVIEW PROGRAM STATEWIDE**

18 **SECTION 12.2.(a)** Part 1 of Article 7 of Chapter 143B of the General
19 Statutes is amended by adding two new sections to read:

20 "**§ 143B-279.13. Express permit and certification reviews.**

21 (a) The Department of Environment and Natural Resources shall develop an
22 express review program to provide express permit and certification reviews in all of its
23 regional offices. Participation in the express review program is voluntary, and the
24 program is to become supported by the fees determined pursuant to subsection (b) of
25 this section. The Department of Environment and Natural Resources shall determine the
26 project applications to review under the express review program from those who request
27 to participate in the program. The express review program may be applied to any one or
28 all of the permits, approvals, or certifications in the following programs: the erosion and
29 sedimentation control program, the coastal management program, and the water quality
30 programs, including water quality certifications and stormwater management. The
31 express review program shall focus on the following permits or certifications:

- 32 (1) Stormwater permits under Part 1 of Article 21 of Chapter 143 of the
33 General Statutes.
34 (2) Stream origination certifications under Article 21 of Chapter 143 of
35 the General Statutes.
36 (3) Water quality certification under Article 21 of Chapter 143 of the
37 General Statutes.
38 (4) Erosion and sedimentation control permits under Article 4 of Chapter
39 113A of the General Statutes.
40 (5) Permits under the Coastal Area Management Act (CAMA), Part 4 of
41 Article 7 of Chapter 113A of the General Statutes.

42 (b) The Department of Environment and Natural Resources may determine the
43 fees for express application review under the express review program. Notwithstanding
44 G.S. 143-215.3D, the maximum permit application fee to be charged under subsection
45 (a) of this section for the express review of a project application requiring all of the
46 permits under subdivisions (1) through (5) of subsection (a) of this section shall not
47 exceed five thousand five hundred dollars (\$5,500). Notwithstanding G.S. 143-215.3D,
48 the maximum permit application fee to be charged for the express review of a project
49 application requiring all of the permits under subdivisions (1) through (4) of subsection
50 (a) of this section shall not exceed four thousand five hundred dollars (\$4,500).
51 Notwithstanding G.S. 143-215.3D, the maximum permit application fee charged for the
52 express review of a project application for any other combination of permits under
53 subdivisions (1) through (5) of subsection (a) of this section shall not exceed four
54 thousand dollars (\$4,000). Express review of a project application involving additional
55 permits or certifications issued by the Department of Environment and Natural

1 Resources other than those under subdivisions (1) through (5) of subsection (a) of this
2 section may be allowed by the Department, and, notwithstanding G.S. 143-215.3D or
3 any other statute or rule that sets a permit fee, the maximum permit application fee
4 charged for the express review of a project application shall not exceed four thousand
5 dollars (\$4,000), plus one hundred fifty percent (150%) of the fee that would otherwise
6 apply by statute or rule for that particular permit or certification. Additional fees, not to
7 exceed fifty percent (50%) of the original permit application fee under this section, may
8 be charged for subsequent reviews due to the insufficiency of the permit applications.
9 The Department of Environment and Natural Resources may establish the procedure by
10 which the amount of the fees under this subsection is determined, and the fees and
11 procedures are not rules under G.S. 150B-2(8a) for the express review program under
12 this section.

13 (c) No later than March 1 of each year, the Department of Environment and
14 Natural Resources shall report to the Fiscal Research Division and the Environmental
15 Review Commission its findings on the success of the program under this section and
16 any other findings or recommendations, including any legislative proposals that it
17 deems pertinent.

18 **"§ 143B-279.14. Express Review Fund.**

19 The Express Review Fund is created as a special nonreverting fund. All fees
20 collected under G.S. 143B-279.13 shall be credited to the Express Review Fund. The
21 Express Review Fund shall be used for the costs of implementing the express review
22 program under G.S. 143B-279.13 and the costs of administering the program, including
23 the salaries and support of the program's staff. If the express review program is
24 abolished, the funds in the Express Review Fund shall be credited to the General Fund."

25 **SECTION 12.2.(b)** The Department of Environment and Natural Resources
26 shall expand to a statewide program that operates in each regional office of the
27 Department the Express Review Pilot Program established by Section 11.4A of S.L.
28 2003-284 and expanded by Section 12.9 of S.L. 2004-124, and the provisions of
29 G.S. 143B-279.13, as enacted by subsection (a) of this section, shall apply to this
30 statewide program.

31 **SECTION 12.2.(c)** The Department of Environment and Natural Resources
32 shall establish and support 12 additional positions to administer the statewide express
33 review program under G.S. 143B-279.13, as enacted by subsection (a) of this section.
34 Up to seven hundred thirty-six thousand six hundred twenty-nine dollars (\$736,629) for
35 the 2005-2006 fiscal year and up to six hundred seventy-one thousand four hundred
36 nine dollars (\$671,409) for the 2006-2007 fiscal year shall be allocated from the
37 Express Review Fund created in G.S. 143B-279.14, as enacted by subsection (a) of this
38 section, to establish and support these 12 positions.

39 **SECTION 12.2.(d)** The Department of Environment and Natural Resources
40 shall continue and support the four positions established under Section 12.9(c) of S.L.
41 2004-124 to administer the statewide express review program under G.S. 143B-279.13,
42 as enacted by subsection (a) of this section. Up to two hundred twenty-three thousand
43 eight hundred three dollars (\$223,803) for the 2005-2006 fiscal year and up to two
44 hundred twenty-three thousand eight hundred three dollars (\$223,803) for the
45 2006-2007 fiscal year shall be allocated from the Express Review Fund created in
46 G.S. 143B-279.14, as enacted by subsection (a) of this section, to continue and support
47 these four positions.

48
49 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

50 **SEDIMENTATION EDUCATION FUNDS**

51 **SECTION 12.3.** The Department of Environment and Natural Resources
52 shall use the funds appropriated in this act to the Department of Environment and
53 Natural Resources for the 2005-2006 fiscal year and for the 2006-2007 fiscal year for
54 sedimentation education for only the following:

- 1 (1) Sedimentation education activities that provide technical assistance to
- 2 local erosion and sedimentation control programs under G.S. 113A-60;
- 3 or
- 4 (2) Sedimentation education to professionals involved in developing
- 5 erosion and sedimentation control plans for which prior approval is
- 6 required under Article 4 of Chapter 113A of the General Statutes.
- 7

8 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

9 **FUNDS TO IMPLEMENT FISHING LICENSE REQUIREMENTS**
 10 **LEGISLATION/CONTINGENT REPEAL OF SALTWATER FISHING**
 11 **LICENSE REQUIREMENT**

12 **SECTION 12.4.(a)** The Wildlife Resources Commission may disburse up to
 13 one million dollars (\$1,000,000) from the Wildlife Resources Fund to implement Senate
 14 Bill 1126 (Amend Fishing License Requirements-2) or House Bill 1092 (Amend
 15 Fishing License Requirements) if either bill becomes law no later than 30 days after
 16 adjournment of the 2005 Regular Session.

17 **SECTION 12.4.(b)** The State Treasurer shall transfer a sum equal to the sum
 18 of funds disbursed pursuant to subsection (a) of this section from the Marine Resources
 19 Fund to the Wildlife Resources Fund on July 1, 2010.

20 **SECTION 12.4.(c)** Sections 1 through 4 and Sections 6 through 12 of S.L.
 21 2004-187 and Section 12.16 of S.L. 2004-124 are repealed unless Senate Bill 1126
 22 (Amend Fishing License Requirements-2) or House Bill 1092 (Amend Fishing License
 23 Requirements) becomes law no later than 30 days after the adjournment in 2005 of the
 24 2005 Regular Session under a joint resolution.

25
 26 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

27 **GRASSROOTS SCIENCE PROGRAM**

28 **SECTION 12.5.(a)** Of the funds appropriated in this act to the Department
 29 of Environment and Natural Resources for the Grassroots Science Program, the sum of
 30 three million one hundred ninety-seven thousand seven hundred sixty-two dollars
 31 (\$3,197,762) for the 2005-2006 fiscal year is allocated as grants-in-aid for each fiscal
 32 year as follows:

	2005-2006
35 Aurora Fossil Museum	\$59,057
36 Cape Fear Museum	\$161,007
37 Carolina Raptor Center	\$112,174
38 Catawba Science Center	\$133,429
39 Colburn Gem and Mineral Museum, Inc.	\$74,545
40 Discovery Place	\$662,865
41 Eastern NC Regional Science Center	\$50,000
42 Elizabeth City Science Center	\$50,000
43 Fascinate-U	\$80,742
44 Granville County Museum Commission,	
45 Inc.–Harris Gallery	\$56,422
46 Greensboro Children's Museum	\$135,076
47 The Health Adventure Museum of Pack	
48 Place Education, Arts and	
49 Science Center, Inc.	\$134,499
50 Highlands Nature Center	\$79,268
51 Imagination Station	\$86,034
52 Kidsenses	\$50,000
53 Museum of Coastal Carolina	\$74,192
54 Natural Science Center of Greensboro	\$186,354
55 North Carolina Museum of Life	

1	and Science	\$379,826
2	Rocky Mount Children's Museum	\$72,254
3	Schiele Museum of Natural History	\$229,547
4	Sci Works Science Center and	
5	Environmental Park of Forsyth County	\$146,499
6	Western North Carolina Nature Center	\$112,879
7	Wilmington Children's Museum	\$71,093
8		
9	Total	\$3,197,762

10 **SECTION 12.5.(b)** No later than March 1, 2006, the Department of
 11 Environment and Natural Resources shall report to the Fiscal Research Division all of
 12 the following information for each museum that receives funds under this section:

- 13 (1) The operating budget for the 2004-2005 fiscal year.
- 14 (2) The operating budget for the 2005-2006 fiscal year.
- 15 (3) The total attendance at the museum during the 2005 calendar year.

16
 17 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

18 **MORATORIUM ON NEW LEASE PURCHASE CONTRACTS FOR**
 19 **FORESTRY EQUIPMENT FOR DIVISION OF FOREST RESOURCES**

20 **SECTION 12.6.** The Division of Forest Resources of the Department of
 21 Environment and Natural Resources shall not enter into any new lease purchase
 22 contracts for the purchase of forestry equipment. The Department of Administration
 23 shall not enter into any new lease purchase contracts for the purchase of forestry
 24 equipment on behalf of the Division of Forest Resources. This section does not apply to
 25 existing lease purchase contracts entered into by, or on behalf of, the Division.

26
 27 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

28 **EXTEND AND EXPAND PILOT PROGRAM FOR INSPECTION OF ANIMAL**
 29 **WASTE MANAGEMENT SYSTEMS**

30 **SECTION 12.7.(a)** Section 15.4(a) of S.L. 1997-443, as amended by
 31 Section 3.1 of S.L. 1999-329, Section 5 of S.L. 2001-254, Section 1.1 of S.L. 2002-176,
 32 and Section 6.1 of S.L. 2003-340, reads as rewritten:

33 "(a) The Department of Environment and Natural Resources shall develop and
 34 implement a pilot program to begin no later than 1 November 1997, and to terminate 1
 35 September ~~2005, 2007~~, regarding the annual inspections of animal operations that are
 36 subject to a permit under Article 21 of Chapter 143 of the General Statutes. The
 37 Department shall select two counties located in a part of the State that has a high
 38 concentration of swine farms to participate in this pilot program. In addition, Brunswick
 39 County and Pender County shall be added to the program. Notwithstanding
 40 G.S. 143-215.10F, the Division of Soil and Water Conservation of the Department of
 41 Environment and Natural Resources shall conduct inspections of all animal operations
 42 that are subject to a permit under Article 21 of Chapter 143 of the General Statutes in
 43 these ~~three-four~~ counties at least once a year to determine whether any animal waste
 44 management system is causing a violation of water quality standards and whether the
 45 system is in compliance with its animal waste management plan or any other condition
 46 of the permit. The personnel of the Division of Soil and Water Conservation who are to
 47 conduct these inspections in each of these ~~three-four~~ counties shall be located in an
 48 office in the county in which that person will be conducting inspections. As part of this
 49 pilot program, the Department of Environment and Natural Resources shall establish
 50 procedures whereby resources within the local Soil and Water Conservation Districts
 51 serving the ~~three-four~~ counties are used for the quick response to complaints and
 52 reported problems previously referred only to the Division of Water Quality of the
 53 Department of Environment and Natural Resources."

1 **SECTION 12.7.(b)** Section 3.3 of S.L. 1999-329, as amended by Section 6
2 of S.L. 2001-254, Section 1.2 of S.L. 2002-176, and Section 6.2 of S.L. 2003-340, reads
3 as rewritten:

4 "Section 3.3. The Department of Environment and Natural Resources, in
5 consultation with both the Division of Water Quality and the Division of Soil and Water
6 Conservation, shall submit semiannual interim reports no later than 15 April and 15
7 October of each year beginning 15 October 1999 ~~and shall submit a final report no later~~
8 ~~than 15 October 2005~~ to the Environmental Review ~~Commission and to Commission,~~
9 the Fiscal Research Division, Division, and the Appropriations Subcommittees on
10 Natural and Economic Resources in both the Senate and the House of Representatives.
11 These reports shall indicate whether the pilot program has increased the effectiveness of
12 the annual inspections program or the response to complaints and reported problems,
13 specifically whether the pilot program had resulted in identifying violations earlier,
14 taking corrective actions earlier, increasing compliance with the animal waste
15 management plans and permit conditions, improving the time to respond to discharges,
16 complaints, and reported problems, improving communications between farmers and
17 Department employees, and any other consequences deemed pertinent by the
18 Department. These reports shall also compare the costs of conducting operations
19 reviews and inspections under the pilot program with the costs of conducting operations
20 reviews and inspections pursuant to G.S. 143-215.10D and G.S. 143-215.10F and the
21 resources that would be required to expand the pilot program to all counties. ~~The final~~
22 ~~report shall include a recommendation as to whether to continue or expand the pilot~~
23 ~~program under this act. The Environmental Review Commission may recommend to the~~
24 ~~General Assembly whether to continue or expand the pilot program under this act and~~
25 ~~may make any related legislative proposals."~~

26 **SECTION 12.7.(c)** No later than October 15, 2005, the Department of
27 Environment and Natural Resources shall recommend to the Environmental Review
28 Commission and the General Assembly whether to continue or expand the pilot
29 program under this section. The Environmental Review Commission shall recommend
30 to the 2006 Session of the General Assembly whether to continue or expand the pilot
31 program under this section and may make any related legislative proposals.
32

33 **PART XIII. DEPARTMENT OF COMMERCE**

34
35 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

36 **WANCHESE SEAFOOD INDUSTRIAL PARK/OREGON INLET FUNDS**

37 **SECTION 13.1.(a)** Funds appropriated to the Department of Commerce for
38 the 2004-2005 fiscal year for the Wanchese Seafood Industrial Park that are unexpended
39 and unencumbered as of June 30, 2005, shall not revert to the General Fund on June 30,
40 2005, but shall remain available to the Department to be expended by the Wanchese
41 Seafood Industrial Park for operations, maintenance, repair, and capital improvements
42 in accordance with Article 23C of Chapter 113 of the General Statutes.

43 **SECTION 13.1.(b)** Funds appropriated to the Department of Commerce for
44 the 2004-2005 fiscal year for the Oregon Inlet Project that are unexpended and
45 unencumbered as of June 30, 2005, shall not revert to the General Fund on June 30,
46 2005.

47 **SECTION 13.1.(c)** This section becomes effective June 30, 2005.
48

49 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

50 **COUNCIL OF GOVERNMENT FUNDS**

51 **SECTION 13.2.(a)** Of the funds appropriated in this act to the Department
52 of Commerce, eight hundred thirty-two thousand one hundred fifty dollars (\$832,150)
53 for the 2005-2006 fiscal year and eight hundred thirty-two thousand one hundred fifty
54 dollars (\$832,150) for the 2006-2007 fiscal year shall only be used as provided by this
55 section. Each regional council of government or lead regional organization is allocated

1 up to forty-eight thousand nine hundred fifty dollars (\$48,950) for the 2005-2006 and
2 the 2006-2007 fiscal years.

3 **SECTION 13.2.(b)** A regional council of government may use funds
4 appropriated by this section only to assist local governments in grant applications,
5 economic development, community development, support of local industrial
6 development activities, and other activities as deemed appropriate by the member
7 governments.

8 **SECTION 13.2.(c)** Funds appropriated by this section shall be paid by
9 electronic transfer in two equal installments, the first no later than September 1, 2005,
10 and the second subsequent to acceptable submission of the annual report due to the Joint
11 Legislative Commission on Governmental Operations and the Fiscal Research Division
12 by January 15, 2006, as specified in subdivision (e)(2) of this section.

13 **SECTION 13.2.(d)** Funds appropriated by this section shall not be used for
14 payment of dues or assessments by the member governments and shall not supplant
15 funds appropriated by the member governments.

16 **SECTION 13.2.(e)** Each council of government or lead regional
17 organization shall do the following:

- 18 (1) By January 15, 2006, and more frequently as requested, report to the
19 Joint Legislative Commission on Governmental Operations and the
20 Fiscal Research Division the following information:
21 a. State fiscal year 2004-2005 program activities, objectives, and
22 accomplishments;
23 b. State fiscal year 2004-2005 itemized expenditures and fund
24 sources;
25 c. State fiscal year 2005-2006 planned activities, objectives, and
26 accomplishments, including actual results through December
27 31, 2005; and
28 d. State fiscal year 2005-2006 estimated itemized expenditures
29 and fund sources, including actual expenditures and fund
30 sources through December 31, 2005.
- 31 (2) By January 15, 2007, and more frequently as requested, report to the
32 Joint Legislative Commission on Governmental Operations and the
33 Fiscal Research Division the following information:
34 a. State fiscal year 2005-2006 program activities, objectives, and
35 accomplishments;
36 b. State fiscal year 2005-2006 itemized expenditures and fund
37 sources;
38 c. State fiscal year 2006-2007 planned activities, objectives, and
39 accomplishments, including actual results through December
40 31, 2006; and
41 d. State fiscal year 2006-2007 estimated itemized expenditures
42 and fund sources, including actual expenditures and fund
43 sources through December 31, 2006.
- 44 (3) Provide to the Fiscal Research Division a copy of the organization's
45 annual audited financial statement within 30 days of issuance of the
46 statement.
47

48 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

49 **TOURISM PROMOTION FUNDS**

50 **SECTION 13.3.** Funds appropriated in this act to the Department of
51 Commerce for tourism promotion grants shall be allocated to counties in an effort to
52 direct funds to counties most in need. Determinations of which counties are most in
53 need shall focus on those with the lowest per capita income, highest unemployment, and
54 slowest population growth in the following manner:

- 1 (1) Counties 1 through 20 are each eligible to receive a maximum grant of
2 seven thousand five hundred dollars (\$7,500) for each fiscal year,
3 provided these funds are matched on the basis of one non-State dollar
4 (\$1.00) for every four State dollars (\$4.00).
5 (2) Counties 21 through 50 are each eligible to receive a maximum grant
6 of three thousand five hundred dollars (\$3,500) for two of the next
7 three fiscal years, provided these funds are matched on the basis of one
8 non-State dollar (\$1.00) for every three State dollars (\$3.00).
9 (3) Counties 51 through 100 are each eligible to receive a maximum grant
10 of three thousand five hundred dollars (\$3,500) for alternating fiscal
11 years, beginning with the 1991-1992 fiscal year, provided these funds
12 are matched on the basis of four non-State dollars (\$4.00) for every
13 one State dollar (\$1.00).
14

15 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

16 **EMPLOYMENT SECURITY FUNDS**

17 **SECTION 13.4.(a)** There is appropriated from the Special Employment
18 Security Administration Fund to the Employment Security Commission of North
19 Carolina the sum of six million three hundred thousand dollars (\$6,300,000) for the
20 2005-2006 fiscal year to be used for the following purposes:

- 21 (1) Six million dollars (\$6,000,000) for the operation and support of local
22 offices.
23 (2) Two hundred thousand dollars (\$200,000) for the State Occupational
24 Information Coordinating Committee to develop and operate an
25 interagency system to track former participants in State education and
26 training programs.
27 (3) One hundred thousand dollars (\$100,000) to maintain compliance with
28 Chapter 96 of the General Statutes, which directs the Commission to
29 employ the Common Follow-Up Management Information System to
30 evaluate the effectiveness of the State's job training, education, and
31 placement programs.

32 **SECTION 13.4.(b)** This section becomes effective July 1, 2005.
33

34 Requested by: Senator Hartsell

35 **TRADE JOBS FOR SUCCESS REPORTING**

36 **SECTION 13.4A.(a)** In addition to the statutory reporting requirements
37 pursuant to G.S. 143B-438.17, the Employment Security Commission, Department of
38 Commerce, and the Community Colleges System Office shall make a joint written
39 progress report on their compliance with Section 13.7A of S.L. 2004-124, as to the
40 following:

- 41 (1) The actions taken to obtain from the U.S. Department of Labor as
42 quickly as possible a waiver under the Trade Adjustment Act to allow
43 the Trade Jobs for Success initiative to (i) serve persons regardless of
44 their age, (ii) use unemployment funds to provide direct monetary
45 incentives to participating employers and direct income to eligible
46 workers in the retraining program, and (iii) use funds for in-State
47 relocation assistance.
48 (2) Whether waivers have been sought for other program components.
49 (3) The progress made in implementing the Trade Jobs for Success
50 initiative in the counties hardest hit by trade-impacted job losses,
51 particularly the counties having an unemployment rate of eight percent
52 (8%) and the extent to which these counties have received priority
53 consideration.

1 (4) The efforts of the Department of Commerce seeking and receiving
2 private grants and federal funds for the Trade Jobs for Success
3 initiative.

4 (5) Any reasons why legislative mandates have not been followed or the
5 statutory goals have not been achieved.

6 The progress report shall be submitted to the Joint Legislative Commission on
7 Governmental Operations and to the Chairs of the Appropriations Committees of the
8 Senate and the House of Representatives by August 1, 2005.

9 **SECTION 13.4A.(b)** G.S. 143B-438.17 reads as rewritten:

10 **"§ 143B-438.17. Reporting.**

11 (a) Beginning July 1, 2005, the Department of Commerce, in conjunction
12 with the Employment Security Commission and the Community Colleges System
13 Office, shall publish a quarterly-written report on the Trade Jobs for Success
14 (TJS) initiative. The monthly report shall provide information on the commitment,
15 disbursement, and use of funds and the status of any grant proposals or waivers
16 requested on behalf of the Trade Jobs for Success initiative. The monthly report shall be
17 submitted to the Governor and to the Fiscal Research Division of the General Assembly.

18 (b) Beginning October 1, 2005, the Department of Commerce, in conjunction
19 with the Employment Security Commission and the Community Colleges System
20 Office, shall publish a quarterly written report on the Trade Jobs for Success initiative.
21 The quarterly report shall also include legislative proposals and recommendations
22 regarding statutory changes needed to maximize the effectiveness and flexibility of the
23 TJS initiative. Copies of the quarterly report shall be provided to the Joint Legislative
24 Commission on Governmental Operations, to the chairs of the Senate and House of
25 Representatives Appropriations Committees, and to the Fiscal Research Division of the
26 General Assembly.

27 (c) Beginning January 1, 2006, the Department of Commerce, in conjunction
28 with the Employment Security Commission and the Community Colleges System
29 Office, shall publish a comprehensive annual written report on the Trade Jobs for
30 Success initiative. The annual report shall include a detailed explanation of outcomes
31 and future planning for the TJS initiative. Copies of the annual report shall be provided
32 to the Governor, to the Joint Legislative Commission on Governmental Operations, to
33 the chairs of the Senate and House of Representatives Appropriations Committees, and
34 to the Fiscal Research Division of the General Assembly."

35
36 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

37 **INDUSTRIAL DEVELOPMENT FUND**

38 **SECTION 13.5.** G.S. 143B-437.01 reads as rewritten:

39 **"§ 143B-437.01. Industrial Development Fund.**

40 (a) Creation and Purpose of Fund. – There is created in the Department of
41 Commerce the Industrial Development Fund to provide funds to assist the local
42 government units of the most economically distressed counties in the State in creating
43 jobs in certain industries. The Department of Commerce shall adopt rules providing for
44 the administration of the program. Those rules shall include the following provisions,
45 which shall apply to each grant from the fund:

46
47 (1) The funds shall be used for (i) installation of or purchases of
48 equipment for eligible industries, (ii) structural repairs, improvements,
49 or renovations of existing buildings to be used for expansion of
50 eligible industries, or (iii) construction of or improvements to new or
51 existing water, sewer, gas, telecommunications, high-speed broadband,
52 ~~or~~ electrical utility distribution lines or ~~equipment~~ equipment, or
53 transportation infrastructure for existing or new or proposed industrial
54 buildings to be used for eligible industries. To be eligible for funding,
55 the water, sewer, gas, telecommunications, high-speed broadband, ~~or~~

1 electrical utility lines or ~~facilities~~facilities, or transportation
 2 infrastructure shall be located on the site of the building or, if not
 3 located on the site, shall be directly related to the operation of the
 4 specific eligible industrial activity.
 5 ...

6 (b1) Utility Account. – There is created within the Industrial Development Fund a
 7 special account to be known as the Utility Account to provide funds to assist the local
 8 government units of enterprise tier one, two, and three areas, as defined in
 9 G.S. 105-129.3, in creating jobs in eligible industries. The Department of Commerce
 10 shall adopt rules providing for the administration of the program. Except as otherwise
 11 provided in this subsection, those rules shall be consistent with the rules adopted with
 12 respect to the Industrial Development Fund. The rules shall provide that the funds in the
 13 Utility Account may be used only for construction of or improvements to new or
 14 existing water, sewer, gas, telecommunications, high-speed broadband, ~~or~~ electrical
 15 utility distribution lines or ~~equipment~~equipment, or transportation infrastructure for
 16 existing or new or proposed industrial buildings to be used for eligible industrial
 17 operations. To be eligible for funding, the water, sewer, gas, telecommunications,
 18 high-speed broadband, ~~or~~ electrical utility lines or ~~facilities~~facilities, or transportation
 19 infrastructure shall be located on the site of the building or, if not located on the site,
 20 shall be directly related to the operation of the specific industrial activity. There shall be
 21 no maximum funding amount per new job to be created or per project.

22 "

23
 24 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

25 **ONE NORTH CAROLINA FUND**

26 **SECTION 13.6.** Of the funds appropriated in Section 1(a) of S.L. 2004-88
 27 to the One North Carolina Fund, the Department of Commerce may use up to three
 28 hundred thousand dollars (\$300,000) to cover its expenses in administering the One
 29 North Carolina Fund and other economic development incentive grant programs in the
 30 2005-2006 fiscal year.

31
 32 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

33 **REGIONAL ECONOMIC DEVELOPMENT COMMISSION ALLOCATIONS**

34 **SECTION 13.7.(a)** Funds appropriated in this act to the Department of
 35 Commerce for regional economic development commissions shall be allocated to the
 36 following Commissions in accordance with subsection (b) of this section: Western
 37 North Carolina Regional Economic Development Commission, Research Triangle
 38 Regional Commission, Southeastern North Carolina Regional Economic Development
 39 Commission, Piedmont Triad Partnership, Northeastern North Carolina Regional
 40 Economic Development Commission, Global TransPark Development Commission,
 41 and Carolinas Partnership, Inc.

42 **SECTION 13.7.(b)** Funds appropriated pursuant to subsection (a) of this
 43 section shall be allocated to each Regional Economic Development Commission as
 44 follows:

- 45 (1) First, the Department shall establish each Commission's allocation by
 46 determining the sum of allocations to each county that is a member of
 47 that Commission. Each county's allocation shall be determined by
 48 dividing the county's enterprise factor by the sum of the enterprise
 49 factors for eligible counties and multiplying the resulting percentage
 50 by the amount of the appropriation. As used in this subdivision, the
 51 term "enterprise factor" means a county's enterprise factor as
 52 calculated under G.S. 105-129.3; and
 53 (2) Next, the Department shall subtract from funds allocated to the Global
 54 TransPark Development Commission the sum of one hundred eighteen
 55 thousand one hundred twenty-nine dollars (\$118,129) in the

1 2005-2006 fiscal year and one hundred eighteen thousand four
2 hundred seventy-seven dollars (\$118,477) in the 2006-2007 fiscal
3 year, which sum represents the interest earnings in each fiscal year on
4 the estimated balance of seven million five hundred thousand dollars
5 (\$7,500,000) appropriated to the Global TransPark Development Zone
6 in Section 6 of Chapter 561 of the 1993 Session Laws; and

- 7 (3) Next, the Department shall redistribute the sum of one hundred
8 eighteen thousand one hundred twenty-nine dollars (\$118,129) in the
9 2005-2006 fiscal year and one hundred eighteen thousand four
10 hundred seventy-seven dollars (\$118,477) in the 2006-2007 fiscal year
11 to the seven Regional Economic Development Commissions named in
12 subsection (a) of this section. Each Commission's share of this
13 redistribution shall be determined according to the enterprise factor
14 formula set out in subdivision (1) of this subsection. This
15 redistribution shall be in addition to each Commission's allocation
16 determined under subdivision (1) of this subsection.
17

18 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

19 **REGIONAL ECONOMIC DEVELOPMENT COMMISSION REPORTS**

20 **SECTION 13.8.(a)** By February 15 of each fiscal year, the seven regional
21 economic development commissions shall report to the Joint Legislative Commission
22 on Governmental Operations and the Fiscal Research Division the following
23 information:

- 24 (1) The preceding fiscal year's program activities, objectives, and
25 accomplishments.
26 (2) The preceding fiscal year's itemized expenditures and fund sources.
27 (3) Demonstration of how the commission's regional economic
28 development and marketing strategy aligns with the State's overall
29 economic development and marketing strategies.
30 (4) To the extent they are involved in promotion activities such as trade
31 shows, visits to prospects and consultants, advertising and media
32 placement, the commissions shall demonstrate how they have
33 generated qualified leads.

34 **SECTION 13.8.(b)** Each of the commissions shall provide to the Fiscal
35 Research Division a copy of their annual audited financial statement within 30 days of
36 issuance of the statement.

37 **SECTION 13.8.(c)** The reporting requirements for regional economic
38 development commissions, as provided in subsection (a) of this section, shall be
39 reviewed annually by the North Carolina Partnership for Economic Development, and
40 recommendations for changes to the reporting requirements shall be made to the Fiscal
41 Research Division, the President Pro Tempore of the Senate, and the Speaker of the
42 House of Representatives.

43 **SECTION 13.8.(d)** Regional economic development commissions shall
44 receive quarterly allocations of the funds appropriated in this act to the Department of
45 Commerce for regional economic development commissions.

46 **SECTION 13.8.(e)** Regional economic development commissions shall
47 remain in the Department of Commerce's Budget Code 14601 with other State-aided
48 nonprofit entities.
49

50 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

51 **NONPROFIT REPORTING REQUIREMENTS**

52 **SECTION 13.9.(a)** The N.C. Institute for Minority Economic Development,
53 Inc., Land Loss Prevention Project, North Carolina Minority Support Center, North
54 Carolina Community Development Initiative, Inc., North Carolina Association of

1 Community Development Corporations, Inc., Coalition of Farm and Rural Families, and
2 Partnership for the Sounds, Inc., shall do the following:

- 3 (1) By January 15, 2006, and more frequently as requested, report to the
4 Joint Legislative Commission on Governmental Operations and the
5 Fiscal Research Division the following information:
6 a. State fiscal year 2004-2005 program activities, objectives, and
7 accomplishments;
8 b. State fiscal year 2004-2005 itemized expenditures and fund
9 sources;
10 c. State fiscal year 2005-2006 planned activities, objectives, and
11 accomplishments including actual results through December 31,
12 2005; and
13 d. State fiscal year 2005-2006 estimated itemized expenditures
14 and fund sources including actual expenditures and fund
15 sources through December 31, 2005.
16 (2) By January 15, 2007, and more frequently as requested, report to the
17 Joint Legislative Commission on Governmental Operations and the
18 Fiscal Research Division the following information:
19 a. State fiscal year 2005-2006 program activities, objectives, and
20 accomplishments;
21 b. State fiscal year 2005-2006 itemized expenditures and fund
22 sources;
23 c. State fiscal year 2006-2007 planned activities, objectives, and
24 accomplishments including actual results through December 31,
25 2006; and
26 d. State fiscal year 2006-2007 estimated itemized expenditures
27 and fund sources including actual expenditures and fund
28 sources through December 31, 2006.
29 (3) Provide to the Fiscal Research Division a copy of the organization's
30 annual audited financial statement within 30 days of issuance of the
31 statement.

32 **SECTION 13.9.(b)** No funds appropriated under this act shall be released to
33 a nonprofit organization listed in subsection (a) of this section until the organization has
34 satisfied the reporting requirement for January 15, 2005. Fourth quarter allotments shall
35 not be released to any nonprofit organization that does not satisfy the reporting
36 requirements by January 15, 2006, or January 15, 2007.
37

38 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

39 **BIOTECHNOLOGY CENTER**

40 **SECTION 13.10.(a)** The North Carolina Biotechnology Center shall
41 recapture funds spent in support of successful research and development efforts in the
42 for-profit private sector.

43 **SECTION 13.10.(b)** The North Carolina Biotechnology Center shall
44 provide funding for biotechnology, biomedical, and related bioscience applications
45 under its Business and Science Technology Programs.

46 **SECTION 13.10.(c)** The North Carolina Biotechnology Center shall:

- 47 (1) By January 15, 2006, and more frequently as requested, report to the
48 Joint Legislative Commission on Governmental Operations and the
49 Fiscal Research Division the following information:
50 a. State fiscal year 2004-2005 program activities, objectives, and
51 accomplishments;
52 b. State fiscal year 2004-2005 itemized expenditures and fund
53 sources;

- 1 c. State fiscal year 2005-2006 planned activities, objectives, and
- 2 accomplishments, including actual results through December
- 3 31, 2005; and
- 4 d. State fiscal year 2005-2006 estimated itemized expenditures
- 5 and fund sources, including actual expenditures and fund
- 6 sources through December 31, 2005.
- 7 (2) By January 15, 2007, and more frequently as requested, report to the
- 8 Joint Legislative Commission on Governmental Operations and the
- 9 Fiscal Research Division the following information:
- 10 a. State fiscal year 2005-2006 program activities, objectives, and
- 11 accomplishments;
- 12 b. State fiscal year 2005-2006 itemized expenditures and fund
- 13 sources;
- 14 c. State fiscal year 2006-2007 planned activities, objectives, and
- 15 accomplishments, including actual results through December
- 16 31, 2006; and
- 17 d. State fiscal year 2006-2007 estimated itemized expenditures
- 18 and fund sources, including actual expenditures and fund
- 19 sources through December 31, 2006.
- 20 (3) Provide to the Fiscal Research Division a copy of the organization's
- 21 annual audited financial statement within 30 days of issuance of the
- 22 statement.

23 **SECTION 13.10.(d)** The North Carolina Biotechnology Center shall
 24 provide a report containing detailed budget, personnel, and salary information to the
 25 Office of State Budget and Management and to the Fiscal Research Division in the same
 26 manner as State departments and agencies in preparation for biennium budget requests.

27
 28 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

29 **RURAL ECONOMIC DEVELOPMENT CENTER**

30 **SECTION 13.11.(a)** Of the funds appropriated in this act to the Rural
 31 Economic Development Center, Inc., the sum of two million twenty-five thousand six
 32 hundred ninety-seven dollars (\$2,025,697) for the 2005-2006 fiscal year and the sum of
 33 two million twenty-five thousand six hundred ninety-seven dollars (\$2,025,697) for the
 34 2006-2007 fiscal year shall be allocated as follows:

	2005-2006	2006-2007
35		
36	\$370,000	\$370,000
37		
38		
39	444,399	444,399
40		
41	604,298	604,298
42		
43		
44	199,722	199,722
45		
46	138,278	138,278
47		
48	125,000	125,000
49	144,000	144,000.

50 **SECTION 13.11.(b)** The Rural Economic Development Center, Inc., shall
 51 provide a report containing detailed budget, personnel, and salary information to the
 52 Office of State Budget and Management in the same manner as State departments and
 53 agencies in preparation for biennium budget requests.

54 **SECTION 13.11.(c)** For purposes of this section, the term "community
 55 development corporation" means a nonprofit corporation:

- 1 (1) Chartered pursuant to Chapter 55A of the General Statutes;
- 2 (2) Tax-exempt pursuant to section 501(c)(3) of the Internal Revenue
- 3 Code of 1986;
- 4 (3) Whose primary mission is to develop and improve low-income
- 5 communities and neighborhoods through economic and related
- 6 development;
- 7 (4) Whose activities and decisions are initiated, managed, and controlled
- 8 by the constituents of those local communities; and
- 9 (5) Whose primary function is to act as deal-maker and packager of
- 10 projects and activities that will increase their constituencies'
- 11 opportunities to become owners, managers, and producers of small
- 12 businesses, affordable housing, and jobs designed to produce positive
- 13 cash flow and curb blight in the targeted community.

14 **SECTION 13.11.(d)** Of the funds appropriated in this act to the Rural
15 Economic Development Center, Inc., the sum of two million four hundred fifteen
16 thousand nine hundred ten dollars (\$2,415,910) for the 2005-2006 fiscal year and the
17 sum of two million four hundred fifteen thousand nine hundred ten dollars (\$2,415,910)
18 for the 2006-2007 fiscal year shall be allocated as follows:

- 19 (1) \$1,047,410 in each fiscal year for community development grants to
- 20 support development projects and activities within the State's minority
- 21 communities. Any community development corporation as defined in
- 22 this section is eligible to apply for funds. The Rural Economic
- 23 Development Center, Inc., shall establish performance-based criteria
- 24 for determining which community development corporation will
- 25 receive a grant and the grant amount. The Rural Economic
- 26 Development Center, Inc., shall allocate these funds as follows:
 - 27 a. \$997,410 for direct grants to local community development
 - 28 corporations to support operations and project activities.
 - 29 b. \$50,000 in each fiscal year to the Rural Economic Development
 - 30 Center, Inc., to be used to cover expenses in administering this
 - 31 section.
- 32 (2) \$195,000 in each fiscal year to the Microenterprise Loan Program to
- 33 support the loan fund and operations of the Program; and
- 34 (3) \$983,000 in each fiscal year shall be used for a program to provide
- 35 supplemental funding for matching requirements for projects and
- 36 activities authorized under this subsection. The Center shall allocate
- 37 these funds as follows:
 - 38 a. \$675,000 in each fiscal year to make grants to local
 - 39 governments and nonprofit corporations to provide funds
 - 40 necessary to match federal grants or other grants for:
 - 41 1. Necessary economic development projects and activities
 - 42 in economically distressed areas;
 - 43 2. Necessary water and sewer projects and activities in
 - 44 economically distressed communities to address health
 - 45 or environmental quality problems except that funds
 - 46 shall not be expended for the repair or replacement of
 - 47 low-pressure pipe wastewater systems. If a grant is
 - 48 awarded under this sub-subdivision, then the grant shall
 - 49 be matched on a dollar-for-dollar basis in the amount of
 - 50 the grant awarded; or
 - 51 3. Projects that demonstrate alternative water and waste
 - 52 management processes for local governments. Special
 - 53 consideration should be given to cost-effectiveness,
 - 54 efficacy, management efficiency, and the ability of the
 - 55 demonstration project to be replicated.

- 1 b. \$208,000 in each fiscal year to make grants to local
2 governments and nonprofit corporations to provide funds
3 necessary to match federal grants or other grants related to
4 water, sewer, or business development projects.
5 c. \$100,000 in each fiscal year to support the update of the
6 statewide water and sewer database and to support the
7 development of a statewide water management plan.
8 (4) \$190,500 in each fiscal year for the Agricultural Advancement
9 Consortium. These funds shall be placed in a reserve and allocated as
10 follows:
11 a. \$75,000 in each fiscal year for operating expenses associated
12 with the Consortium; and
13 b. \$115,500 in each fiscal year for research initiatives funded by
14 the Consortium.

15 The Consortium shall facilitate discussions among interested parties
16 and shall develop recommendations to improve the State's economic
17 development through farming and agricultural interests.

18 The grant recipients in this subsection shall be selected on the basis of need.

19 **SECTION 13.11.(e)** The Rural Economic Development Center, Inc., shall:

- 20 (1) By January 15, 2006, and more frequently as requested, report to the
21 Joint Legislative Commission on Governmental Operations and the
22 Fiscal Research Division the following information:
23 a. State fiscal year 2004-2005 program activities, objectives, and
24 accomplishments;
25 b. State fiscal year 2004-2005 itemized expenditures and fund
26 sources;
27 c. State fiscal year 2005-2006 planned activities, objectives, and
28 accomplishments, including actual results through December
29 31, 2005; and
30 d. State fiscal year 2005-2006 estimated itemized expenditures
31 and fund sources, including actual expenditures and fund
32 sources through December 31, 2005.
33 (2) By January 15, 2007, and more frequently as requested, report to the
34 Joint Legislative Commission on Governmental Operations and the
35 Fiscal Research Division the following information:
36 a. State fiscal year 2005-2006 program activities, objectives, and
37 accomplishments;
38 b. State fiscal year 2005-2006 itemized expenditures and fund
39 sources;
40 c. State fiscal year 2006-2007 planned activities, objectives, and
41 accomplishments, including actual results through December
42 31, 2006; and
43 d. State fiscal year 2006-2007 estimated itemized expenditures
44 and fund sources, including actual expenditures and fund
45 sources through December 31, 2006.
46 (3) Provide to the Fiscal Research Division a copy of each grant
47 recipient's annual audited financial statement within 30 days of
48 issuance of the statement.

49 **SECTION 13.11.(f)** No funds appropriated under this act shall be released to
50 a community development corporation, as defined in this section, unless the corporation
51 can demonstrate that there are no outstanding or proposed assessments or other
52 collection actions against the corporation for any State or federal taxes, including
53 related penalties, interest, and fees.

54 Requested by: Senators Weinstein, Albertson, Garrou, Dalton, Hagan
55

RURAL ECONOMIC DEVELOPMENT CENTER

SECTION 13.12.(a) Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of twenty million dollars (\$20,000,000) for the 2005-2006 fiscal year and the sum of twenty million dollars (\$20,000,000) for the 2006-2007 fiscal year shall be allocated as follows:

- (1) To continue the North Carolina Infrastructure Program. The purpose of the Program is to provide grants to local governments to construct critical water and wastewater facilities and to provide other infrastructure needs, including technology needs, to sites where these facilities will generate private job-creating investment. At least fifteen million dollars (\$15,000,000) of the funds appropriated in this act for each year of the biennium must be used to provide grants under this Program.
- (2) To provide matching grants to local governments in distressed areas and equity investments in public-private ventures that will productively reuse vacant buildings and properties, with priority given to towns or communities with populations of less than 5,000.
- (3) To provide economic development research and demonstration grants.

SECTION 13.12.(b) The funds appropriated in this act to the Rural Economic Development Center, Inc., shall be recurring funds.

SECTION 13.12.(c) The Rural Economic Development Center, Inc., may contract with other State agencies, constituent institutions of The University of North Carolina, and colleges within the North Carolina Community College System for certain aspects of the North Carolina Infrastructure Program, including design of Program guidelines and evaluation of Program results.

SECTION 13.12.(d) During each year of the 2005-2007 biennium, the Rural Economic Development Center, Inc., may use up to two percent (2%) of the funds appropriated in this act to cover its expenses in administering the North Carolina Economic Infrastructure Program.

SECTION 13.12.(e) No later than January 15 each year, the Rural Economic Development Center, Inc., shall submit an annual report to the Joint Legislative Commission on Governmental Operations concerning the progress of the North Carolina Economic Infrastructure Program.

SECTION 13.12.(f) Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of five hundred thousand dollars (\$500,000) for the 2005-2006 fiscal year and the sum of five hundred thousand dollars (\$500,000) for the 2006-2007 fiscal year shall be allocated to the e-NC Authority.

The e-NC Authority may:

- (1) Contract with other State agencies, The University of North Carolina, the North Carolina Community College System, and nonprofit organizations to assist with program development and the evaluation of program activities.
- (2) Use up to five percent (5%) of the funds allocated in this section to cover its expenses in program development and implementation of activity areas.

The e-NC Authority shall report to the 2006 General Assembly on the following:

- (1) The activities necessary to be undertaken in distressed urban areas of the State to enhance the capability of citizens and businesses residing in these areas to access the high-speed Internet.
- (2) An implementation plan for the training of citizens and businesses in distressed urban areas.
- (3) The technology and digital literacy training necessary to assist citizens and existing businesses to create new technology-based enterprises in

1 these communities and to use the Internet to enhance the productivity
2 of their businesses.

3 The e-NC Authority shall, by January 31, 2006, and quarterly thereafter,
4 report to the Joint Legislative Commission on Governmental Operations on program
5 development and the evaluation of program activities.
6

7 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

8 **OPPORTUNITIES INDUSTRIALIZATION CENTER FUNDS**

9 **SECTION 13.13.(a)** Of the funds appropriated in this act to the Rural
10 Economic Development Center, Inc., the sum of three hundred sixty-one thousand
11 dollars (\$361,000) for the 2005-2006 fiscal year and the sum of three hundred sixty-one
12 thousand dollars (\$361,000) for the 2006-2007 fiscal year shall be equally distributed
13 among the certified Opportunities Industrialization Centers for ongoing job training
14 programs.

15 **SECTION 13.13.(b)** For each of the Opportunities Industrialization Centers
16 receiving funds pursuant to subsection (a) of this section, the Rural Economic
17 Development Center, Inc., shall:

- 18 (1) By January 15, 2006, and more frequently as requested, report to the
19 Joint Legislative Commission on Governmental Operations and the
20 Fiscal Research Division the following information:
 - 21 a. State fiscal year 2004-2005 program activities, objectives, and
22 accomplishments;
 - 23 b. State fiscal year 2004-2005 itemized expenditures and fund
24 sources;
 - 25 c. State fiscal year 2005-2006 planned activities, objectives, and
26 accomplishments, including actual results through December
27 31, 2005; and
 - 28 d. State fiscal year 2005-2006 estimated itemized expenditures
29 and fund sources, including actual expenditures and fund
30 sources through December 31, 2005.
- 31 (2) By January 15, 2007, and more frequently as requested, report to the
32 Joint Legislative Commission on Governmental Operations and the
33 Fiscal Research Division the following information:
 - 34 a. State fiscal year 2005-2006 program activities, objectives, and
35 accomplishments;
 - 36 b. State fiscal year 2005-2006 itemized expenditures and fund
37 sources;
 - 38 c. State fiscal year 2006-2007 planned activities, objectives, and
39 accomplishments, including actual results through December
40 31, 2006; and
 - 41 d. State fiscal year 2006-2007 estimated itemized expenditures
42 and fund sources, including actual expenditures and fund
43 sources through December 31, 2006.
- 44 (3) Notwithstanding G.S. 143-6.1(d), file annually with the State Auditor
45 a financial statement in the form and on the schedule prescribed by the
46 State Auditor. The financial statements must be audited in accordance
47 with standards prescribed by the State Auditor to assure that State
48 funds are used for the purposes provided by law.
- 49 (4) Provide to the Fiscal Research Division a copy of the annual audited
50 financial statement required in subdivision (3) of this subsection within
51 30 days of issuance of the statement.

52 **SECTION 13.13.(c)** No funds appropriated under this act shall be released
53 to an Opportunities Industrialization Center (hereinafter Center) listed in subsection (a)
54 of this section if the Center has any overdue tax debts, as that term is defined in
55 G.S. 105-243.1, at the federal or State level.

1
2 **PART XIV. JUDICIAL DEPARTMENT**
3

4 Requested by: Senators Thomas, Garrou, Dalton, Hagan
5 **ESTABLISH CONFERENCE OF CLERKS OF SUPERIOR COURT**

6 **SECTION 14.1.(a)** Chapter 7A of the General Statutes is amended by
7 adding a new Subchapter to read:

8 **"SUBCHAPTER XV. CONFERENCE OF CLERKS OF SUPERIOR COURT.**

9 **"Article 63.**

10 **"Conference of Clerks of Superior Court.**

11 **"§ 7A-805. Establishment and purpose.**

12 There is created the Conference of Clerks of Superior Court of North Carolina, of
13 which each clerk of superior court is a member. The purpose of the Conference is to
14 assist in improving the administration of justice in North Carolina by coordinating the
15 efforts of the various clerks of superior court, by assisting them in the administration of
16 their offices, and by exercising the powers and performing the duties provided for in
17 this Article.

18 **"§ 7A-806. Annual meetings; organization; election of officers.**

19 (a) Annual Meetings. – The Conference shall meet each summer and winter at a
20 time and place selected by the President of the Conference.

21 (b) Election of Officers. – Officers of the Conference are a President, two Vice
22 Presidents, a Secretary, a Treasurer, and other officers from among its membership that
23 the Conference may designate in its bylaws. Officers are elected for one-year terms at
24 the annual summer conference and take office on July 1 immediately following their
25 election.

26 (c) Executive Committee. – The Executive Committee of the Conference consists
27 of the President, the two Vice Presidents, the Secretary, the Treasurer, and seven other
28 members of the Conference. One of these seven members shall be the immediate past
29 president if there is one and that past president continues to be a member.

30 (d) Organization and Functioning; Bylaws. – The bylaws may provide for the
31 organization and functioning of the Conference, including the powers and duties of its
32 officers and committees. The bylaws shall state the number of members required to
33 constitute a quorum at any meeting of the Conference or the Executive Committee. The
34 bylaws shall set out the procedure for amending the bylaws.

35 (e) Calling Meetings; Duty to Attend. – The President or the Executive
36 Committee may call a meeting of the Conference upon 10 days' notice to the members,
37 except upon written waiver of notice signed by at least three-fourths of the members. A
38 member should attend each meeting of the Conference and the Executive Committee of
39 which he is given notice. Members are entitled to reimbursement for travel and
40 subsistence expenses at the rate applicable to State employees.

41 **"§ 7A-807. Powers of Conference.**

42 (a) The Conference may:

43 (1) Cooperate with citizens and other public and private agencies to
44 promote the effective administration of justice.

45 (2) Develop advisory manuals to assist in the organization and
46 administration of their offices, case management, calendaring, case
47 tracking, filing, and office procedures.

48 (3) Work with the cooperation of the Administrative Office of the Courts
49 and the Institute of Government of the School of Government at
50 UNC-Chapel Hill to provide education and training programs for
51 clerks and staff.

52 (b) The Conference may not adopt rules pursuant to Chapter 150B of the General
53 Statutes.

54 **"§ 7A-808. Executive secretary; clerical support.**

The Conference may employ an executive secretary and any necessary supporting staff to assist it in carrying out its duties."

SECTION 14.1.(b) The organizational meeting of the Conference of Clerks of Superior Court shall be convened by the Director of the Administrative Office of the Courts as soon as feasible. Officers elected at that organizational meeting shall serve until their successors take office July 1, 2006.

Requested by: Senators Thomas, Dalton, Purcell, Apodaca, Garrou, Hagan
DIVIDE DISTRICT COURT DISTRICT 20 AND PROSECUTORIAL DISTRICT 20 INTO 20A AND 20B AND REALIGN SUPERIOR COURT DISTRICTS 20A AND 20B/DIVIDE SUPERIOR COURT, DISTRICT COURT, AND PROSECUTORIAL DISTRICTS 29 INTO DISTRICTS 29A AND 29B

SECTION 14.2.(a) G.S. 7A-41(a) reads as rewritten:
 "(a) The counties of the State are organized into judicial divisions and superior court districts, and each superior court district has the counties, and the number of regular resident superior court judges set forth in the following table, and for districts of less than a whole county, as set out in subsection (b) of this section:

Judicial Division	Superior Court District	Counties	No. of Resident Judges
First	1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	2
First	2	Beaufort, Hyde, Martin, Tyrrell, Washington	1
First	3A	Pitt	2
Second	3B	Carteret, Craven, Pamlico	3
Second	4A	Duplin, Jones, Sampson	1
Second	4B	Onslow	1
Second	5A	(part of New Hanover, part of Pender see subsection (b))	1
	5B	(part of New Hanover, part of Pender see subsection (b))	1
	5C	(part of New Hanover, see subsection (b))	1
First	6A	Halifax	1
First	6B	Bertie, Hertford, Northampton	1
First	7A	Nash	1
First	7B	(part of Wilson, part of Edgecombe, see subsection (b))	1
First	7C	(part of Wilson, part of Edgecombe, see subsection (b))	1
Second	8A	Lenoir and Greene	1
Second	8B	Wayne	1
Third	9	Franklin, Granville, Vance, Warren	2
Third	9A	Person, Caswell	1
Third	10A	(part of Wake, see subsection (b))	2

1	Third	10B	(part of Wake,	2
2			see subsection (b))	
3	Third	10C	(part of Wake,	1
4			see subsection (b))	
5	Third	10D	(part of Wake,	1
6			see subsection (b))	
7	Fourth	11A	Harnett, Lee	1
8	Fourth	11B	Johnston	1
9	Fourth	12A	(part of Cumberland,	1
10			see subsection (b))	
11	Fourth	12B	(part of Cumberland,	1
12			see subsection (b))	
13	Fourth	12C	(part of Cumberland,	2
14			see subsection (b))	
15	Fourth	13	Bladen, Brunswick,	2
16			Columbus	
17	Third	14A	(part of Durham,	1
18			see subsection (b))	
19	Third	14B	(part of Durham,	3
20			see subsection (b))	
21	Third	15A	Alamance	2
22	Third	15B	Orange, Chatham	2
23	Fourth	16A	Scotland, Hoke	1
24	Fourth	16B	Robeson	2
25	Fifth	17A	Rockingham	2
26	Fifth	17B	Stokes, Surry	2
27	Fifth	18A	(part of Guilford,	1
28			see subsection (b))	
29	Fifth	18B	(part of Guilford,	1
30			see subsection (b))	
31	Fifth	18C	(part of Guilford,	1
32			see subsection (b))	
33	Fifth	18D	(part of Guilford,	1
34			see subsection (b))	
35	Fifth	18E	(part of Guilford,	1
36			see subsection (b))	
37	Sixth	19A	Cabarrus	1
38	Fifth	19B	Montgomery, Randolph	1
39	Sixth	19C	Rowan	1
40	Fifth	19D	Moore	1
41	Sixth	20A	Anson, <u>Richmond</u>	± 2
42			Richmond <u>Stanly</u>	
43	Sixth	20B	Stanly , Union	2 1
44	Fifth	21A	(part of Forsyth,	1
45			see subsection (b))	
46	Fifth	21B	(part of Forsyth,	1
47			see subsection (b))	
48	Fifth	21C	(part of Forsyth,	1
49			see subsection (b))	
50	Fifth	21D	(part of Forsyth,	1
51			see subsection (b))	
52	Sixth	22	Alexander, Davidson,	3
53			Davie, Iredell	
54	Fifth	23	Alleghany, Ashe,	1
55			Wilkes, Yadkin	

1	Eighth	24	Avery, Madison,	2
2			Mitchell, Watauga, Yancey	
3	Seventh	25A	Burke, Caldwell	2
4	Seventh	25B	Catawba	2
5	Seventh	26A	(part of Mecklenburg,	2
6			see subsection (b))	
7	Seventh	26B	(part of Mecklenburg,	3
8			see subsection (b))	
9	Seventh	26C	(part of Mecklenburg,	2
10			see subsection (b))	
11	Seventh	27A	Gaston	2
12	Seventh	27B	Cleveland, Lincoln	2
13	Eighth	28	Buncombe	2
14	Eighth	29	Henderson,	2
15			McDowell, Polk, Rutherford,	
16			Transylvania	
17		<u>29A</u>	<u>McDowell, Rutherford</u>	<u>1</u>
18		<u>29B</u>	<u>Henderson, Polk, Transylvania</u>	<u>1</u>
19	Eighth	30A	Cherokee, Clay,	1
20			Graham, Macon, Swain	
21	Eighth	30B	Haywood, Jackson	1."

SECTION 14.2.(b) The superior court judgeship established for District 20A by subsection (a) of this section shall be filled by the judge currently serving District 20B who resides in Stanly County. That judge's current term expires on December 31, 2006. No election shall be held in 2006 for that judge's seat, and that judge shall serve until a successor is elected in the 2008 general election, in order to provide for unstagged terms for multiple judgeships in the same district.

SECTION 14.2.(c) The superior court judgeship established for District 29A by subsection (a) of this section shall be filled by the superior court judge from current District 29 who resides in Rutherford County. That judge's term expires on December 31, 2012, and a successor shall be elected in the 2012 general election.

SECTION 14.2.(d) The superior court judgeship established for District 29B by subsection (a) of this section shall be filled by the superior court judge from current District 29 who resides in Henderson County. That judge's term expires on December 31, 2006, and a successor shall be elected in the 2006 general election.

SECTION 14.2.(e) The trial court administrator serving current District 29 shall serve as trial court administrator for both District 29A and District 29B.

SECTION 14.2.(f) G.S. 7A-133(a) reads as rewritten:

"(a) Each district court district shall have the numbers of judges as set forth in the following table:

District	Judges	County
1	5	Camden
		Chowan
		Currituck
		Dare
		Gates
		Pasquotank
		Perquimans
2	4	Martin
		Beaufort
		Tyrrell
		Hyde
		Washington
3A	5	Pitt
3B	5	Craven

1			Pamlico
2			Carteret
3	4	8	Sampson
4			Duplin
5			Jones
6			Onslow
7	5	8	New Hanover
8			Pender
9	6A	2	Halifax
10	6B	3	Northampton
11			Bertie
12			Hertford
13	7	7	Nash
14			Edgecombe
15			Wilson
16	8	6	Wayne
17			Greene
18			Lenoir
19	9	4	Granville
20			(part of Vance
21			see subsection (b))
22			Franklin
23	9A	2	Person
24			Caswell
25	9B	2	Warren
26			(part of Vance
27			see subsection (b))
28	10	15	Wake
29	11	8	Harnett
30			Johnston
31			Lee
32	12	9	Cumberland
33	13	6	Bladen
34			Brunswick
35			Columbus
36	14	6	Durham
37	15A	4	Alamance
38	15B	4	Orange
39			Chatham
40	16A	3	Scotland
41			Hoke
42	16B	5	Robeson
43	17A	2	Rockingham
44	17B	4	Stokes
45			Surry
46	18	12	Guilford
47	19A	4	Cabarrus
48	19B	6	Montgomery
49			Moore
50			Randolph
51	19C	4	Rowan
52	20 20A	7 4	Stanly
53			Union
54			Anson
55			Richmond

1	<u>20B</u>	<u>3</u>	<u>Union</u>
2	21	9	Forsyth
3	22	9	Alexander
4			Davidson
5			Davie
6			Iredell
7	23	4	Alleghany
8			Ashe
9			Wilkes
10			Yadkin
11	24	4	Avery
12			Madison
13			Mitchell
14			Watauga
15			Yancey
16	25	8	Burke
17			Caldwell
18			Catawba
19	26	17	Mecklenburg
20	27A	6	Gaston
21	27B	4	Cleveland
22			Lincoln
23	28	6	Buncombe
24	29	7	Henderson
25			McDowell
26			Polk
27			Rutherford
28			Transylvania
29	<u>29A</u>	<u>3</u>	<u>McDowell</u>
30			<u>Rutherford</u>
31	<u>29B</u>	<u>4</u>	<u>Henderson</u>
32			<u>Polk</u>
33			<u>Transylvania</u>
34	30	5	Cherokee
35			Clay
36			Graham
37			Haywood
38			Jackson
39			Macon
40			Swain."

41 **SECTION 14.2.(g)** The four district court judgeships established for District
 42 20A by subsection (f) of this section shall be filled by the district court judges from
 43 current District 20 who reside in Anson, Stanly, and Richmond Counties. The term of
 44 the judge living in Anson County expires the first Monday in December 2008. That
 45 judge's successor shall be elected in the 2008 election. The term of the judge living in
 46 Stanly County expires the first Monday in December 2006. That judge's successor shall
 47 be elected in the 2006 election. The term of one of the judges living in Richmond
 48 County expires the first Monday in December 2006. That judge's successor shall be
 49 elected in the 2006 election. The term of the other judge living in Richmond County
 50 expires the first Monday in December 2008. That judge's successor shall be elected in
 51 the 2008 election.

52 **SECTION 14.2.(h)** The three district court judgeships established for
 53 District 20B by subsection (f) of this section shall be filled by the district court judges
 54 from current District 20 who reside in Union County. The terms of the three judges

1 living in Union County expire the first Monday in December 2008. Those judges'
 2 successors shall be elected in the 2008 election.

3 **SECTION 14.2.(i)** The three district court judgeships established for District
 4 29A by subsection (f) of this section shall be filled by the district court judges from
 5 current District 29 who reside in McDowell and Rutherford Counties and by the judge
 6 established for District 29 to be appointed by the Governor pursuant to Section 14.6 of
 7 S.L. 2004-124, as amended by subsection (j) of this section. The term of the judge
 8 living in Rutherford County expires the first Monday in December 2006. That judge's
 9 successor shall be elected in the 2006 general election. The term of the judge living in
 10 McDowell County expires the first Monday in December 2006. That judge's successor
 11 shall be elected in the 2006 election.

12 **SECTION 14.2.(j)** Section 14.6(f) of S.L. 2004-124 reads as rewritten:

13 **"SECTION 14.6.(f)** The Governor shall appoint the additional district court judges
 14 for Districts 5, 21, and ~~29~~ 29A authorized by subsection (e) of this section, and those
 15 judges' successors shall be elected in the 2006 general election for four-year terms
 16 commencing on the first Monday in December 2006.

17 The district court judge for the additional judgeship in District 17B, as authorized by
 18 subsection (e) of this section, shall be elected in the 2004 general election in the same
 19 manner as provided for in G.S. 163-329 to serve a four-year term beginning the first
 20 Monday in December 2004, and no vacancy exists before that date."

21 **SECTION 14.2.(k)** The four district court judgeships established for District
 22 29B by subsection (f) of this section shall be filled by the district court judges from
 23 current District 29 who reside in Henderson and Transylvania Counties. The term of the
 24 three judges living in Henderson County expires the first Monday in December 2008.
 25 Those judges' successors shall be elected in the 2008 general election. The term of the
 26 judge living in Transylvania County expires the first Monday in December 2008. That
 27 judge's successor shall be elected in the 2008 general election.

28 **SECTION 14.2.(l)** G.S. 7A-60(a1) reads as rewritten:

29 "(a1) The counties of the State are organized into prosecutorial districts, and each
 30 district has the counties and the number of full-time assistant district attorneys set forth
 31 in the following table:

Prosecutorial District	Counties	No. of Full-Time Asst. District Attorneys
1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	10
2	Beaufort, Hyde, Martin, Tyrrell, Washington	6
3A	Pitt	9
3B	Carteret, Craven, Pamlico	10
4	Duplin, Jones, Onslow, Sampson	14
5	New Hanover, Pender	14
6A	Halifax	4
6B	Bertie, Hertford, Northampton	4
7	Edgecombe, Nash, Wilson	16
8	Greene, Lenoir, Wayne	11
9	Franklin, Granville, Vance, Warren	11
9A	Person, Caswell	4
10	Wake	31
11	Harnett, Johnston, Lee	14
12	Cumberland	18

1	13	Bladen, Brunswick, Columbus	11
2	14	Durham	13
3	15A	Alamance	8
4	15B	Orange, Chatham	7
5	16A	Scotland, Hoke	5
6	16B	Robeson	10
7	17A	Rockingham	5
8	17B	Stokes, Surry	5
9	18	Guilford	27
10	19A	Cabarrus	6
11	19B	Montgomery, Moore, Randolph	11
12	19C	Rowan	5
13	20 <u>20A</u>	Anson, Richmond,	15 <u>8</u>
14		Stanly, Union <u>Stanly</u>	
15	<u>20B</u>	<u>Union</u>	<u>7</u>
16	21	Forsyth	17
17	22	Alexander, Davidson, Davie,	16
18		Iredell	
19	23	Alleghany, Ashe, Wilkes,	5
20		Yadkin	
21	24	Avery, Madison, Mitchell,	4
22		Watauga, Yancey	
23	25	Burke, Caldwell, Catawba	15
24	26	Mecklenburg	36
25	27A	Gaston	12
26	27B	Cleveland,	9
27		Lincoln	
28	28	Buncombe	11
29	29	Henderson, McDowell, Polk,	11
30		Rutherford, Transylvania	
31	<u>29A</u>	<u>McDowell, Rutherford</u>	<u>5</u>
32	<u>29B</u>	<u>Henderson, Polk, Transylvania</u>	<u>6</u>
33	30	Cherokee, Clay, Graham,	9
34		Haywood, Jackson, Macon,	
35		Swain."	

SECTION 14.2.(m) The district attorneys established for Districts 20A, 20B, 29A, and 29B by subsection (l) of this section shall be elected in the 2006 general election.

SECTION 14.2.(n) The eight assistant district attorney positions established for District 20A by subsection (l) of this section shall be filled by eight assistant district attorneys currently serving Anson, Richmond, and Stanly Counties in District 20. The seven assistant district attorney positions established for District 20B by subsection (l) of this section shall be filled by seven assistant district attorneys currently serving Union County in District 20.

SECTION 14.2.(o) The five assistant district attorney positions established for District 29A by subsection (l) of this section shall be filled by five assistant district attorneys currently serving McDowell and Rutherford Counties in current District 29. The six district attorney positions established for District 29B by subsection (l) of this section shall be filled by six assistant district attorneys currently serving Henderson, Polk, and Transylvania Counties in current District 29.

SECTION 14.2.(p) G.S. 7A-69 reads as rewritten:

"§ 7A-69. Investigatorial assistants.

The district attorney in prosecutorial districts 1, 3B, 4, 5, 7, 8, 11, 12, 13, 14, 15A, 15B, 16A, 18, 19B, ~~20~~, 20A, 20B, 21, 22, 24, 25, 26, 27A, 27B, 28, ~~29~~, 29A, 29B, and 30 is entitled to one investigatorial assistant, and the district attorney in prosecutorial

1 district 10 is entitled to two investigatorial assistants, to be appointed by the district
2 attorney and to serve at his pleasure.

3 It shall be the duty of the investigatorial assistant to investigate cases preparatory to
4 trial and to perform such other Duties as may be assigned by the district attorney. The
5 investigatorial assistant is entitled to reimbursement for his subsistence and travel
6 expenses to the same extent as State employees generally."

7 **SECTION 14.2.(q)** With respect to the realignment of Superior Court
8 Districts 20A and 20B, subsections (a) through (e) of this section become effective
9 December 1, 2005, or the date upon which subsection (a) of this section is approved
10 under section 5 of the Voting Rights Act of 1965, whichever is later. With respect to the
11 division of Superior Court District 29, subsections (a) through (e) of this section become
12 effective December 1, 2005. With respect to the division of District Court District 20,
13 subsections (f) through (k) of this section become effective December 1, 2005, or the
14 date upon which subsection (f) of this section is approved under section 5 of the Voting
15 Rights Act of 1965, whichever is later. With respect to the division of District Court
16 District 29, subsections (f) through (k) of this section become effective December 1,
17 2005. With respect to the division of Prosecutorial District 20, subsections (l) through
18 (p) of this section become effective January 1, 2007, or the date upon which subsection
19 (l) of this section is approved under section 5 of the Voting Rights Act of 1965,
20 whichever is later, but the district attorneys for Prosecutorial Districts 20A and 20B
21 shall be elected in the 2006 general election. With respect to the division of
22 Prosecutorial District 29, subsections (l) through (p) of this section become effective
23 January 1, 2007, but the district attorneys for Prosecutorial Districts 29A and 29B shall
24 be elected in the 2006 general election.
25

26 Requested by: Senators Thomas, Garrou, Dalton, Hagan

27 **COLLECTION OF WORTHLESS CHECK FUNDS**

28 **SECTION 14.3.** Notwithstanding the provisions of G.S. 7A-308(c) and
29 except as otherwise provided in this act, the Judicial Department may use any balance
30 remaining in the Collection of Worthless Checks Fund on June 30, 2005, for the
31 purchase or repair of office or information technology equipment during the 2005-2006
32 fiscal year. Prior to using any funds under this section, the Judicial Department shall
33 report to the Joint Legislative Commission on Governmental Operations and the Chairs
34 of the Senate and House of Representatives Appropriations Subcommittees on Justice
35 and Public Safety on the equipment to be purchased or repaired and the reasons for the
36 purchases.
37

38 Requested by: Senators Thomas, Garrou, Dalton, Hagan

39 **TRANSFER OF EQUIPMENT AND SUPPLY FUNDS**

40 **SECTION 14.4.** Funds appropriated to the Judicial Department in the
41 2005-2007 biennium for equipment and supplies shall be certified in a reserve account.
42 The Administrative Office of the Courts may transfer these funds to the appropriate
43 programs and between programs as the equipment priorities and supply consumptions
44 occur during the operating year. These funds shall not be expended for any other
45 purpose.
46

47 Requested by: Senators Thomas, Garrou, Dalton, Hagan

48 **STUDY ELECTRONIC PAYMENT**

49 **SECTION 14.5.** The Judicial Department shall study the feasibility of
50 implementing electronic and online payment options for court fees and other funds
51 collected by the courts. The study shall address the estimated costs and time frame for
52 implementing electronic payment as well as any necessary legislative changes. The
53 Judicial Department shall report its findings as a result of the study to the Chairs of the
54 Senate and House of Representatives Appropriations Subcommittees on Justice and
55 Public Safety by May 1, 2006.

1
2 Requested by: Senators Thomas, Garrou, Dalton, Hagan

3 **GRANT FUNDS**

4 **SECTION 14.6.** The Judicial Department shall use up to the sum of one
5 million two hundred fifty thousand dollars (\$1,250,000) from funds available to the
6 Department to provide the State match needed in order to receive grant funds. Prior to
7 using funds for this purpose, the Department shall report to the Chairs of the Senate and
8 House of Representatives Appropriations Subcommittees on Justice and Public Safety
9 and the Joint Legislative Commission on Governmental Operations on the grants to be
10 matched using these funds.

11
12 Requested by: Senators Thomas, Garrou, Dalton, Hagan

13 **INCREASE CHARGES FOR APPELLATE DIVISION REPORTS TO ACTUAL**
14 **COST**

15 **SECTION 14.7.** The Judicial Department shall charge the full cost of
16 production for all copies of the appellate division reports that are sold.

17
18 Requested by: Senators Thomas, Garrou, Dalton, Hagan

19 **NORTH CAROLINA STATE BAR FUNDS**

20 **SECTION 14.8.** Of the funds appropriated in the continuation budget as a
21 grant-in-aid to the North Carolina State Bar for the 2005-2007 biennium, the North
22 Carolina State Bar may in its discretion use up to the sum of five hundred one thousand
23 five hundred dollars (\$501,500) for the 2005-2006 fiscal year and up to the sum of five
24 hundred one thousand five hundred dollars (\$501,500) for the 2006-2007 fiscal year to
25 contract with the Center for Death Penalty Litigation to provide training, consultation,
26 brief banking, and other assistance to attorneys representing indigent capital defendants.
27 The Office of Indigent Defense Services shall report by February 1, 2006, to the Chairs
28 of the Senate and House Appropriations Subcommittees on Justice and Public Safety on
29 the activities funded by the grant-in-aid authorized by this section.

30
31 Requested by: Senators Kinnaird, Garrou, Dalton, Hagan

32 **TRANSFER RESPONSIBILITY FOR PROVIDING LEGAL ASSISTANCE TO**
33 **INMATES FROM THE DEPARTMENT OF CORRECTION TO THE**
34 **OFFICE OF INDIGENT DEFENSE SERVICES**

35 The General Assembly of North Carolina enacts:

36 **SECTION 14.9.(a)** G.S. 7A-498.3 reads as rewritten:

37 **"§ 7A-498.3. Responsibilities of Office of Indigent Defense Services.**

38 (a) The Office of Indigent Defense Services shall be responsible for establishing,
39 supervising, and maintaining a system for providing legal representation and related
40 services in the following cases:

- 41 (1) Cases in which an indigent person is subject to a deprivation of liberty
42 or other constitutionally protected interest and is entitled by law to
43 legal representation;
- 44 (2) Cases in which an indigent person is entitled to legal representation
45 under G.S. 7A-451 and G.S. 7A-451.1; ~~and~~
- 46 (2a) Cases in which the State is legally obligated to provide legal assistance
47 and access to the courts to inmates in the custody of the Department of
48 Correction; and
- 49 (3) Any other cases in which the Office of Indigent Defense Services is
50 designated by statute as responsible for providing legal representation.

51 (b) The Office of Indigent Defense Services shall develop policies and
52 procedures for determining indigency in cases subject to this Article, and those policies
53 shall be applied uniformly throughout the State. The Except in cases under subdivision
54 (2a) of subsection (a) of this section, the court shall determine in each case whether a

1 person is indigent and entitled to legal representation, and counsel shall be appointed as
2 provided in G.S. 7A-452.

3 (c) In all cases subject to this Article, appointment of counsel, determination of
4 compensation, appointment of experts, and use of funds for experts and other services
5 related to legal representation shall be in accordance with rules and procedures adopted
6 by the Office of Indigent Defense Services.

7 (d) The Office of Indigent Defense Services shall allocate and disburse funds
8 appropriated for legal representation and related services in cases subject to this Article
9 pursuant to rules and procedures established by the Office."

10 **SECTION 14.9.(b)** Effective October 1, 2005, the State's responsibility for
11 providing inmates in the custody of the Department of Correction with legal assistance
12 and access to the courts shall be administered by the Office of Indigent Defense
13 Services. The existing contract between the Department of Correction and Prisoner
14 Legal Services, Inc., shall not be extended or renewed beyond that date.

15 The Director of Indigent Defense Services, in consultation with the
16 Commission on Indigent Defense Services and the Department of Justice, shall
17 determine which types of legal services can best be provided directly to inmates by staff
18 employed by the Office of Indigent Defense Services, which services should be
19 provided by counsel designated by the Office of Indigent Defense Services, and which
20 services should be provided by contract between the Office of Indigent Defense
21 Services and nonprofit organizations or other contract providers.

22 If the Director of Indigent Defense Services determines that, in order to
23 facilitate the transfer of responsibility provided for in this section, it is necessary for
24 Prisoner Legal Services, Inc., to continue providing legal services and access to the
25 courts to inmates beyond the termination of its contract with the Department of
26 Correction on September 30, 2005, the Director may contract with Prisoner Legal
27 Services, Inc., for a period of time to be determined by the Director.

28 **SECTION 14.9.(c)** The sum of one million eight hundred eighty-three
29 thousand eight hundred sixty-five dollars (\$1,883,865) for the 2005-2006 fiscal year and
30 the sum of two million five hundred eleven thousand eight hundred twenty dollars
31 (\$2,511,820) for the 2006-2007 fiscal year shall be transferred from the Department of
32 Correction to the Office of Indigent Defense Services to implement this section.

33 **SECTION 14.9.(d)** Subsections (a) and (b) of this section become effective
34 October 1, 2005. The remainder of this section becomes effective July 1, 2005.
35

36 Requested by: Senators Thomas, Garrou, Dalton, Hagan

37 **WAKE COUNTY PUBLIC DEFENDER OFFICE FUNDS**

38 **SECTION 14.10.** Of the funds appropriated to the Judicial Department,
39 Office of Indigent Defense Services, in this act, the Office of Indigent Defense Services
40 shall use up to the sum of two million three hundred thousand five hundred thirty-four
41 dollars (\$2,300,534) for the 2005-2006 fiscal year and the sum of two million one
42 hundred eighty-one thousand three hundred twenty-three dollars (\$2,181,323) for the
43 2006-2007 fiscal year to establish a public defender's office in the Tenth Defender
44 District, as authorized by Section 14.4(b) of S.L. 2004-126. The funds shall be used to
45 establish the public defender, 20 assistant public defenders, four investigators, one
46 administrative assistant II, and five legal assistants.
47

48 Requested by: Senators Thomas, Garrou, Dalton, Hagan

49 **OFFICE OF INDIGENT DEFENSE SERVICES EXPANSION FUNDS**

50 **SECTION 14.11.** The Judicial Department, Office of Indigent Defense
51 Services, may use up to the sum of one million sixty-nine thousand six hundred
52 forty-five dollars (\$1,069,645) in appropriated funds during the 2005-2006 fiscal year
53 and up to the sum of one million twenty-three thousand one hundred thirty-five dollars
54 (\$1,023,135) in appropriated funds during the 2006-2007 fiscal year for the expansion
55 of existing offices currently providing legal services to the indigent population under the

1 oversight of the Office of Indigent Defense Services by creating up to 10 new attorney
2 positions and five new support staff positions. These funds may be used for salaries,
3 benefits, equipment, and related expenses. Prior to using funds for this purpose, the
4 Office of Indigent Defense Services shall report to the Chairs of the House and the
5 Senate Appropriations Subcommittees on Justice and Public Safety on the proposed
6 expansion.
7

8 Requested by: Senators Thomas, Garrou, Dalton, Hagan

9 **OFFICE OF INDIGENT DEFENSE SERVICES REPORT**

10 **SECTION 14.12.** The Office of Indigent Defense Services shall report to the
11 Chairs of the Senate and House of Representatives Appropriations Committees and the
12 Chairs of the Senate and House of Representatives Appropriations Subcommittees on
13 Justice and Public Safety by March 1 of each year on:

- 14 (1) The volume and cost of cases handled in each district by assigned
15 counsel or public defenders;
- 16 (2) Actions taken by the Office to improve the cost-effectiveness and
17 quality of indigent defense, including the capital case program;
- 18 (3) Plans for changes in rules, standards, or regulations in the upcoming
19 year; and
- 20 (4) Any recommended changes in law or funding procedures that would
21 assist the Office in improving the management of funds expended for
22 indigent defense services.
23

24 Requested by: Senators Thomas, Garrou, Dalton, Hagan

25 **CLARIFY THAT FEES PAID TO ATTORNEYS REPRESENTING INDIGENT**
26 **CLIENTS SHALL BE FIXED IN ACCORDANCE WITH THE RULES**
27 **ADOPTED BY THE OFFICE OF INDIGENT DEFENSE SERVICES AND**
28 **MAY NOT BE SET AT HIGHER RATES WITHOUT THE APPROVAL OF**
29 **THE OFFICE OF INDIGENT DEFENSE SERVICES**

30 **SECTION 14.13.** G.S. 7A-458 reads as rewritten:

31 **"§ 7A-458. Counsel fees.**

32 The fee to which an attorney who represents an indigent person is entitled shall be
33 fixed in accordance with rules adopted by the Office of Indigent Defense Services. Fees
34 shall be based on the factors normally considered in fixing attorneys' fees, such as the
35 nature of the case, and the time, effort and responsibility involved. Fees shall not be set
36 or ordered at rates higher than those established by the rules adopted under this section
37 without the approval of the Office of Indigent Defense Services. Even if the trial,
38 appeal, hearing or other proceeding is never held, preparation therefor is nevertheless
39 compensable and, in capital cases and other extraordinary cases pending in superior
40 court, a fee for services rendered and payment for expenses incurred may be allowed
41 pending final determination of the case."
42

43 **PART XV. DEPARTMENT OF JUSTICE**
44

45 Requested by: Senators Thomas, Garrou, Dalton, Hagan

46 **USE OF SEIZED AND FORFEITED PROPERTY TRANSFERRED TO STATE**
47 **LAW ENFORCEMENT AGENCIES BY THE FEDERAL GOVERNMENT**

48 **SECTION 15.1.(a)** Assets transferred to the Departments of Justice,
49 Correction, and Crime Control and Public Safety during the 2005-2007 biennium
50 pursuant to applicable federal law shall be credited to the budgets of the respective
51 departments and shall result in an increase of law enforcement resources for those
52 departments. The Departments of Justice, Correction, and Crime Control and Public
53 Safety shall report to the Joint Legislative Commission on Governmental Operations
54 upon receipt of the assets and, before using the assets, shall report on the intended use of
55 the assets and the departmental priorities on which the assets may be expended.

1 **SECTION 15.1.(b)** The General Assembly finds that the use of assets
2 transferred pursuant to federal law for new personnel positions, new projects,
3 acquisition of real property, repair of buildings where the repair includes structural
4 change, and construction of or additions to buildings may result in additional expenses
5 for the State in future fiscal periods. Therefore, the Department of Justice, the
6 Department of Correction, and the Department of Crime Control and Public Safety are
7 prohibited from using these assets for such purposes without the prior approval of the
8 General Assembly.

9 **SECTION 15.1.(c)** Nothing in this section prohibits North Carolina law
10 enforcement agencies from receiving funds from the United States Department of
11 Justice, the United States Department of the Treasury, and the United States Department
12 of Health and Human Services.

13
14 Requested by: Senators Thomas, Garrou, Dalton, Hagan

15 **PRIVATE PROTECTIVE SERVICES AND ALARM SYSTEMS LICENSING**
16 **BOARDS PAY FOR USE OF STATE FACILITIES AND SERVICES**

17 **SECTION 15.2.** The Private Protective Services and Alarm Systems
18 Licensing Boards shall pay the appropriate State agency for the use of physical facilities
19 and services provided to those Boards by the State.

20
21 Requested by: Senators Thomas, Garrou, Dalton, Hagan

22 **CERTAIN LITIGATION EXPENSES TO BE PAID BY CLIENTS**

23 **SECTION 15.3.** Client departments, agencies, and boards shall reimburse
24 the Department of Justice for reasonable court fees, attorney travel and subsistence
25 costs, and other costs directly related to litigation in which the Department of Justice is
26 representing the department, agency, or board.

27
28 Requested by: Senators Thomas, Garrou, Dalton, Hagan

29 **REIMBURSEMENT FOR UNC BOARD OF GOVERNORS LEGAL**
30 **REPRESENTATION**

31 **SECTION 15.4.** The Department of Justice shall be reimbursed by the
32 Board of Governors of The University of North Carolina for two Attorney III positions
33 to provide legal representation to The University of North Carolina System.

34
35 Requested by: Senators Thomas, Garrou, Dalton, Hagan

36 **REPORT ON CRIMINAL RECORD CHECKS CONDUCTED FOR**
37 **CONCEALED HANDGUN PERMITS/STUDY FEE ADJUSTMENT FOR**
38 **CRIMINAL RECORD CHECKS**

39 **SECTION 15.5.(a)** The Department of Justice shall report by January 15
40 each year to the Joint Legislative Commission on Governmental Operations, the Chairs
41 of the Senate and House of Representatives Appropriations Committees, and the Chairs
42 of the Senate and House of Representatives Appropriations Subcommittees on Justice
43 and Public Safety on the receipts, costs for, and number of criminal record checks
44 performed in connection with applications for concealed weapons permits. The report
45 by the Department of Justice shall also include information on the number of
46 applications received and approved for firearms safety courses.

47 **SECTION 15.5.(b)** The Office of State Budget and Management, in
48 consultation with the Department of Justice, shall study the feasibility of adjusting the
49 fees charged for criminal record checks conducted by the Division of Criminal
50 Information of the Department of Justice as a result of the increase in receipts from
51 criminal record checks. The study shall include an assessment of the Division's
52 operational, personnel, and overhead costs related to providing criminal record checks
53 and how those costs have changed since the prior fiscal year. The Office of State Budget
54 and Management shall report its findings and recommendations to the Chairs of the
55 Senate and House of Representatives Appropriations Committees, the Chairs of the

1 Senate and House of Representatives Appropriations Subcommittees on Justice and
2 Public Safety, and the Fiscal Research Division on or before March 1, 2006.

3
4 Requested by: Senators Thomas, Garrou, Dalton, Hagan

5 **NC LEGAL EDUCATION ASSISTANCE FOUNDATION REPORT ON FUNDS**
6 **DISBURSED**

7 **SECTION 15.6.** The North Carolina Legal Education Assistance Foundation
8 shall report by March 1 of each year to the Joint Legislative Commission on
9 Governmental Operations on the expenditure of State funds, the purpose of the
10 expenditures, the number of attorneys receiving funds, the average award amount, the
11 average student loan amount, the number of attorneys on the waiting list, and the
12 average number of years for which attorneys receive loan assistance.

13
14 Requested by: Senators Hagan, Garrou, Dalton

15 **REDUCE BACKLOG OF RAPE KITS**

16 **SECTION 15.7.(a)** The Department of Justice shall contract with private
17 entities to reduce the backlog of rape kits in storage in local law enforcement agencies
18 as of July 1, 2004. The Department shall contract with private entities to analyze bodily
19 fluids, DNA evidence, as "DNA" is defined in G.S. 15A-266.2, or both, from rape kits
20 that are evidence in cases in which a suspect has not been identified. The Department
21 shall maximize the use of federal grant funds to expedite the elimination of the backlog.

22 **SECTION 15.7.(b)** The Department of Justice shall report, on or before
23 February 1, 2006, and annually thereafter to the Chairs of the House of Representatives
24 and Senate Appropriations Subcommittees on Justice and Public Safety on the number
25 of rape kits analyzed by private entities and how many of those analyses resulted in
26 arrests or convictions. The Department shall also report on the number of rape kits
27 analyzed by the SBI Crime Lab, the amount of the remaining backlog, and the estimated
28 time left to eliminate the backlog.

29 **SECTION 15.7.(c)** Except as provided otherwise by this subsection, the
30 Department of Justice shall hire only nonsworn personnel to fill vacant positions in the
31 State Bureau of Investigation laboratory. A position may be filled with a sworn agent in
32 any of the following circumstances: (i) the position is a promotion for a sworn agent
33 who was employed at the State Bureau of Investigation laboratory prior to July 1, 2005,
34 or (ii) the position is a forensic drug chemist position that has as a primary duty
35 "responding to clandestine methamphetamine laboratories."

36
37 Requested by: Senators Thomas, Garrou, Dalton, Hagan

38 **STUDY DNA TESTING AND ANALYSIS COSTS**

39 **SECTION 15.8.** The Office of State Budget and Management, in
40 consultation with the Department of Justice, shall study the cost of testing and analyzing
41 DNA samples. The study shall include all of the following: a determination of the unit
42 cost for analyzing a rape kit and a comparison of that cost with the unit cost for the
43 same analysis when performed by other labs, both public and private; a comparison of
44 the amount of funds and length of time required to eliminate the backlog of rape kits
45 using private labs versus the SBI crime lab; and a survey of the funding sources used by
46 other states for their DNA testing and analysis lab costs. The Office of State Budget and
47 Management shall report its findings and recommendations to the Chairs of the Senate
48 and House of Representatives Appropriations Committees, the Chairs of the Senate and
49 House of Representatives Appropriations Subcommittees on Justice and Public Safety,
50 and the Fiscal Research Division on or before March 1, 2006.

51
52 **PART XVI. DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY**
53 **PREVENTION**

54
55 Requested by: Senators Thomas, Garrou, Dalton, Hagan

S.O.S. ADMINISTRATIVE COST LIMITS

SECTION 16.1. Of the funds appropriated to the Department of Juvenile Justice and Delinquency Prevention in this act, not more than four hundred fifty thousand dollars (\$450,000) for the 2005-2006 fiscal year and not more than four hundred fifty thousand dollars (\$450,000) for the 2006-2007 fiscal year may be used to administer the S.O.S. Program, to provide technical assistance to applicants and to local S.O.S. programs, and to evaluate the local S.O.S. programs. The Department may contract with appropriate public or nonprofit agencies to provide the technical assistance, including training and related services.

Requested by: Senators Thomas, Garrou, Dalton, Hagan

JCPC GRANT REPORTING AND CERTIFICATION

SECTION 16.2.(a) On or before May 1 each year, the Department of Juvenile Justice and Delinquency Prevention shall submit to the Joint Legislative Commission on Governmental Operations and the Appropriations Committees of the Senate and House of Representatives a list of the recipients of the grants awarded, or preapproved for award, from funds appropriated to the Department for local Juvenile Crime Prevention Council grants. The list shall include for each recipient the amount of the grant awarded, the membership of the local committee or council administering the award funds on the local level, and a short description of the local services, programs, or projects that will receive funds. The list shall also identify any programs that received grant funds at one time but for which funding has been eliminated by the Department of Juvenile Justice and Delinquency Prevention. A written copy of the list and other information regarding the projects shall also be sent to the Fiscal Research Division of the General Assembly.

SECTION 16.2.(b) Each county in which local programs receive Juvenile Crime Prevention Council grant funds from the Department of Juvenile Justice and Delinquency Prevention shall certify annually through its local council to the Department that funds received are not used to duplicate or supplant other programs within the county.

Requested by: Senators Thomas, Garrou, Dalton, Hagan

REPORTS ON CERTAIN PROGRAMS

SECTION 16.3.(a) Project Challenge North Carolina, Inc., shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by April 1 each year on the operation and the effectiveness of its program in providing alternative dispositions and services to juveniles who have been adjudicated delinquent or undisciplined. The report shall include information on:

- (1) The source of referrals for juveniles.
- (2) The types of offenses committed by juveniles participating in the program.
- (3) The amount of time those juveniles spend in the program.
- (4) The number of juveniles who successfully complete the program.
- (5) The number of juveniles who commit additional offenses after completing the program.
- (6) The program's budget and expenditures, including all funding sources.

SECTION 16.3.(b) The Juvenile Assessment Center shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the effectiveness of the Center by April 1 each year. The report shall include information on the number of juveniles served and an evaluation of the effectiveness of juvenile assessment plans and services provided as a result of these plans. In addition, the report shall include information on the Center's budget and expenditures, including all funding sources.

SECTION 16.3.(c) Communities in Schools shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and

1 Public Safety, the Joint Legislative Commission on Governmental Operations, the Joint
2 Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, and
3 the Joint Legislative Education Oversight Committee by April 1 each year on the
4 operation and effectiveness of its program. The report shall include information on:

- 5 (1) The number of children served.
- 6 (2) The number of volunteers used.
- 7 (3) The impact on children who have received services from Communities
8 in Schools.
- 9 (4) The program's budget and expenditures, including all funding sources.

10
11 Requested by: Senators Thomas, Garrou, Dalton, Hagan

12 ANNUAL EVALUATION OF COMMUNITY PROGRAMS

13 **SECTION 16.4.** The Department of Juvenile Justice and Delinquency
14 Prevention shall conduct an evaluation of the Eckerd and Camp Woodson wilderness
15 camp programs, the teen court programs, the program that grants funds to the local
16 organizations of the Boys and Girls Clubs established pursuant to Section 21.10 of S.L.
17 1999-237, the Save Our Students program, the Governor's One-on-One Programs, and
18 multipurpose group homes. The teen court report shall include statistical information on
19 the number of juveniles served, the number and type of offenses considered by teen
20 courts, referral sources for teen courts, and the number of juveniles that become
21 court-involved after participation in teen courts. The report on the Boys and Girls Clubs
22 program shall include information on:

- 23 (1) The expenditure of State appropriations on the program;
- 24 (2) The operations and the effectiveness of the program; and
- 25 (3) The number of juveniles served under the program.

26 In conducting the evaluation of each of these programs, the Department shall
27 consider whether participation in each program results in a reduction of court
28 involvement among juveniles. The Department shall also identify whether the programs
29 are achieving the goals and objectives of the Juvenile Justice Act, S.L. 1998-202. The
30 Department shall report the results of the evaluation to the Chairs of the House of
31 Representatives and Senate Appropriations Committees and the Chairs of the
32 Subcommittees on Justice and Public Safety of the House of Representatives and Senate
33 Appropriations Committees by March 1 of each year.

34
35 Requested by: Senators Thomas, Garrou, Dalton, Hagan

36 STATE FUNDS MAY BE USED AS FEDERAL MATCHING FUNDS

37 **SECTION 16.5.** Funds appropriated in this act to the Department of Juvenile
38 Justice and Delinquency Prevention for the 2005-2006 fiscal year may be used as
39 matching funds for the Juvenile Accountability Incentive Block Grants. If North
40 Carolina receives Juvenile Accountability Incentive Block Grants, or a notice of funds
41 to be awarded, the Office of State Budget and Management and the Governor's Crime
42 Commission shall consult with the Department of Juvenile Justice and Delinquency
43 Prevention regarding the criteria for awarding federal funds. The Office of State Budget
44 and Management, the Governor's Crime Commission, and the Department of Juvenile
45 Justice and Delinquency Prevention shall report to the Appropriations Committees of
46 the Senate and House of Representatives and the Joint Legislative Commission on
47 Governmental Operations prior to allocation of the federal funds. The report shall
48 identify the amount of funds to be received for the 2005-2006 fiscal year, the amount of
49 funds anticipated for the 2006-2007 fiscal year, and the allocation of funds by program
50 and purpose.

51
52 Requested by: Senators Thomas, Garrou, Dalton, Hagan

53 IMPLEMENTATION OF TREATMENT STAFFING MODEL AT YOUTH 54 DEVELOPMENT CENTERS

1 **SECTION 16.6.(a)** The Department of Juvenile Justice and Delinquency
2 Prevention shall report each December 31, March 31, June 30, and September 30 of the
3 2005-2007 biennium to the Chairs of the Senate and House of Representatives
4 Appropriations Subcommittees on Justice and Public Safety and to the Joint
5 Corrections, Crime Control, and Juvenile Justice Oversight Committee on the treatment
6 staffing model being piloted at Samarkand and Stonewall Jackson Youth Development
7 Centers. The report shall include a list of total positions at each facility by job class,
8 whether the position is vacant or filled, whether positions were filled from internal
9 employees or new employees, and the training and certification status of each position.
10 The report shall also describe the nature of the treatment program, the criteria for
11 evaluating the program, and how the program is performing in comparison to these
12 criteria. The report shall also describe the training approach to be used to train staff in
13 using treatment methods in youth development centers and provide information on
14 current staff training and staff training planned for the next quarter. The Department
15 shall also develop indicators for evaluating staff performance once the model has been
16 implemented.

17 **SECTION 16.6.(b)** The Department of Juvenile Justice and Delinquency
18 Prevention shall report each December 31, March 31, June 30, and September 30 of the
19 2005-2007 biennium to the Chairs of the Senate and House of Representatives
20 Appropriations Subcommittees on Justice and Public Safety on the implementation of
21 the treatment staffing model at Dobbs, Dillon, and Juvenile Evaluation Center Youth
22 Development Centers. The Department shall identify the number of positions
23 reallocated to the new treatment job classes and the source of funding for those
24 positions.
25

26 Requested by: Senators Thomas, Garrou, Dalton, Hagan

27 **PROGRESS REPORTS ON YOUTH DEVELOPMENT CENTER CAPITAL** 28 **PROJECTS**

29 **SECTION 16.7.** The Department of Juvenile Justice and Delinquency
30 Prevention shall report each December 31, March 31, June 30, and September 30 of the
31 2005-2007 biennium to the Chairs of the Senate and House of Representatives
32 Appropriations Subcommittees on Justice and Public Safety and to the Joint
33 Corrections, Crime Control, and Juvenile Justice Oversight Committee on the
34 Department's progress in the planning, design, and construction of new youth
35 development centers. The report shall include:

- 36 (1) An overall project schedule for each new youth development center
37 showing the original estimated date for construction completion and
38 the original estimated date for occupancy by juvenile offenders,
39 compared to the latest projected dates.
- 40 (2) An explanation of significant delays in the schedule or any potential
41 cost increase.

42 The Office of State Construction and the Capital Improvement Section of the
43 Office of State Budget and Management shall assist the Department of Juvenile Justice
44 and Delinquency Prevention in the preparation of the report required by this section.
45

46 **PART XVII. DEPARTMENT OF CORRECTION**

47
48 Requested by: Senators Thomas, Garrou, Dalton, Hagan

49 **FEDERAL GRANT REPORTING**

50 **SECTION 17.1.** The Department of Correction, the Department of Justice,
51 the Department of Crime Control and Public Safety, the Judicial Department, and the
52 Department of Juvenile Justice and Delinquency Prevention shall report by May 1 of
53 each year to the Joint Legislative Commission on Governmental Operations, the Chairs
54 of the Senate and House of Representatives Appropriations Committees, and the Chairs
55 of the Senate and House of Representatives Appropriations Subcommittees on Justice

1 and Public Safety on federal grant funds received or preapproved for receipt by those
2 departments. The report shall include information on the amount of grant funds received
3 or preapproved for receipt by each department, the use of the funds, the State match
4 expended to receive the funds, and the period to be covered by each grant. If the
5 department intends to continue the program beyond the end of the grant period, the
6 department shall report on the proposed method for continuing the funding of the
7 program at the end of the grant period. Each department shall also report on any
8 information it may have indicating that the State will be requested to provide future
9 funding for a program presently supported by a local grant.

10
11 Requested by: Senators Thomas, Garrou, Dalton, Hagan

12 **REIMBURSE COUNTIES FOR HOUSING AND EXTRAORDINARY**
13 **MEDICAL COSTS FOR INMATES, PAROLEES, AND POST-RELEASE**
14 **SUPERVISEES AWAITING TRANSFER TO STATE PRISON SYSTEM**

15 **SECTION 17.2.** The Department of Correction may use funds available to
16 the Department for the 2005-2007 biennium to pay the sum of forty dollars (\$40.00) per
17 day as reimbursement to counties for the cost of housing convicted inmates, parolees,
18 and post-release supervisees awaiting transfer to the State prison system, as provided in
19 G.S. 148-29. The Department shall report quarterly to the Joint Legislative Commission
20 on Governmental Operations, the Joint Legislative Corrections, Crime Control, and
21 Juvenile Justice Oversight Committee, the Chairs of the Senate and House of
22 Representatives Appropriations Committees, and the Chairs of the Senate and House of
23 Representatives Appropriations Subcommittees on Justice and Public Safety on the
24 expenditure of funds to reimburse counties for prisoners awaiting transfer and on its
25 progress in reducing the jail backlog.

26
27 Requested by: Senators Thomas, Garrou, Dalton, Hagan

28 **HOLIDAY PAY FOR DEPARTMENT OF CORRECTION STAFF**

29 **SECTION 17.3.** Holiday pay for Department of Correction staff entitled to
30 holiday pay shall be one hundred fifty percent (150%) of regular pay during the
31 2005-2007 biennium, except that the Department of Correction may use funds available
32 to pay up to one hundred seventy-five percent (175%) of regular pay for holiday pay
33 during the 2005-2007 biennium.

34
35 Requested by: Senators Thomas, Garrou, Dalton, Hagan

36 **DEPARTMENT OF CORRECTION SECURITY STAFFING FORMULAS**

37 **SECTION 17.4.(a)** G.S. 143B-262.5 reads as rewritten:

38 **"§ 143B-262.5. Security Staffing.**

39 (a) ~~The Department of Correction shall conduct security staffing post audits of~~
40 ~~each prison at least biannually, the first such audit to be completed during the~~
41 ~~2002-2003 fiscal year. The initial post audit shall be conducted jointly by Department~~
42 ~~staff and a consultant, external to the Department, and shall include analysis of the~~
43 ~~staffing levels assigned for supervision of correctional officers. conduct:~~

44 (1) On-site post-audits of every prison at least once every three years;

45 (2) Regular audits of post-audit charts through the automated post-audit
46 system; and

47 (3) Other staffing audits as necessary.

48 (b) ~~The Department of Correction shall update the security staffing relief formula~~
49 ~~biannually, the first update to be completed during the 2002-2003 fiscal year. at least~~
50 every three years. Each update shall include a review of all annual training requirements
51 for security staff to determine which of these requirements should be mandatory and the
52 appropriate frequency of the training. The Department shall survey other states to
53 determine which states use a vacancy factor in their staffing relief formulas."

54 **SECTION 17.4.(b)** The Department of Correction shall implement the
55 current post-audit by July 1, 2005, and report by October 1, 2005, to the Senate and

1 House of Representatives Appropriations Subcommittees on Justice and Public Safety
2 on the effect that the new post-audit has had on staffing at each prison.

3 **SECTION 17.4.(c)** The Department of Correction shall report on its
4 progress in implementing the staffing recommendations of the National Institute of
5 Corrections to the Senate and House of Representatives Appropriations Subcommittees
6 on Justice and Public Safety by April 1, 2006. The report shall include a status report on
7 the implementation of a centralized postaudit control system, the automation of leave
8 records, and the survey of other states' use of a vacancy factor in staffing relief
9 formulas.

10
11 Requested by: Senators Thomas, Garrou, Dalton, Hagan

12 **USE OF CLOSED PRISON FACILITIES**

13 **SECTION 17.5.** In conjunction with the closing of prison facilities,
14 including small expensive prison units recommended for consolidation by the
15 Government Performance Audit Committee, the Department of Correction shall consult
16 with the county or municipality in which the unit is located, with the elected State and
17 local officials, and with State agencies about the possibility of converting that unit to
18 other use. The Department may also consult with any private for-profit or nonprofit firm
19 about the possibility of converting the unit to other use. In developing a proposal for
20 future use of each unit, the Department shall give priority to converting the unit to other
21 criminal justice use. Consistent with existing law and the future needs of the
22 Department of Correction, the State may provide for the transfer or the lease of any of
23 these units to counties, municipalities, State agencies, or private firms wishing to
24 convert them to other use. The Department of Correction may also consider converting
25 some of the units recommended for closing from one security custody level to another,
26 where that conversion would be cost-effective. A prison unit under lease to a county
27 pursuant to the provisions of this section for use as a jail is exempt for the period of the
28 lease from any of the minimum standards adopted by the Secretary of Health and
29 Human Services pursuant to G.S. 153A-221 for the housing of adult prisoners that
30 would subject the unit to greater standards than those required of a unit of the State
31 prison system.

32 Prior to any transfer or lease of these units, the Department of Correction
33 shall report on the terms of the proposed transfer or lease to the Joint Legislative
34 Commission on Governmental Operations and the Joint Legislative Corrections, Crime
35 Control, and Juvenile Justice Oversight Committee. The Department of Correction shall
36 also provide annual summary reports to the Joint Legislative Commission on
37 Governmental Operations and the Joint Legislative Corrections, Crime Control, and
38 Juvenile Justice Oversight Committee on the conversion of these units to other use and
39 on all leases or transfers entered into pursuant to this section.

40
41 Requested by: Senators Thomas, Garrou, Dalton, Hagan

42 **INMATE COSTS/MEDICAL BUDGET FOR PRESCRIPTION DRUGS AND**
43 **INMATE CLOTHING AND LAUNDRY SERVICES**

44 **SECTION 17.6.(a)** If the cost of providing food and health care to inmates
45 housed in the Division of Prisons is anticipated to exceed the continuation budget
46 amounts provided for that purpose in this act, the Department of Correction shall report
47 the reasons for the anticipated cost increase and the source of funds the Department
48 intends to use to cover those additional needs to the Joint Legislative Commission on
49 Governmental Operations, the Chairs of the Senate and House of Representatives
50 Appropriations Committees, and the Chairs of the Senate and House of Representatives
51 Appropriations Subcommittees on Justice and Public Safety.

52 **SECTION 17.6.(b)** Notwithstanding the provisions of G.S. 143-23(a2), the
53 Department of Correction may use funds available during the 2005-2006 fiscal year for
54 the purchase of prescription drugs for inmates if expenditures are projected to exceed
55 the Department's inmate medical continuation budget for prescription drugs. The

1 Department shall consult with the Joint Legislative Commission on Governmental
2 Operations prior to exceeding the continuation budget amount.

3 **SECTION 17.6.(c)** Notwithstanding the provisions of G.S. 143-23(a2), the
4 Department of Correction may use funds available during the 2005-2006 fiscal year for
5 the purchase of clothing and laundry services for inmates if expenditures are projected
6 to exceed the Department's budget for clothing and laundry services. The Department
7 shall consult with the Joint Legislative Commission on Governmental Operations prior
8 to exceeding the continuation budget amount.

9
10 Requested by: Senators Thomas, Garrou, Dalton, Hagan

11 **CONVERSION OF CONTRACTED MEDICAL POSITIONS**

12 **SECTION 17.7.(a)** The Department of Correction may convert contract
13 medical positions to permanent State medical positions if the Department can document
14 that the total savings generated will exceed the total cost of the new positions for each
15 facility. Where practical, the Department shall convert contract positions to permanent
16 positions by using existing vacancies in medical positions.

17 **SECTION 17.7.(b)** The Department of Correction shall report by April 1,
18 2006, to the Joint Legislative Commission on Governmental Operations and the Chairs
19 of the Senate and House of Representatives Appropriations Subcommittees on Justice
20 and Public Safety on all conversions made pursuant to this section, by type of position
21 and location, and on the savings generated at each correctional facility.

22
23 Requested by: Senators Thomas, Garrou, Dalton, Hagan

24 **LIMIT USE OF OPERATIONAL FUNDS**

25 **SECTION 17.8.** Funds appropriated in this act to the Department of
26 Correction for operational costs for additional facilities shall be used for personnel and
27 operating expenses set forth in the budget approved by the General Assembly in this act.
28 These funds shall not be expended for any other purpose, except as provided for in this
29 act, and shall not be expended for additional prison personnel positions until the new
30 facilities are within 120 days of projected completion, except for certain management,
31 security, and support positions necessary to prepare the facility for opening, as
32 authorized in the budget approved by the General Assembly.

33
34 Requested by: Senators Thomas, Garrou, Dalton, Hagan

35 **FEDERAL GRANT MATCHING FUNDS**

36 **SECTION 17.9.** Notwithstanding the provisions of G.S. 148-2, the
37 Department of Correction may use up to the sum of seven hundred fifty thousand
38 dollars (\$750,000) from funds available to the Department to provide the State match
39 needed in order to receive federal grant funds. Prior to using funds for this purpose, the
40 Department shall report to the Chairs of the Senate and House of Representatives
41 Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative
42 Commission on Governmental Operations on the grants to be matched using these
43 funds.

44
45 Requested by: Senators Thomas, Garrou, Dalton, Hagan

46 **COMPUTER/DATA PROCESSING SERVICES FUNDS**

47 **SECTION 17.10.** Notwithstanding the provisions of G.S. 143-23(a2), the
48 Department of Correction may use funds available during the 2005-2006 fiscal year for
49 expenses for computer/data processing services if expenditures exceed the Department's
50 continuation budget amount for those services. The Department shall report to the Joint
51 Legislative Commission on Governmental Operations prior to exceeding the
52 continuation budget amount.

53
54 Requested by: Senators Thomas, Garrou, Dalton, Hagan

MEDIUM CUSTODY ROAD CREW COMPENSATION/COMMUNITY WORK CREWS

SECTION 17.11.(a) Of funds appropriated to the Department of Transportation by this act, the sum of ten million dollars (\$10,000,000) per year shall be transferred by the Department of Transportation to the Department of Correction during the 2005-2007 biennium for the actual costs of highway-related labor performed by medium-custody prisoners, as authorized by G.S. 148-26.5. This transfer shall be made quarterly in the amount of two million five hundred thousand dollars (\$2,500,000). The Department of Transportation may use funds appropriated by this act to pay an additional amount exceeding the ten million dollars (\$10,000,000), but those payments shall be subject to negotiations among the Department of Transportation, the Department of Correction, and the Office of State Budget and Management prior to payment by the Department of Transportation.

SECTION 17.11.(b) The Department of Correction may use up to 39 work crews for Department of Transportation litter control projects. The Department of Transportation shall transfer at least one million three hundred thousand dollars (\$1,300,000) per year from the Highway Fund to the Department of Correction during the 2005-2007 biennium to cover the cost of those work crews. Should the two departments determine that the actual cost of operating 39 work crews exceeds that amount, the Department of Transportation shall transfer an additional amount as agreed upon by the two departments and the Office of State Budget and Management.

Requested by: Senators Thomas, Garrou, Dalton, Hagan

INMATE CUSTODY AND CLASSIFICATION SYSTEM

SECTION 17.12.(a) The Department of Correction shall review the current inmate custody and classification system, with the assistance of consultants from the National Institute of Corrections. The review shall focus primarily on the custody classification instrument used to assess inmate custody and the policies and practice of overriding the assessed custody level. The review should focus particularly on determining whether the instrument is effective in predicting custody classification, analyzing the current override rate by custody level, and assessing any need for changes in the override policy. The Department should request assistance from the National Institute of Corrections in obtaining (i) a comparison between Department of Correction override rates and policies and those of other states; (ii) suggestions on an acceptable override rate for classification systems; and (iii) any recommendations the NIC may have on the Department's custody classification instrument and override policy.

SECTION 17.12.(b) The Department shall report its findings and recommendations to the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety no later than April 15, 2006.

Requested by: Senators Garrou, Dalton, Hagan

EXTEND LIMITS OF CONFINEMENT/TERMINALLY ILL AND PERMANENTLY AND TOTALLY DISABLED INMATES

SECTION 17.13. G.S. 148-4 reads as rewritten:

"§ 148-4. Control and custody of prisoners; authorizing prisoner to leave place of confinement.

The Secretary of Correction shall have control and custody of all prisoners serving sentence in the State prison system, and such prisoners shall be subject to all the rules and regulations legally adopted for the government thereof. Any sentence to imprisonment in any unit of the State prison system, or to jail to be assigned to work under the State Department of Correction, shall be construed as a commitment, for such terms of imprisonment as the court may direct, to the custody of the Secretary of Correction or his authorized representative, who shall designate the places of confinement within the State prison system where the sentences of all such persons shall be served. The authorized agents of the Secretary shall have all the authority of peace

1 officers for the purpose of transferring prisoners from place to place in the State as their
2 duties might require and for apprehending, arresting, and returning to prison escaped
3 prisoners, and may be commissioned by the Governor, either generally or specially, as
4 special officers for returning escaped prisoners or other fugitives from justice from
5 outside the State, when such persons have been extradited or voluntarily surrendered.
6 Employees of departments, institutions, agencies, and political subdivisions of the State
7 hiring prisoners to perform work outside prison confines may be designated as the
8 authorized agents of the Secretary of Correction for the purpose of maintaining control
9 and custody of prisoners who may be placed under the supervision and control of such
10 employees, including guarding and transferring such prisoners from place to place in the
11 State as their duties might require, and apprehending and arresting escaped prisoners
12 and returning them to prison. The governing authorities of the State prison system are
13 authorized to determine by rules and regulations the manner of designating these agents
14 and placing prisoners under their supervision and control, which rules and regulations
15 shall be established in the same manner as other rules and regulations for the
16 government of the State prison system.

17 The Secretary of Correction may extend the limits of the place of confinement of a
18 prisoner, as to whom there is reasonable cause to believe he will honor his trust, by
19 authorizing him, under prescribed conditions, to leave the confines of that place
20 unaccompanied by a custodial agent for a prescribed period of time to

- 21 (1) Contact prospective employers; or
- 22 (2) Secure a suitable residence for use when released on parole or upon
23 discharge; or
- 24 (3) Obtain medical services not otherwise available; or
- 25 (4) Participate in a training program in the community; or
- 26 (5) Visit or attend the funeral of a spouse, child (including stepchild,
27 adopted child or child as to whom the prisoner, though not a natural
28 parent, has acted in the place of a parent), parent (including a person
29 though not a natural parent, has acted in the place of a parent), brother,
30 or sister; or
- 31 (6) Participate in community-based programs of rehabilitation, including,
32 but not limited to the existing community volunteer and home-leave
33 programs, pre-release and after-care programs as may be provided for
34 and administered by the Secretary of Correction and other programs
35 determined by the Secretary of Correction to be consistent with the
36 prisoner's rehabilitation and return to society; or
- 37 (7) Be on maternity leave, for a period of time not to exceed 60 days. The
38 county departments of social services are expected to cooperate with
39 officials at the North Carolina Correctional Center for Women to
40 coordinate prenatal care, financial services, and placement of the child;
41 or
- 42 (8) Receive palliative care, only in the case of a terminally ill inmate or a
43 permanently and totally disabled inmate that the Secretary finds no
44 longer poses a ~~threat to society~~, a significant public safety risk, and
45 only after consultation with any victims of the inmate or the victims'
46 families. For purposes of this subdivision, the term "terminally ill"
47 describes an inmate who, as determined by a licensed physician, has an
48 incurable condition caused by illness or disease that did not exist at the
49 time of sentencing, that will likely produce death within 12 months. six
50 months, and that is so debilitating that it is highly unlikely that the
51 inmate poses a significant public safety risk. For purposes of this
52 subdivision, the term "permanently and totally disabled" describes an
53 inmate who, as determined by a licensed physician, suffers from
54 permanent and irreversible physical incapacitation as a result of an
55 existing physical or medical ~~condition~~. condition that did not exist at

1 the time of sentencing and that is so incapacitating that it is highly
2 unlikely that the inmate poses a significant public safety risk. The
3 Department's medical director shall notify the Secretary immediately
4 when an inmate has been classified as terminally ill and shall provide
5 regular reports on inmates classified as permanently and totally
6 disabled. The Secretary shall act expeditiously in determining whether
7 to extend the limits of confinement under this subdivision upon
8 receiving notice that an inmate has been classified as terminally ill or
9 permanently and totally disabled and, in the case of a terminally ill
10 inmate, the Secretary shall make a good faith effort to reach a
11 determination within 30 days of receiving notice of the inmate's
12 terminal condition.

13 The willful failure of a prisoner to remain within the extended limits of his confinement,
14 or to return within the time prescribed to the place of confinement designated by the
15 Secretary of Correction, shall be deemed an escape from the custody of the Secretary of
16 Correction punishable as provided in G.S. 148-45."

17
18 Requested by: Senators Thomas, Garrou, Dalton, Hagan

19 **PARTIAL REIMBURSEMENT/INMATE COMMUNITY WORK CREWS AND**
20 **INMATE LABOR CONTRACTS**

21 **SECTION 17.14.(a)** G.S. 148-26 is amended by adding a new subsection to
22 read:

23 "(e1) Departments, institutions, agencies, and political subdivisions of the State
24 using inmate community work crews or inmate labor contracts as authorized by this
25 section shall reimburse the Department of Correction for a portion of the costs of
26 operating inmate community work crews and a portion of the administrative expenses of
27 managing inmate labor contracts. In determining the amount of reimbursement to
28 require under this subsection, the Department may consider requiring a smaller amount
29 from entities that can demonstrate a limited ability to pay for inmate labor."

30 **SECTION 17.14.(b)** In determining reimbursement amounts required by
31 G.S. 148-26(e1), the Department of Correction shall attempt to recoup at least the sum
32 of six hundred thousand dollars (\$600,000) for each year of the 2005-2007 biennium in
33 inmate work crew costs and administrative expenses of managing inmate labor
34 contracts.

35 **SECTION 17.14.(c)** The Department of Correction shall report by March 1,
36 2006, to the Chairs of the Senate and House of Representatives Appropriations
37 Subcommittees on Justice and Public Safety and the Joint Legislative Corrections,
38 Crime Control, and Juvenile Justice Oversight Committee on the inmate labor contracts
39 and community work programs, identifying total project man-hours by client agency,
40 the total operating costs of these programs, the benefits of these programs, and the
41 potential for reimbursement that more closely reflects the actual cost of all projects.

42
43 Requested by: Senators Rand, Thomas, Garrou, Dalton, Hagan

44 **PROVIDER RATES FOR INMATE HEALTH SERVICES NOT TO EXCEED**
45 **PROVIDER RATES UNDER TEACHERS' AND STATE EMPLOYEES'**
46 **COMPREHENSIVE MAJOR MEDICAL PLAN**

47 **SECTION 17.15.(a)** G.S. 148-19 reads as rewritten:

48 **"§ 148-19. Health services.**

49 (a) The general policies, rules and regulations of the Department of Correction
50 shall prescribe standards for health services to prisoners, which shall include preventive,
51 diagnostic, and therapeutic measures on both an outpatient and a hospital basis, for all
52 types of patients. A prisoner may be taken, when necessary, to a medical facility outside
53 the State prison system. The Department of Correction shall seek the cooperation of
54 public and private agencies, institutions, officials and individuals in the development of
55 adequate health services to prisoners.

1 (b) Upon request of the Secretary of Correction, the Secretary of Health and
2 Human Services may detail personnel employed by the Department of Health and
3 Human Services to the Department of Correction for the purpose of supervising and
4 furnishing medical, psychiatric, psychological, dental, and other technical and scientific
5 services to the Department of Correction. The compensation, allowances, and expenses
6 of the personnel detailed under this section may be paid from applicable appropriations
7 to the Department of Health and Human Services, and reimbursed from applicable
8 appropriations to the Department of Correction. The Secretary of Correction may make
9 similar arrangements with any other agency of State government able and willing to aid
10 the Department of Correction to meet the needs of prisoners for health services.
11 Reimbursement rates to public and private agencies and health care providers for health
12 care services rendered to prisoners shall be established as provided in G.S. 148-22.

13 (c) Each prisoner committed to the State Department of Correction shall receive
14 a physical and mental examination by a health care professional authorized by the North
15 Carolina Medical Board to perform such examinations as soon as practicable after
16 admission and before being assigned to work. The prisoner's work and other
17 assignments shall be made with due regard for the prisoner's physical and mental
18 condition.

19 (d) The Commission for Mental Health, Developmental Disabilities, and
20 Substance Abuse Services shall adopt standards for the delivery of mental health and
21 mental retardation services to inmates in the custody of the Department of Correction.
22 The Commission for Mental Health, Developmental Disabilities, and Substance Abuse
23 Services shall give the Secretary of Correction an opportunity to review and comment
24 on proposed standards prior to promulgation of such standards; however, final authority
25 to determine such standards remains with the Commission. The Secretary of the
26 Department of Health and Human Services shall designate an agency or agencies within
27 the Department of Health and Human Services to monitor the implementation by the
28 Department of Correction of these standards and of substance abuse standards adopted
29 by the Department of Correction upon the advice of the Substance Abuse Advisory
30 Council established pursuant to G.S. 143B-270. The Secretary of Health and Human
31 Services shall send a written report on the progress which the Department of Correction
32 has made on the implementation of such standards to the Governor, the Lieutenant
33 Governor, and the Speaker of the House. Such reports shall be made on an annual basis
34 beginning January 1, 1978."

35 **SECTION 17.15.(b)** G.S. 148-22 reads as rewritten:

36 **"§ 148-22. Treatment programs.**

37 (a) The general policies, rules and regulations of the Department of Correction
38 shall provide for humane treatment of prisoners and for programs to effect their
39 correction and return to the community as promptly as practicable. Visits and
40 correspondence between prisoners and approved friends shall be authorized under
41 reasonable conditions, and family members shall be permitted and encouraged to
42 maintain close contact with the prisoners unless such contacts prove to be hurtful.
43 Casework, counseling, and psychotherapy services provided to prisoners may be
44 extended to include members of the prisoner's family if practicable and necessary to
45 achieve the purposes of such programs. Education, library, recreation, and vocational
46 training programs shall be developed so as to coordinate with corresponding services
47 and opportunities which will be available to the prisoner when he is released. Programs
48 may be established for the treatment and training of mentally retarded prisoners and
49 other special groups. These programs may be operated in segregated sections of
50 facilities housing other prisoners or in separate facilities.

51 (b) The Department of Correction may cooperate with and seek the cooperation
52 of public and private agencies, institutions, officials, and individuals in the development
53 and conduct of programs designed to give persons committed to the Department
54 opportunities for physical, mental and moral improvement. The Department may enter

1 into agreements with other agencies of federal, State or local government and with
2 private agencies to promote the most effective use of available resources.

3 Specifically the Secretary of Correction may enter into contracts or agreements with
4 appropriate public or private agencies or providers offering needed services including
5 health, mental health, mental retardation, substance abuse, rehabilitative or training
6 services for such inmates of the Department of Correction as the Secretary may deem
7 eligible. These agencies and providers shall be reimbursed from applicable
8 appropriations to the Department of Correction for health services rendered at a rate not
9 to exceed ~~that which such agencies normally receive for serving their regular clients~~ the
10 contract rate paid for the same or similar service or diagnostic-related grouping under
11 the Teachers' and State Employees' Comprehensive Major Medical Plan ("Plan") for
12 Plan members. Before paying the claim approved by the Secretary, the Secretary of
13 Correction shall submit the claim to the Plan for verification of the rate charged under
14 the claim in accordance with procedures established by the Executive Administrator and
15 Board of Trustees of the Plan. The Department of Correction shall, from State
16 appropriations and any other funds available for this purpose, transfer to the Teachers'
17 and State Employees' Comprehensive Major Medical Plan funds in the amount
18 determined by the Plan as necessary to cover the Plan's administrative costs for
19 verifying claim rates. The Secretary may contract for the housing of work-release
20 inmates at county jails and local confinement facilities. Inmates may be placed in the
21 care of such agencies but shall remain the responsibility of the Department and shall be
22 subject to the complete supervision of the Department. The Department may reimburse
23 such agencies for the support of such inmates at a rate not in excess of the average daily
24 cost of inmate care in the corrections unit to which the inmate would otherwise be
25 assigned."

26 **SECTION 17.15.(c)** Article 3 of Chapter 135 of the General Statutes is
27 amended by adding the following new Part to read:

28 "Part 6. Administrative Services to Other State Agencies.

29 "**§ 135-43. Verification of Plan rates for health services provided to prison inmates.**

30 As used in this Part, "Plan" means the North Carolina Teachers' and State
31 Employees' Comprehensive Major Medical Plan. Upon receipt of a claim for health
32 services approved by the Secretary of Correction, the Plan shall review the claim rates
33 and shall verify to the Secretary of Correction that the rates applied in the claim do not
34 exceed the rates applicable under the Plan for the same or similar services or
35 diagnostic-related grouping code for Plan members. Nothing in this section shall be
36 construed as providing Plan benefits to prison inmates. The Plan's self-insured
37 indemnity program shall not incur any financial obligations for claims submitted by the
38 Secretary of Correction for health services rendered to prison inmates."

39
40 Requested by: Senators Kerr, Thomas, Garrou, Dalton, Hagan

41 **REPLACEMENT OF UMSTEAD LAUNDRY**

42 **SECTION 17.16.** In preparation for the scheduled closing of Umstead
43 Hospital in 2007, the Department of Correction shall develop a plan for the replacement
44 of the Correction Enterprises laundry operation at Umstead Hospital and report that plan
45 to the Chairs of the Senate and House of Representatives Appropriations
46 Subcommittees on Justice and Public Safety by May 1, 2006.

47
48 Requested by: Senators Thomas, Garrou, Dalton, Hagan

49 **STAFFING STUDY OF UNIT MANAGEMENT**

50 **SECTION 17.17.** The Department of Correction shall conduct an
51 organization and staffing study of unit management in the State prison system, focusing
52 on the 18 prison facilities that use unit management. The Department shall review
53 workload and staffing at each of the prisons and make recommendations for staffing
54 changes and staffing efficiencies. The study shall consider the responsibilities and

1 workloads of custody supervisors in relation to unit managers and determine whether
2 certain functions should be the responsibility of custody supervisors or program staff.

3 The Department shall report its findings and recommendations to the Chairs
4 of the House and Senate Appropriations Subcommittees on Justice and Public Safety
5 and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight
6 Committee by March 1, 2006.

7
8 Requested by: Senators Thomas, Dalton, Garrou, Hagan

9 **STUDY EXPANSION AT CLEVELAND CORRECTIONAL CENTER**

10 **SECTION 17.18.** As part of its development and update of its long-range
11 prison housing plan, the Department of Correction shall consider the feasibility of
12 expanding minimum custody bed capacity at the Cleveland Correctional Center. The
13 study shall include an engineering analysis of the site and a cost analysis of either
14 expanding the current facility or building a stand-alone minimum custody prison. The
15 cost analysis shall include a determination of possible savings by using inmate labor to
16 assist with construction. The Department of Correction shall report its findings to the
17 Chairs of the Senate and House of Representatives Appropriations Committees and the
18 Chairs of the Senate and House of Representatives Appropriations Subcommittees on
19 Justice and Public Safety by April 1, 2006.

20
21 Requested by: Senators Thomas, Garrou, Dalton, Hagan

22 **REPORT ON ELECTRONIC MONITORING COSTS**

23 **SECTION 17.19.** The Department of Correction shall report by March 1 of
24 each year to the Chairs of the Senate and House of Representatives Appropriations
25 Committees and the Chairs of the Senate and House of Representatives Appropriations
26 Subcommittees on Justice and Public Safety on its efforts to increase the use of
27 electronic monitoring of sentenced offenders in the community as an alternative to the
28 incarceration of probation violators. The report shall also document the geographical
29 distribution of electronic monitoring use compared to other intermediate sanctions. The
30 Department shall also analyze the reasons for the underutilization of the electronic
31 monitoring program and include its findings in the report.

32
33 Requested by: Senators Thomas, Garrou, Dalton, Hagan

34 **REPORT ON PROBATION AND PAROLE CASELOADS**

35 **SECTION 17.20.(a)** The Department of Correction shall report by March 1
36 of each year to the Chairs of the Senate and House of Representatives Appropriations
37 Subcommittees on Justice and Public Safety and the Joint Legislative Corrections,
38 Crime Control, and Juvenile Justice Oversight Committee on caseload averages for
39 probation and parole officers. The report shall include:

- 40 (1) Data on current caseload averages for Probation Parole Officer I,
41 Probation Parole Officer II, and Probation Parole Officer III positions;
- 42 (2) An analysis of the optimal caseloads for these officer classifications;
- 43 (3) An assessment of the role of surveillance officers;
- 44 (4) The number and role of paraprofessionals in supervising low-risk
45 caseloads;
- 46 (5) An update on the Department's implementation of the
47 recommendations contained in the National Institute of Correction
48 study conducted on the Division of Community Corrections in 2004;
- 49 (6) The selection of a risk assessment and the resulting distribution of
50 offenders among risk levels; and
- 51 (7) Any position reallocations in the previous 12 months, and the reasons
52 for and fiscal impact of those reallocations.

53 **SECTION 17.20.(b)** The Department of Correction shall conduct a study of
54 probation/parole officer workload at least biannually. The study shall include analysis of
55 the type of offenders supervised, the distribution of the probation/parole officers' time

1 by type of activity, the caseload carried by the officers, and comparisons to practices in
2 other states. The study shall be used to determine whether the caseload goals established
3 by the Structured Sentencing Act are still appropriate, based on the nature of the
4 offenders supervised and the time required to supervise those offenders.

5 **SECTION 17.20.(c)** The Department of Correction shall report the results of
6 the study and recommendations for any adjustments to caseload goals to the Senate and
7 House of Representatives Appropriations Subcommittees on Justice and Public Safety
8 by January 1, 2007.

9
10 Requested by: Senators Thomas, Garrou, Dalton, Hagan

11 **COMMUNITY SERVICE WORK PROGRAM**

12 **SECTION 17.21.** The Department of Correction shall report to the Chairs of
13 the Senate and House of Representatives Appropriations Subcommittees on Justice and
14 Public Safety by February 1 of each year on the integration of the Community Service
15 Work Program into the Division of Community Corrections, including the Department's
16 ability to monitor the collection of offender payments from unsupervised offenders
17 sentenced to community service. The Department shall also report to the Chairs of the
18 Senate and House of Representatives Appropriations Subcommittees on Justice and
19 Public Safety by February 1 of each year on the average caseloads of Community
20 Service Work Program coordinators, by district, division, and statewide. The report
21 shall also include the money collected, the type and value of the work performed, and
22 the number of offenders in the Community Service Work Program, by type of referral
23 (i.e. parole, supervised probation, unsupervised probation or community punishment,
24 DWI, or any other agency referrals).

25
26 Requested by: Senators Thomas, Garrou, Dalton, Hagan

27 **REPORTS ON NONPROFIT PROGRAMS**

28 **SECTION 17.22.(a)** Funds appropriated in this act to the Department of
29 Correction to support the programs of Harriet's House may be used for program
30 operating costs, the purchase of equipment, and the rental of real property to serve
31 women released from prison with children in their custody. Harriet's House shall report
32 by February 1 of each year to the Joint Legislative Commission on Governmental
33 Operations on the expenditure of State appropriations and on the effectiveness of the
34 program, including information on the number of clients served, the number of clients
35 who successfully complete the Harriet's House program, and the number of clients who
36 have been rearrested within three years of successfully completing the program. The
37 report shall provide financial and program data for the complete fiscal year prior to the
38 year in which the report is submitted. The financial report shall identify all funding
39 sources and amounts.

40 **SECTION 17.22.(b)** Summit House shall report by February 1 of each year
41 to the Joint Legislative Commission on Governmental Operations on the expenditure of
42 State appropriations and on the effectiveness of the program, including information on
43 the number of clients served, the number of clients who have had their probation
44 revoked, the number of clients who successfully complete the program while housed at
45 Summit House, Inc., and the number of clients who have been rearrested within three
46 years of successfully completing the program. The report shall provide financial and
47 program data for the complete fiscal year prior to the year in which the report is
48 submitted. The financial report shall identify all funding sources and amounts.

49 **SECTION 17.22.(c)** Women at Risk shall report by February 1 of each year
50 to the Joint Legislative Commission on Governmental Operations on the expenditure of
51 State funds and on the effectiveness of the program, including information on the
52 number of clients served, the number of clients who have had their probation revoked,
53 the number of clients who have successfully completed the program, and the number of
54 clients who have been rearrested within three years of successfully completing the
55 program. The report shall provide financial and program data for the complete fiscal

1 year prior to the year in which the report is submitted. The financial report shall identify
2 all funding sources and amounts.

3
4 Requested by: Senators Thomas, Garrou, Dalton, Hagan

5 **CRIMINAL JUSTICE PARTNERSHIP PROGRAM**

6 **SECTION 17.23.(a)** It is the intent of the General Assembly that State
7 Criminal Justice Partnership Program funds not be used to fund case manager positions
8 when those services can be reasonably provided by Division of Community Corrections
9 personnel or by the Treatment Alternatives to Street Crime (TASC) Program in the
10 Department of Health and Human Services.

11 **SECTION 17.23.(b)** Notwithstanding the provisions of G.S. 143B-273.15
12 specifying that grants to participating counties are for the full fiscal year and that
13 unobligated funds are returned to the State-County Criminal Justice Partnership
14 Account at the end of the grant period, the Department of Correction may reallocate
15 unspent or unclaimed funds distributed to counties participating in the State-County
16 Criminal Justice Partnership Program in an effort to maintain the level of services
17 realized in previous fiscal years.

18 **SECTION 17.23.(c)** The Department of Correction may not deny funds to a
19 county to support both a residential program and a day reporting center if the
20 Department of Correction determines that the county has a demonstrated need and a
21 fully developed plan for each type of sanction.

22 **SECTION 17.23.(d)** The Department of Correction shall report by February
23 1 of each year to the Chairs of the Senate and House of Representatives Appropriations
24 Committees, the Senate and House of Representatives Appropriations Subcommittees
25 on Justice and Public Safety, and the Joint Legislative Corrections, Crime Control, and
26 Juvenile Justice Oversight Committee on the status of the State-County Criminal Justice
27 Partnership Program. The report shall include the following information:

- 28 (1) The amount of funds carried over from the prior fiscal year;
- 29 (2) The dollar amount and purpose of grants awarded to counties as
30 discretionary grants for the current fiscal year;
- 31 (3) Any counties the Department anticipates will submit requests for new
32 implementation grants;
- 33 (4) An update on efforts to ensure that all counties make use of the
34 electronic reporting system, including the number of counties
35 submitting offender participation data via the system;
- 36 (5) An analysis of offender participation data received, including data on
37 each program's utilization and capacity;
- 38 (6) An analysis of comparable programs, prepared by the Research and
39 Planning Division of the Department of Correction, and a summary of
40 the reports prepared by county Criminal Justice Partnerships Advisory
41 Boards; and
- 42 (7) An evaluation of Criminal Justice Partnership programs based upon
43 evaluation standards designed by the Division of Community
44 Corrections in consultation with the Fiscal Research Division and the
45 Department of Correction, Division of Research and Planning.

46 **SECTION 17.23.(e)** G.S. 143B-273.4 reads as rewritten:

47 **"§ 143B-273.4. Eligible population.**

48 (a) An eligible offender is an adult offender who ~~either is in confinement~~
49 ~~awaiting trial, or~~ was convicted of a misdemeanor or a felony offense and received a
50 nonincarcerative sentence of an intermediate punishment or is serving a term of parole
51 or post-release supervision after serving an active sentence of imprisonment.

52 (b) The priority populations for programs funded under this Article shall be:

- 53 (1) ~~Offenders be offenders~~ sentenced to intermediate ~~punishments; and~~
- 54 (2) ~~Offenders who are appropriate for release from jail prior to trial under~~
55 ~~the supervision of a pretrial monitoring program.~~ punishments."

1 **SECTION 17.23.(f)** G.S. 143B-273.15 reads as rewritten:
2 "**§ 143B-273.15. Funding formula.**

3 To determine the grant amount for which a county or counties may apply, the
4 granting authority shall apply the following formula:

- 5 (1) ~~Twenty percent (20%)~~ Twenty-five percent (25%) based on a fixed
6 equal dollar amount for each county;
7 (2) ~~Sixty percent (60%)~~ Fifty percent (50%) based on the county share of
8 the State population; and
9 (3) ~~Twenty percent (20%)~~ Twenty-five percent (25%) based on the
10 ~~supervised probation admissions~~ intermediate punishment entry rate
11 for the ~~county~~ county, using the total of the three most recent years of
12 data available divided by the average county population for that same
13 period.

14 The sum of the amounts in subdivisions (1), (2), and (3) is the total amount of the
15 funding that a county may apply for under this subsection.

16 Grants to participating counties are for a period of one fiscal year with unobligated
17 funds being returned to the Account at the end of the grant period. Funds are provided
18 to participating counties on a reimbursement basis unless a county documents a need for
19 an advance of grant funds."

20 **SECTION 17.23.(g)** For the 2005-2006 fiscal year, notwithstanding the
21 formula in G.S. 143B-273.15, each county's formula allocation shall be capped at no
22 less than ninety-five percent (95%) and no greater than one hundred twenty percent
23 (120%) of the funds allocated to that county for the 2004-2005 fiscal year. After
24 determining the capped formula allocations, funds that were used in the 2003-2004
25 fiscal year for pretrial release programs shall be reallocated among all participating
26 counties using the formula in G.S. 143B-273.15 and dedicated to sentenced offender
27 programs. For the 2006-2007 fiscal year, the same procedures shall be used, except that
28 the capped amounts shall be no less than ninety percent (90%) and no greater than one
29 hundred thirty percent (130%) of the funds allocated to that county for the 2004-2005
30 fiscal year.

31
32 Requested by: Senators Thomas, Garrou, Dalton, Hagan

33 **REPORT ON INMATES ELIGIBLE FOR PAROLE**

34 **SECTION 17.24.** The Post-Release Supervision and Parole Commission
35 shall report by January 15 and July 15 of each year to the Senate and House of
36 Representatives Appropriations Subcommittees on Justice and Public Safety and the
37 Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee
38 on inmates eligible for parole. These reports shall include at least the following:

- 39 (1) The total number of Fair Sentencing and Pre-Fair Sentencing inmates
40 that were parole-eligible during the current fiscal year and the total
41 number of those inmates that were paroled. The report should group
42 these inmates by offense type, custody classification, and type of
43 parole. The report should also include a more specific analysis of those
44 inmates who were parole-eligible and assigned to minimum custody
45 classification but not released;
46 (2) The average time served, by offense class, of Fair Sentencing and
47 Pre-Fair Sentencing inmates compared to inmates sentenced under
48 Structured Sentencing; and
49 (3) The projected number of parole-eligible inmates to be paroled or
50 released by the end of the 2007-2008 fiscal year and by the end of each
51 of the next five fiscal years, beginning with the 2008-2009 fiscal year.

52
53 Requested by: Senators Thomas, Garrou, Dalton, Hagan

54 **PROVIDE THAT THE TERMS OF THE MEMBERS OF THE POST-RELEASE**
55 **SUPERVISION AND PAROLE COMMISSION SERVING ON JUNE 30,**

1 **2005, EXPIRE ON THAT DATE AND RESTRUCTURE THE COMMISSION**
2 **TO CONSIST OF ONE FULL-TIME MEMBER AND TWO HALF-TIME**
3 **MEMBERS**

4 **SECTION 17.25.(a)** G.S. 143B-267 reads as rewritten:

5 "**§ 143B-267. Post-Release Supervision and Parole Commission – members;**
6 **selection; removal; chairman; compensation; quorum; services.**

7 The ~~Effective July 1, 2005, the~~ Post-Release Supervision and Parole Commission
8 shall consist of ~~three one~~ full-time ~~members.~~ ~~member and two half-time members.~~ The
9 three ~~full-time~~ members shall be appointed by the Governor from persons whose
10 recognized ability, training, experience, and character qualify them for service on the
11 Commission. The terms of office of ~~the five members presently~~ any members serving
12 on the Commission on June 30, 2005, shall expire on ~~July 31, 1999.~~ that date. ~~The term~~
13 ~~of one of the members appointed effective August 1, 1999, shall be for one year. The~~
14 ~~term of one of the members appointed effective August 1, 1999, shall be for two years.~~
15 ~~The term of one of the members appointed effective August 1, 1999, shall be for three~~
16 ~~years. Thereafter, the~~ The terms of office of persons appointed by the Governor as
17 members of the Commission shall be for four years or until their successors are
18 appointed and qualify. Any appointment to fill a vacancy on the Commission created by
19 the resignation, removal, death or disability of a ~~full-time~~ member shall be for the
20 balance of the unexpired term only.

21 The Governor shall have the authority to remove any member of the Commission
22 from office for misfeasance, malfeasance or nonfeasance, pursuant to the provisions of
23 G.S. 143B-13. The Governor shall designate a ~~full-time~~ member of the Commission to
24 serve as ~~chairman~~ chair of the Commission at the pleasure of the Governor.

25 The granting, denying, revoking, or rescinding of parole, the authorization of
26 work-release privileges to a prisoner, or any other matters of business coming before the
27 Commission for consideration and action shall be decided by majority vote of the full
28 Commission.

29 The ~~full-time~~ members of the Commission shall receive the salary fixed by the
30 General Assembly in the Current Operations Appropriations Act and shall receive
31 necessary travel and subsistence expenses in accordance with the provisions of
32 G.S. 138-6.

33 All clerical and other services required by the Commission shall be supplied by the
34 Secretary of Correction."

35 **SECTION 17.25.(b)** This section becomes effective June 30, 2005.

36
37 Requested by: Senators Thomas, Garrou, Dalton, Hagan

38 **POST-RELEASE SUPERVISION AND PAROLE COMMISSION/REPORT ON**
39 **STAFFING REORGANIZATION AND REDUCTION**

40 **SECTION 17.26.** The Post-Release Supervision and Parole Commission
41 shall report by October 1 of each year to the Chairs of the Senate and House of
42 Representatives Appropriations Subcommittees on Justice and Public Safety on a plan
43 for restructuring the organization and operation of the Commission and implementing
44 staff reductions to reflect both declines and changes in workload.

45
46 Requested by: Senators Thomas, Garrou, Dalton, Hagan

47 **MUTUAL AGREEMENT PAROLE PROGRAM**

48 **SECTION 17.27.** The Department of Correction and the Post-Release
49 Supervision and Parole Commission shall make a good faith effort to enroll at least ten
50 percent (10%) of all program-eligible, pre-Structured Sentencing felons in the Mutual
51 Agreement Parole Program by January 1, 2006. The Department shall report to the
52 Senate and House of Representatives Appropriations Subcommittees on Justice and
53 Public Safety by March 1 of each year on the number of inmates actually enrolled in the
54 program, the number of inmates who have been paroled as a result of participation in
55 the program, and the number of inmates who have enrolled but terminated as a result of

1 unsuccessful participation in the program. If the ten percent (10%) participation goal
2 established by this section has not been reached, the report shall explain why the goal
3 was not realized.

4 **PART XVIII. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY**

5
6
7 Requested by: Senators Thomas, Garrou, Dalton, Hagan

8 **ANNUAL EVALUATION OF TARHEEL CHALLENGE PROGRAM**

9 **SECTION 18.1.** The Department of Crime Control and Public Safety shall
10 report to the Chairs of the House of Representatives and Senate Appropriations
11 Committees and the Chairs of the House of Representatives and Senate Appropriations
12 Subcommittees on Justice and Public Safety by April 1 of each year of the biennium on
13 the operations and effectiveness of the National Guard Tarheel Challenge Program. The
14 report should evaluate the program's effectiveness as an intervention method for
15 preventing juveniles from becoming undisciplined or delinquent. The report shall also
16 evaluate the Program's role in improving individual skills and employment potential for
17 participants and shall include:

- 18 (1) The source of referrals for individuals participating in the Program;
- 19 (2) The summary of types of actions or offenses committed by the
20 participants of the Program;
- 21 (3) An analysis outlining the cost of providing services for each
22 participant, including a breakdown of all expenditures related to the
23 administration and operation of the Program and the education and
24 treatment of the Program participants;
- 25 (4) The number of individuals who successfully complete the Program;
26 and
- 27 (5) The number of participants who commit offenses after completing the
28 Program.

29
30 Requested by: Senators Thomas, Garrou, Dalton, Hagan

31 **VICTIMS ASSISTANCE NETWORK REPORT**

32 **SECTION 18.2.** The Department of Crime Control and Public Safety shall
33 report on the expenditure of funds allocated pursuant to this section for the Victims
34 Assistance Network. The Department shall also report on the Network's efforts to
35 gather data on crime victims and their needs, act as a clearinghouse for crime victims'
36 services, provide an automated crime victims' bulletin board for subscribers, coordinate
37 and support activities of other crime victims' advocacy groups, identify the training
38 needs of crime victims' services providers and criminal justice personnel, and
39 coordinate training for these personnel. The Department shall submit its report to the
40 Chairs of the Appropriations Subcommittees on Justice and Public Safety of the Senate
41 and House of Representatives by December 1 of each year of the biennium.

42
43 Requested by: Senators Thomas, Garrou, Dalton, Hagan

44 **TRANSFER THE STATEWIDE FLOODPLAIN MAPPING UNIT**

45 **SECTION 18.3.** The Statewide Floodplain Mapping Unit is transferred from
46 the Department of Crime Control and Public Safety to the Department of Environment
47 and Natural Resources. This transfer has all of the elements of a Type I transfer as
48 defined in G.S. 143A-6.

49 **PART XIX. DEPARTMENT OF ADMINISTRATION**

50
51
52 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

53 **CONTINUATION OF THE STUDY OF ADVOCACY PROGRAMS IN THE** 54 **DEPARTMENT OF ADMINISTRATION**

1 **SECTION 19.1.** The Secretary of the Department of Administration, in
2 collaboration with appropriate entities that concentrate on public policy and business
3 management, shall continue the study that was completed during the 2003-2004 fiscal
4 year of the functions of the advocacy programs that are housed in the Department of
5 Administration to determine the appropriate organizational placement of the programs
6 within State government. The study shall include both the advocacy and service
7 functions of the Division of Veterans Affairs, the Council for Women and the Domestic
8 Violence Commission, the Commission of Indian Affairs, the Governor's Advocacy
9 Council for Persons with Disabilities, the Human Relations Commission, and the Youth
10 Advocacy and Involvement Office. The study shall also consider whether the functions
11 of the programs could be more efficiently and effectively performed by an appropriate
12 nonprofit organization. The Secretary shall report the findings and recommendations to
13 the Joint Legislative Commission on Governmental Operations and to the Chairs of the
14 Senate and House of Representatives Appropriations Committees by April 1, 2006.

15
16 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

17 **VETERANS SCHOLARSHIPS PARTIALLY FUNDED FROM ESCHEAT**
18 **FUND**

19 **SECTION 19.2.** In accordance with G.S. 116B-7(b), there is appropriated
20 from the Escheat Fund to the Department of Administration the sum of four million two
21 hundred ninety-seven thousand five hundred forty-four dollars (\$4,297,544) for the
22 2005-2006 fiscal year and four million three hundred fifty-eight thousand forty-six
23 dollars (\$4,358,046) for the 2006-2007 fiscal year.

24
25 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

26 **STATE VETERANS CEMETERIES**

27 **SECTION 19.3.** The Department of Administration may use funds credited
28 to the Veterans Burial Fund for the 2005-2007 biennium to cover costs incurred as a
29 result of burials on Saturday or Sunday.

30
31 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

32 **ALLOCATION OF PETROLEUM VIOLATION ESCROW FUNDS**

33 **SECTION 19.4.** The unallocated balance of the funds and interest thereon
34 received from the cases of United States v. Stripper Well, United States v. Exxon,
35 United States v. Diamond Shamrock, United States v. Amoco, United States v.
36 Chevron, and United States v. Occidental that remain in the Special Reserve for Oil
37 Overcharge Funds is appropriated to the Department of Administration for the
38 2005-2006 fiscal year to be allocated for projects approved by the State Energy Policy
39 Council.

40
41 Requested by: Senators Albertson, Jenkins, Dorsett, Garrou, Dalton, Hagan

42 **INCREASED FUEL EFFICIENCY OF STATE MOTOR FLEET**

43 **SECTION 19.5.(a)** The Department of Administration, Motor Fleet
44 Management, shall develop and implement a plan to improve and increase the overall
45 fuel efficiency of the State's motor fleet by twenty percent (20%). The Department shall
46 implement this plan and achieve the twenty percent (20%) increase in fuel efficiency by
47 July 1, 2006. Fuel efficiency goals may be met by petroleum displacement through the
48 use of biodiesel, ethanol, other alternative fuels, the purchase of hybrid electric vehicles
49 and other fuel-efficient vehicles.

50 **SECTION 19.5.(b)** The Department shall report to the Joint Legislative
51 Commission on Governmental Operations its plan for increasing and maintaining the
52 fuel efficiency of the State's motor fleet no later than January 1, 2006.

53
54 **PART XX. OFFICE OF THE GOVERNOR**
55

1 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

2 **HOUSING FINANCE AGENCY HOME MATCHING FUNDS**

3 **SECTION 20.1.(a)** Funds appropriated in this act to the Housing Finance
4 Agency for the federal HOME Program shall be used to match federal funds
5 appropriated for the HOME Program. In allocating State funds appropriated to match
6 federal HOME Program funds, the Agency shall give priority to HOME Program
7 projects, as follows:

- 8 (1) First priority to projects that are located in counties designated as Tier
9 One, Tier Two, or Tier Three Enterprise Counties under
10 G.S. 105-129.3; and
11 (2) Second priority to projects that benefit persons and families whose
12 incomes are fifty percent (50%) or less of the median family income
13 for the local area, with adjustments for family size, according to the
14 latest figures available from the United States Department of Housing
15 and Urban Development.

16 The Housing Finance Agency shall report to the Joint Legislative
17 Commission on Governmental Operations by April 1 of each year concerning the status
18 of the HOME Program and shall include in the report information on priorities met,
19 types of activities funded, and types of activities not funded.

20 **SECTION 20.1.(b)** If the United States Congress changes the HOME
21 Program such that matching funds are not required for a given program year, then the
22 Agency shall not spend the matching funds appropriated under this act for that program
23 year.

24 **SECTION 20.1.(c)** Funds appropriated in this act to match federal HOME
25 Program funds shall not revert to the General Fund on June 30, 2006, or on June 30,
26 2007.

27
28 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

29 **HOUSING FINANCE AGENCY SHALL CONTINUE THE NORTH CAROLINA**
30 **HOME PROTECTION PILOT PROGRAM AND LOAN FUND**

31 **SECTION 20.2.(a)** The North Carolina Housing Finance Agency shall
32 continue to administer a pilot program to assist North Carolina workers who have lost
33 jobs in Cabarrus, Cleveland, Cumberland, Edgecombe, Forsyth, Guilford, Rowan, and
34 Rutherford Counties as a result of changing economic conditions in North Carolina
35 when the workers are in need of assistance to avoid losing their homes to foreclosure.

36 **SECTION 20.2.(b)** Sections 20A.1(b), 20A.1(d), and 20A.1(e) of S.L.
37 2004-124 remain effective for the 2005-2006 fiscal year.

38 **SECTION 20.2.(c)** The agency shall, no later than May 1, 2006, report to
39 the General Assembly on the effectiveness of the Program in accomplishing its purposes
40 and provide any other information the Agency determines is pertinent or that the
41 General Assembly requests.

42
43 **PART XXI. DEPARTMENT OF INSURANCE**

44
45 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

46 **INSURANCE REGULATORY FUND TRANSFER TO GENERAL FUND**

47 **SECTION 21.1.** The Commissioner of Insurance shall transfer funds
48 quarterly from the Insurance Regulatory Fund to the General Fund to repay the funds
49 appropriated to the Department of Insurance from the General Fund for each fiscal year,
50 plus accrued interest at a rate determined by the State Treasurer.

51
52 Requested by: Senator Swindell

53 **STRENGTHEN REQUIREMENTS FOR ISSUING BUILDING PERMITS**

54 **SECTION 21.2.** The North Carolina Code Officials Qualification Board
55 shall take steps to ensure that building inspectors enforce the requirements of

1 G.S. 87-14 and shall bring disciplinary action against any building inspector who
2 willfully or negligently issues a building permit in violation of G.S. 87-14.
3

4 **PART XXII. DEPARTMENT OF REVENUE**

5
6 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

7 **DEPARTMENT OF REVENUE DEBT FEE FOR TAXPAYER LOCATER** 8 **SERVICES AND COLLECTION**

9 **SECTION 22.1.(a)** G.S. 105-243.1(e) reads as rewritten:

10 "(e) Use. – The fee is a receipt of the Department and must be applied to the costs
11 of collecting overdue tax debts. The proceeds of the fee must be credited to a special
12 account within the Department and may be expended only as provided in this
13 subsection. The proceeds of the fee may not be used for any purpose that is not directly
14 and primarily related to collecting overdue tax debts. The Department may apply the
15 proceeds of the fee for the purposes listed in this subsection. The remaining proceeds of
16 the fee may be spent only pursuant to appropriation by the General Assembly. The fee
17 proceeds do not revert but remain in the special account until spent for the costs of
18 collecting overdue tax debts. The Department and the Office of State Budget and
19 Management must account for all expenditures using accounting procedures that clearly
20 distinguish costs allocable to collecting overdue tax debts from costs allocable to other
21 purposes and must demonstrate that none of the fee proceeds are used for any purpose
22 other than collecting overdue tax debts.

23 The Department may apply the fee proceeds for the following purposes:

- 24 (1) To pay contractors for collecting overdue tax debts under subsection
25 (b) of this section.
- 26 (2) To pay the fee the United States Department of the Treasury charges
27 for setoff to recover tax owed to North Carolina.
- 28 (3) To pay for taxpayer locater services, not to exceed one hundred
29 thousand dollars (\$100,000) a year.
- 30 (4) To pay for postage or other delivery charges for correspondence
31 directly and primarily relating to collecting overdue tax debts.
- 32 (5) To pay for operating expenses for Project Collection Tax and the
33 Taxpayer Assistance Call Center.
- 34 (6) To pay for expenses of the Examination and Collection Division
35 directly and primarily relating to collecting overdue tax debts."

36 **SECTION 22.1.(b)** G.S. 105-243.1(f) reads as rewritten:

37 "(f) Reports. – The Department must report semiannually to the Joint Legislative
38 Commission on Governmental Operations and to the Revenue Laws Study Committee
39 on its efforts to collect tax debts. Each report must include a breakdown of the amount
40 and age of tax debts collected by collection agencies on contract, the amount and age of
41 tax debts collected by the Department through warning letters, and the amount and age
42 of tax debts otherwise collected by Department personnel. The report must itemize
43 collections by type of tax. Each report must also include a long-term collection plan, a
44 timeline for implementing each step of the plan, a summary of steps taken since the last
45 report and their results, and any other data requested by the Commission or the
46 Committee.

47 The Department must report by April 1, 2006, and annually thereafter, to the
48 Revenue Laws Study Committee and the Fiscal Research Division of the General
49 Assembly on the use of the fee proceeds for collecting overdue tax debts."

50
51 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

52 **CHANGE PROPERTY TAX COMMISSION COMPENSATION**

53 **SECTION 22.2.** G.S. 105-288(d) reads as rewritten:

54 "(d) Expenses. – The members of the Property Tax Commission shall receive
55 travel and subsistence expenses in accordance with G.S. ~~138-5~~ and 138-5. The members

1 of the Property Tax Commission shall receive a salary of two hundred dollars (\$200.00)
2 a day when hearing cases, meeting to decide cases, and attending training or continuing
3 education classes on property taxes or judicial procedure. The salary is four hundred
4 fifty dollars (\$450.00) a day for the Chair of the Property Tax Commission and four
5 hundred dollars (\$400.00) a day for other members of the Property Tax Commission.
6 The Secretary of Revenue shall supply all the clerical and other services required by the
7 Commission. All expenses of the Commission and the Department of Revenue in
8 performing the duties enumerated in this Article shall be paid as provided in
9 G.S. 105-501."

10
11 Requested by: Senators Dorsett, Garrou, Dalton, Hagan
12 **POSITIONS FOR REVENUE TAX EVASION PROJECT**

13 **SECTION 22.3.** The 10 time-limited positions established in the Fuel Tax
14 Compliance Division of the Department of Revenue for the Revenue Tax Evasion
15 Project in S.L. 2004-124 are converted to permanent positions.

16 17 **PART XXIII. SECRETARY OF STATE**

18
19 Requested by: Senators Dorsett, Garrou, Dalton, Hagan
20 **SECRETARY OF STATE TO REASSIGN VACANT POSITION**

21 **SECTION 23.1.** The Secretary of State shall reassign position
22 3222-0000-0000-361 from the Uniform Commercial Code Division to its General
23 Administration Division to assist with investigations of trademark violations and
24 training for other law enforcement personnel in the State and with investigations of
25 violations of the Charitable Solicitation Licensing Act. The Secretary shall report to the
26 Chairs of the Appropriations Subcommittees on General Government of the Senate and
27 House of Representatives by December 1, 2005.

28 29 **PART XXIV. OFFICE OF STATE BUDGET AND MANAGEMENT**

30
31 Requested by: Senators Dorsett, Garrou, Dalton, Hagan
32 **NC HUMANITIES COUNCIL**

33 **SECTION 24.1.** The North Carolina Humanities Council shall:

- 34 (1) By January 15, 2006, and more frequently as requested, report to the
35 Joint Legislative Commission on Governmental Operations and the
36 Fiscal Research Division the following information:
37 a. State fiscal year 2004-2005 program activities, objectives, and
38 accomplishments;
39 b. State fiscal year 2004-2005 itemized expenditures and fund
40 sources;
41 c. State fiscal year 2005-2006 planned activities, objectives, and
42 accomplishments, including actual results through December
43 31, 2005; and
44 d. State fiscal year 2005-2006 estimated itemized expenditures
45 and fund sources, including actual expenditures and fund
46 sources through December 31, 2005.
47 (2) By January 15, 2007, and more frequently as requested, report to the
48 Joint Legislative Commission on Governmental Operations and the
49 Fiscal Research Division the following information:
50 a. State fiscal year 2005-2006 program activities, objectives, and
51 accomplishments;
52 b. State fiscal year 2005-2006 itemized expenditures and fund
53 sources;

- 1 c. State fiscal year 2006-2007 planned activities, objectives, and
2 accomplishments, including actual results through December
3 31, 2006; and
4 d. State fiscal year 2006-2007 estimated itemized expenditures
5 and fund sources, including actual expenditures and fund
6 sources through December 31, 2006.
7 (3) Provide to the Fiscal Research Division a copy of the organization's
8 annual audited financial statement within 30 days of issuance of the
9 statement.

10 11 **PART XXV. OFFICE OF THE STATE CONTROLLER**

12
13 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

14 **OVERPAYMENTS AUDIT**

15 **SECTION 25.1.(a)** During the 2005-2007 biennium, receipts generated by
16 the collection of inadvertent overpayments by State agencies to vendors as a result of
17 pricing errors, neglected rebates and discounts, miscalculated freight charges, unclaimed
18 refunds, erroneously paid excise taxes, and related errors as required by
19 G.S. 147-86.22(c) are to be deposited in the Special Reserve Account 24172.

20 **SECTION 25.1.(b)** For each fiscal year of the 2005-2007 biennium, two
21 hundred thousand dollars (\$200,000) of the funds transferred from the Special Reserve
22 Account 24172 shall be used by the Office of the State Controller for data processing,
23 debt collection, or e-commerce costs.

24 **SECTION 25.1.(c)** All funds available in the Special Reserve Account
25 24172 on July 1 of each year of the 2005-2007 biennium are transferred to the General
26 Fund on that date.

27 **SECTION 25.1.(d)** Any unobligated funds in the Special Reserve Account
28 24172 that are realized above the allowance in subsection (b) of this section are subject
29 to appropriation by the General Assembly in the 2006 Regular Session of the 2005
30 General Assembly.

31 **SECTION 25.1.(e)** The State Controller shall report quarterly to the Joint
32 Legislative Commission on Governmental Operations and the Fiscal Research Division
33 on the revenue deposited into the Special Reserve Account 24172 and the disbursement
34 of that revenue.

35 36 **PART XXVI. OFFICE OF STATE PERSONNEL**

37
38 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

39 **STUDY CAREER-BANDING/FAIR PAY**

40 **SECTION 26.1.(a)** Of the funds appropriated to the Department of
41 Administration, the sum of one hundred thousand dollars (\$100,000) for the 2005-2006
42 fiscal year shall be allocated to the Office of State Personnel to conduct a study and to
43 determine whether to implement a career-banding personnel system for all State
44 employee job classifications.

45 **SECTION 26.1.(b)** In conducting the study, the Office of State Personnel
46 shall evaluate the following issues:

- 47 (1) Inequities and disparities in job classifications with respect to race and
48 gender.
49 (2) Whether the minimum annual salary for State employees is a livable
50 salary and the impact of inflationary forces on that salary.
51 (3) Whether there is fair pay for equivalent jobs in State government,
52 including the extent of wage disparities in State government
53 employment between men and women.
54 (4) Any other matters relating to pay disparities in State government
55 employment.

1 **SECTION 26.1.(c)** The Office of State Personnel shall report the findings
2 and recommendations of the study as well as the findings and recommendations on
3 inequities and disparities to the Chairs of the Appropriations Committees of the Senate
4 and the House of Representatives and the Chairs of the Joint Appropriations
5 Subcommittees on General Government by April 1, 2006.

6
7 **PART XXVII. DEPARTMENT OF THE STATE TREASURER**

8
9 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

10 **REPORT OF THE STATUS OF THE TECHNOLOGY INFRASTRUCTURE**
11 **ENHANCEMENTS**

12 **SECTION 27.1.** The Department of State Treasurer shall report to the Joint
13 Legislative Commission on Governmental Operations and to the Chairs of the
14 Appropriations Committees for the Senate and the House of Representatives on the
15 status of the replacement of the multitude of information technology systems with an
16 integrated system for all the retirement plans and other programs administered by the
17 Retirement Systems Division. The Department shall report semiannually by October 1
18 and April 1 until the enhancements are fully implemented.

19
20 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

21 **STAFFING ANALYSIS FOLLOW-UP**

22 **SECTION 27.2.(a)** The Office of State Budget and Management shall
23 conduct semiannual follow-up analyses to the Staffing Analysis that was completed in
24 April 2003 on the Retirement Systems Division within the Department of State
25 Treasurer by October 1 and April 1 of each year to assure that the staffing levels remain
26 appropriate. The semiannual analyses shall be conducted throughout the implementation
27 of the enhancements to the information technology infrastructure within the Retirement
28 Systems Division that were authorized by this act. The follow-up analyses shall also
29 continue for a reasonable time after the completion of the enhancements to ensure that
30 the staffing levels are adjusted based on the increased efficiency provided by the
31 enhancements.

32 **SECTION 27.2.(b)** The Retirement Systems Division shall maintain
33 monthly workload statistics and productivity data for the various functions within the
34 Division. The Department of State Treasurer shall report the workload statistics and
35 productivity data to the Fiscal Research Division and to the Office of State Budget and
36 Management on a quarterly basis.

37
38 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

39 **TREASURER REPORT ON STATE INVESTMENT OFFICER POSITION**
40 **INCENTIVE BONUS**

41 **SECTION 27.3.** G.S. 147-69.3 is amended by adding a new subsection to
42 read:

43 "(i1) The State Treasurer shall report the incentive bonus paid to the Chief
44 Investment Officer to the Joint Legislative Commission on Governmental Operations by
45 October 1 of each year."

46
47 **PART XXVIII. DEPARTMENT OF TRANSPORTATION**

48
49 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

50 **REMOVE GOV OPS CONSULTATION ON FEDERAL-AID ACTS**

51 **SECTION 28.1.** G.S. 136-44.2 reads as rewritten:

52 **"§ 136-44.2. Budget and appropriations.**

53 The Director of the Budget shall include in the "Current Operations Appropriations
54 Bill" an enumeration of the purposes or objects of the proposed expenditures for each of
55 the construction and maintenance programs for that budget period for the State primary,

1 secondary, urban, and State parks road systems. The State primary system shall include
2 all portions of the State highway system located outside municipal corporate limits
3 which are designated by N.C., U.S. or Interstate numbers. The State secondary system
4 shall include all of the State highway system located outside municipal corporate limits
5 that is not a part of the State primary system. The State urban system shall include all
6 portions of the State highway system located within municipal corporate limits. The
7 State parks system shall include all State parks roads and parking lots which are not also
8 part of the State highway system.

9 All construction and maintenance programs for which appropriations are requested
10 shall be enumerated separately in the budget. Programs that are entirely State funded
11 shall be listed separately from those programs involving the use of federal-aid funds.
12 Proposed appropriations of State matching funds for each of the federal-aid construction
13 programs shall be enumerated separately as well as the federal-aid funds anticipated for
14 each program in order that the total construction requirements for each program may be
15 provided for in the budget. Also, proposed State matching funds for the highway
16 planning and research program shall be included separately along with the anticipated
17 federal-aid funds for that purpose.

18 Other program categories for which appropriations are requested, such as, but not
19 limited to, maintenance, channelization and traffic control, bridge maintenance, public
20 service and access road construction, and ferry operations shall be enumerated in the
21 budget.

22 The Department of Transportation shall have all powers necessary to comply fully
23 with provisions of present and future federal-aid acts. ~~No federally eligible construction
24 project may be funded entirely with State funds unless the Department of Transportation
25 has first consulted with the Joint Legislative Commission on Governmental Operations.~~
26 For purposes of this section, "federally eligible construction project" means any
27 construction project except secondary road projects developed pursuant to
28 G.S. 136-44.7 and 136-44.8 eligible for federal funds under any federal-aid act, whether
29 or not federal funds are actually available.

30 The "Current Operations Appropriations Bill" shall also contain the proposed
31 appropriations of State funds for use in each county for maintenance and construction of
32 secondary roads, to be allocated in accordance with G.S. 136-44.5 and 136-44.6. State
33 funds appropriated for secondary roads shall not be transferred nor used except for the
34 construction and maintenance of secondary roads in the county for which they are
35 allocated pursuant to G.S. 136-44.5 and 136-44.6.

36 If the unreserved credit balance in the Highway Fund on the last day of a fiscal year
37 is greater than the amount estimated for that date in the Current Operations
38 Appropriations Act for the following fiscal year, the excess shall be used in accordance
39 with this paragraph. The Director of the Budget may allocate part or all of the excess
40 among reserves for access and public roads, for unforeseen events requiring prompt
41 action, or for other urgent needs. The amount not allocated to any of these reserves by
42 the Director of the Budget shall be credited to a reserve for maintenance. The Board of
43 Transportation shall report monthly to the Joint Legislative Transportation Oversight
44 Committee and the Fiscal Research Division on the use of funds in the maintenance
45 reserve.

46 The Department of Transportation may provide for costs incurred or accrued for
47 traffic control measures to be taken by the Department at major events which involve a
48 high degree of traffic concentration on State highways, and which cannot be funded
49 from regular budgeted items. This authorization applies only to events which are
50 expected to generate 30,000 vehicles or more per day. The Department of
51 Transportation shall provide for this funding by allocating and reserving up to one
52 hundred thousand dollars (\$100,000) before any other allocations from the
53 appropriations for State maintenance for primary, secondary, and urban road systems
54 are made, based upon the same proportion as is appropriated to each system."
55

1 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

2 **TRANSPORTATION SERVICES FOR TRADE SHOWS**

3 **SECTION 28.2.** The Department of Transportation, from funds available for
4 public transportation in this act, may use up to one million two hundred thousand
5 dollars (\$1,200,000) in each year of the biennium for transportation services for annual
6 or semiannual trade shows of international significance. The Department of
7 Transportation shall report to the Joint Legislative Transportation Oversight Committee,
8 annually on or before March 1, on the use of these funds.

9
10 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

11 **CASH-FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND**
12 **APPROPRIATIONS.**

13 **SECTION 28.3.(a)** The General Assembly authorizes and certifies
14 anticipated revenues of the Highway Fund as follows:

15	For Fiscal Year 2007-2008	\$1,551.1 million
16	For Fiscal Year 2008-2009	\$1,593.0 million
17	For Fiscal Year 2009-2010	\$1,647.9 million
18	For Fiscal Year 2010-2011	\$1,716.1 million

19 **SECTION 28.3.(b)** The General Assembly authorizes and certifies
20 anticipated revenues of the Highway Trust Fund as follows:

21	For Fiscal Year 2007-2008	\$1,136.9 million
22	For Fiscal Year 2008-2009	\$1,186.4 million
23	For Fiscal Year 2009-2010	\$1,229.6 million
24	For Fiscal Year 2010-2011	\$1,283.2 million

25
26 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

27 **SMALL CONSTRUCTION AND CONTINGENCY FUNDS**

28 **SECTION 28.4.** Of the funds appropriated in this act to the Department of
29 Transportation:

- 30 (1) Twenty-one million dollars (\$21,000,000) shall be allocated in each
31 fiscal year for small construction projects reviewed and approved by
32 the Division Engineer and the member of the Board of Transportation
33 representing the district in which the project is to be constructed.
34 These funds shall be allocated equally in each fiscal year of the
35 biennium among the 14 Highway Divisions for small construction
36 projects.
- 37 (2) Fifteen million dollars (\$15,000,000) in fiscal year 2005-2006 and
38 fifteen million dollars (\$15,000,000) in fiscal year 2006-2007 shall be
39 used statewide for rural or small urban highway improvements and
40 related transportation enhancements to public roads and public
41 facilities, industrial access roads, and spot safety projects, including
42 pedestrian walkways that enhance highway safety. Projects funded
43 pursuant to this subdivision shall be reviewed and approved by the
44 member of the Board of Transportation representing the district in
45 which the project is to be constructed.

46 None of these funds used for rural secondary road construction are subject to
47 the county allocation formulas in G.S. 136-44.5(b) and (c).

48 These funds are not subject to G.S. 136-44.7.

49 The Department of Transportation shall report to the members of the General
50 Assembly on projects funded pursuant to this section in each member's district prior to
51 the Board of Transportation's action. The Department shall make a quarterly
52 comprehensive report on the use of these funds to the Joint Legislative Transportation
53 Oversight Committee and the Fiscal Research Division.

54
55 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

USE OF EXCESS OVERWEIGHT/OVERSIZE FEES

SECTION 28.5. Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-119.1. Use of excess overweight and oversize fees.

Funds generated by overweight and oversize permit fees in excess of the cost of administering the program, as determined pursuant to G.S. 20-119(e), shall be used for highway and bridge maintenance required as a result of damages caused from overweight/oversize loads."

Requested by: Senators Jenkins, Garrou, Dalton, Hagan

FUNDS FOR UNSAFE OR OBSOLETE FIELD FACILITIES

SECTION 28.6. Of the funds appropriated in this act to the Department of Transportation, the Department may use funds not to exceed seventy-five hundredths of one percent (.75%) for maintenance and construction programs for major repair, renovation, or replacement of its field facilities that fail to meet safety standards or that are obsolete for current or future use. Prior to expending these funds, the Department shall submit its proposed budget for these expenditures to the Senate Appropriations Subcommittee on Transportation, the House of Representatives Appropriations Subcommittee on Transportation, and the Joint Legislative Transportation Oversight Committee each year.

Requested by: Senators Jenkins, Garrou, Dalton, Hagan

STATE USE OF NORTH CAROLINA RAILROAD DIVIDENDS

SECTION 28.7.(a) G.S. 124-5.1 is repealed.

SECTION 28.7.(b) The Department of Transportation shall use the annual dividends received by the State from its ownership of the stock of the North Carolina Railroad Company in each year of the biennium for track and signal improvements for passenger service, in accordance with G.S. 136-16.6(b)(1).

Requested by: Senators Jenkins, Garrou, Dalton, Hagan

ANALYSIS AND APPROVAL OF RULES, POLICIES, OR GUIDELINES AFFECTING DEPARTMENT OF TRANSPORTATION PROJECTS

SECTION 28.8.(a) G.S. 150B-21.4 is amended by adding a new subsection to read:

"(a1) DOT Analyses. – In addition to the requirements of subsection (a) of this section, any agency that adopts a rule affecting environmental permitting of Department of Transportation projects shall conduct an analysis to determine if the rule will result in an increased cost to the Department of Transportation. The analysis shall be conducted and submitted to the Board of Transportation before the agency publishes the proposed text of the rule change in the North Carolina Register. The agency shall consider any recommendations offered by the Board of Transportation prior to adopting the rule. Once a rule subject to this subsection is adopted, the Board of Transportation may submit any objection to the rule it may have to the Rules Review Commission. If the Rules Review Commission receives an objection to a rule from the Board of Transportation no later than 5:00 P.M. of the day following the day the Commission approves the rule, then the rule shall only become effective as provided in G.S. 150B-21.3(b1)."

SECTION 28.8.(b) Chapter 136 of the General Statutes is amended by adding a new section to read:

"§ 136-44.7C. Analysis and approval of Department of Transportation environmental policies or guidelines affecting transportation projects.

(a) Analysis Required. – The Department of Transportation shall conduct an analysis of any proposed environmental policy or guideline adopted by the Department that affects Department of Transportation projects to determine if the policy or guideline will result in an increased cost to Department of Transportation projects.

1 (b) Report of Analysis; Approval of Policy or Guideline Required. – The analysis
2 of a proposed policy or guideline required by subsection (a) of this section shall be
3 reported to the Board of Transportation at least 30 days prior to the proposed effective
4 date of the policy or guideline, and shall not go into effect until approved by the Board
5 of Transportation."
6

7 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

8 **DEPARTMENT OF TRANSPORTATION PRODUCTIVITY PILOT**
9 **PROGRAMS**

10 **SECTION 28.9.(a)** The Department of Transportation may continue the
11 productivity pilot programs in the road oil and bridge inspection units implemented
12 under Section 29.3 of S.L. 2003-284.

13 **SECTION 28.9.(b)** The Department of Transportation may establish two
14 additional pilot programs to test incentive pay for employees as a means of increasing
15 efficiency and productivity.

16 One of the new pilot programs shall involve the Pavement Markings Unit.
17 The other pilot program may be selected by the Department of Transportation. Up to
18 one-quarter of one percent (.25%) of the budget allocation for these programs may be
19 used to provide employee incentive payments.

20 Incentive payments shall be based on quantifiable measures and production
21 schedules determined prior to the implementation of the pilot programs. Pilot programs
22 implemented under this subsection shall last no more than two years.

23 The Department of Transportation shall report to the Joint Legislative
24 Transportation Oversight Committee on the pilot programs developed under this
25 subsection at least 30 days prior to their implementation.
26

27 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

28 **DEPARTMENT OF TRANSPORTATION PERFORMANCE-BASED**
29 **CONTRACTS**

30 **SECTION 28.10.** The Department of Transportation may implement up to
31 two performance-based contracts for routine maintenance and operations, exclusive of
32 resurfacing. Selection of firms to perform this work shall be made using a best-value
33 procurement process.

34 Prior to any advertisement for a proposed project the Department shall report
35 to the Joint Legislative Transportation Oversight Committee on the contractor selection
36 criteria to be used.
37

38 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

39 **DEPARTMENT OF TRANSPORTATION REORGANIZATION**

40 **SECTION 28.11.(a)** The Secretary of Transportation shall transfer the
41 Program Development branch from the Deputy Secretary for Environmental, Planning
42 and Local Government Affairs to the Chief Financial Officer of the Department of
43 Transportation.

44 **SECTION 28.11.(b)** The Secretary of Transportation shall transfer the
45 Transportation Planning branch from the Deputy Secretary for Environmental, Planning
46 and Local Government Affairs to the State Highway Administrator.

47 **SECTION 28.11.(c)** The Secretary of Transportation shall transfer the
48 Project Development and Environmental Analysis branch from the Deputy Secretary for
49 Environmental, Planning and Local Government Affairs to the State Highway
50 Administrator.

51 **SECTION 28.11.(d)** The position of Deputy Secretary for Environmental,
52 Planning and Local Government Affairs shall be eliminated.

53 **SECTION 28.11.(e)** The position of Special Assistant for Environmental,
54 Planning and Local Government Affairs shall be eliminated.

1 **SECTION 28.11.(f)** All vacant positions in the Project Development and
2 Environmental Analysis Branch as of April 15, 2005, shall be eliminated except for any
3 vacant position associated with an employee on an approved leave without pay status.
4 Once these positions are eliminated, the Department of Transportation shall not reinstate
5 these positions without the authorization of the General Assembly.
6

7 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

8 **CONTINUING AVIATION APPROPRIATIONS**

9 **SECTION 28.12.** G.S. 136-16.4 reads as rewritten:

10 **"§ 136-16.4. Continuing aviation appropriations.**

11 ~~There is appropriated from the General Fund to the Department of Transportation~~
12 ~~the sum of eight million four hundred thousand dollars (\$8,400,000) for fiscal year~~
13 ~~1993-94 and the sum of eight million nine hundred thousand dollars (\$8,900,000) for~~
14 ~~fiscal year 1994-95. There is appropriated from the Highway Fund to the Department of~~
15 Transportation the sum of eleven million two hundred eighty-four thousand one
16 hundred ninety-eight dollars (\$11,284,198) for fiscal year 2005-2006 and the sum of
17 twelve million nine hundred forty-five thousand sixty-six dollars (\$12,945,066) for
18 fiscal year 2006-2007. Each subsequent fiscal year, there is appropriated from the
19 General Fund Highway Fund to the Department of Transportation the amount
20 appropriated by this section to the Department of Transportation for the preceding fiscal
21 year, plus or minus the percentage of the amount by which the collection of State sales
22 and use taxes increased or decreased during the preceding fiscal year. The Department
23 of Transportation may use funds appropriated under this section only for aviation
24 purposes."
25

26 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

27 **TRANSITIONAL TRAINING FOR MOTOR CARRIER ENFORCEMENT**
28 **OFFICERS**

29 **SECTION 28.13.(a)** The North Carolina State Highway Patrol is authorized
30 to complete transitional training for 149 Motor Carrier Enforcement Officers to become
31 State Troopers. This transition from Motor Carrier Enforcement Officer to State
32 Trooper shall not relieve the State Highway Patrol of the responsibility of ensuring that
33 all Motor Carrier Enforcement Officer positions and any positions that are transitioned
34 to State Trooper are dedicated to motor carrier enforcement duties including, but not
35 limited to, permanent weigh station operations, motor carrier inspections, and secondary
36 road checking stations and enforcement.

37 **SECTION 28.13.(b)** Any Motor Carrier Enforcement Officer position that is
38 not transitioned or approved for transition by section (a) of this Special Provision shall
39 not be transitioned to the status of a State Trooper.

40 **SECTION 28.13.(c)** Of the 59 vacant sworn Motor Carrier Enforcement
41 Officer positions as of April 28, 2005, all lapsed salary and benefits in the amount of
42 two million five hundred forty-eight thousand nine hundred eighty-three dollars
43 (\$2,548,983) shall not be spent nor shall any position currently vacant be reclassified by
44 any agency of the State.
45

46 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

47 **DEPARTMENT OF TRANSPORTATION AUTHORITY TO PROVIDE**
48 **WAY-FINDING SIGNS FOR THE ROANOKE VOYAGES CORRIDOR**
49 **COMMISSION**

50 **SECTION 28.14.** Chapter 1194 of the 1981 Session Laws is amended by
51 adding a new section that reads:

52 "Sec. 7.2. At the request of the Roanoke Voyages Corridor Commission, the
53 Department of Transportation is authorized to manufacture and install, on Roanoke
54 Island and up to 30 miles off the island, way-finding signs that, by color, design, and
55 lettering, do not comply with normal transportation signage standards. These signs shall

1 be used to identify and give directions to historic, educational, and cultural attractions
 2 on the island. The Department of Transportation shall not erect any signage that would
 3 be impracticable, unfeasible, or that would result in an unsafe or hazardous condition."
 4

5 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

6 **REVENUE TAX EVASION PROJECT**

7 **SECTION 28.15.** Of funds appropriated to Highway Trust Fund
 8 Administration, the sum of five hundred forty-eight thousand six hundred thirty-three
 9 dollars (\$548,633) for the 2005-2006 fiscal year and the sum of four hundred seventy
 10 thousand seven hundred one dollars (\$470,701) for the 2006-2007 fiscal year shall be
 11 used to establish and support nine positions in the Department of Revenue, Motor Fuels
 12 Tax Division, to fully implement the Revenue Tax Evasion Project.
 13

14 Requested by: Senators Jenkins, Snow, Garrou, Dalton, Hagan

15 **VISITOR CENTER FUNDS**

16 **SECTION 28.16.** G.S. 20-79.7(c)(2) reads as rewritten:

17 "(c) Use of Funds in Special Registration Plate Account. –

18
 19 (2) From the funds remaining in the Special Registration Plate Account
 20 after the deductions in accordance with subdivision (1) of this
 21 subsection, there is annually appropriated from the Special
 22 Registration Plate Account the sum of ~~nine hundred thousand dollars~~
 23 ~~(\$900,000)~~ one million dollars (\$1,000,000) to provide operating
 24 assistance for the Visitor Centers:

- 25 a. on U.S. Highway 17 in Camden County, (\$100,000);
 26 b. on U.S. Highway 17 in Brunswick County, (\$100,000);
 27 c. on U.S. Highway 441 in Macon County, (\$100,000);
 28 d. in the Town of Boone, Watauga County, (\$100,000);
 29 e. on U.S. Highway 29 in Caswell County, (\$100,000);
 30 f. on U.S. Highway 70 in Carteret County, (\$100,000);
 31 g. on U.S. Highway 64 in Tyrrell County, (\$100,000);
 32 h. at the intersection of U.S. Highway 701 and N.C. 904 in
 33 Columbus County, (\$100,000); ~~and~~
 34 i. on U.S. Highway 221 in McDowell County,
 35 ~~(\$100,000).~~ (\$100,000); and
 36 j. on Staton Road in Transylvania County, (\$100,000)."
 37

38 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

39 **MODIFY GLOBAL TRANSPARK DEBT**

40 **SECTION 28.17.** G.S. 147-69.2(b)(11) reads as rewritten:

41 "(b) It shall be the duty of the State Treasurer to invest the cash of the funds
 42 enumerated in subsection (a) of this section in excess of the amount required to meet the
 43 current needs and demands on such funds, selecting from among the following:
 44

45 (11) With respect to assets of the Escheat Fund, obligations of the North
 46 Carolina Global TransPark Authority authorized by G.S. 63A-4(a)(22),
 47 not to exceed twenty-five million dollars (\$25,000,000), that have a
 48 final maturity not later than ~~July 1, 2005.~~ October 1, 2007. The
 49 obligations shall bear interest at the rate set by the State Treasurer. No
 50 commitment to purchase obligations may be made pursuant to this
 51 subdivision after September 1, 1993, and no obligations may be
 52 purchased after September 1, 1994. In the event of a loss to the
 53 Escheat Fund by reason of an investment made pursuant to this
 54 subdivision, it is the intention of the General Assembly to hold the

Escheat Fund harmless from the loss by appropriating to the Escheat Fund funds equivalent to the loss.

If any part of the property owned by the North Carolina Global TransPark Authority now or in the future is divested, proceeds of the divestment shall be used to fulfill any unmet obligations on an investment made pursuant to this subdivision."

Requested by: Senator Jenkins

BEAVER DAMAGE CONTROL PROGRAM FUNDS

SECTION 28.18. Of funds available to the Department of Transportation for maintenance, the sum of nine hundred thousand dollars (\$900,000) for the 2005-2006 fiscal year and the sum of nine hundred thousand dollars (\$900,000) for the 2006-2007 fiscal year shall be used to provide the State share necessary to support the beaver damage control program established in G.S. 113-291.10, provided the sum of at least twenty-five thousand dollars (\$25,000) in federal funds is available each fiscal year of the biennium to provide the federal share.

PART XXIX. SALARIES AND EMPLOYEE BENEFITS

Requested by: Senators Garrou, Dalton, Hagan

GOVERNOR AND COUNCIL OF STATE/SALARY INCREASES

SECTION 29.1.(a) Effective July 1, 2005, G.S. 147-11(a) reads as rewritten:

"(a) The salary of the Governor shall be ~~one hundred twenty one thousand three hundred ninety one dollars (\$121,391)~~ one hundred twenty-three thousand eight hundred nineteen dollars (\$123,819) annually, payable monthly."

SECTION 29.1.(a1) Effective July 1, 2006, G.S. 147-11(a), as amended by subsection (a) of this section, reads as rewritten:

"(a) The salary of the Governor shall be ~~one hundred twenty three thousand eight hundred nineteen dollars (\$123,819)~~ one hundred twenty-seven thousand five hundred thirty-three dollars (\$127,533) annually, payable monthly."

SECTION 29.1.(b) Effective July 1, 2005, the annual salaries for the members of the Council of State, payable monthly, for the 2005-2006 and 2006-2007 fiscal years are:

<u>Council of State</u>	<u>Annual Salary</u>	
	<u>2005-2006</u>	<u>2006-2007</u>
Lieutenant Governor	\$109,279	\$112,557
Attorney General	109,279	112,557
Secretary of State	109,279	112,557
State Treasurer	109,279	112,557
State Auditor	109,279	112,557
Superintendent of Public Instruction	109,279	112,557
Agriculture Commissioner	109,279	112,557
Insurance Commissioner	109,279	112,557
Labor Commissioner	109,279	112,557

Requested by: Senators Garrou, Dalton, Hagan

NONELECTED DEPARTMENT HEADS/SALARY INCREASES

SECTION 29.2. In accordance with G.S. 143B-9, the maximum annual salaries, payable monthly, for the nonelected heads of the principal State departments for the 2005-2006 and 2006-2007 fiscal years are:

<u>Council of State</u>	<u>Annual Salary</u>	
	<u>2005-2006</u>	<u>2006-2007</u>

1	Secretary of Administration	\$106,765	\$109,968
2	Secretary of Correction	106,765	109,968
3	Secretary of Crime Control and Public Safety	106,765	109,968
4	Secretary of Cultural Resources	106,765	109,968
5	Secretary of Commerce	106,765	109,968
6	Secretary of Environment and Natural Resources	106,765	109,968
7	Secretary of Health and Human Services	106,765	109,968
8	Secretary of Juvenile Justice and Delinquency	106,765	109,968
9	Prevention		
10	Secretary of Revenue	106,765	109,968
11	Secretary of Transportation	106,765	109,968

Requested by: Senators Garrou, Dalton, Hagan

CERTAIN EXECUTIVE BRANCH OFFICIALS/SALARY INCREASES

SECTION 29.3. The annual salaries, payable monthly, for the 2005-2006 and 2006-2007 fiscal years for the following Executive Branch officials are:

	<u>Executive Branch Officials</u>	<u>Annual Salary</u>	
		<u>2005-2006</u>	<u>2006-2007</u>
18	Chairman, Alcoholic Beverage		
19	Control Commission	\$97,175	\$100,091
20	State Controller	135,997	140,076
21	Commissioner of Motor Vehicles	97,175	100,091
22	Commissioner of Banks	109,279	112,557
23	Chairman, Employment Security Commission	135,824	139,899
24	State Personnel Director	106,765	109,968
25	Chairman, Parole Commission	88,733	91,395
26	Members of the Parole Commission	40,960	42,189
27	Chairman, Utilities Commission	121,701	125,352
28	Members of the Utilities Commission	109,279	112,557
29	Executive Director, Agency for		
30	Public Telecommunications	81,921	84,379
31	Director, Museum of Art	99,573	102,561
32	Executive Director, North Carolina		
33	Agricultural Finance Authority	94,587	97,424
34	State Chief Information Officer	135,915	139,992

Requested by: Senators Garrou, Dalton, Hagan

JUDICIAL BRANCH OFFICIALS/SALARY INCREASES

SECTION 29.4.(a) The annual salaries, payable monthly, for specified Judicial Branch officials for the 2005-2006 and 2006-2007 fiscal years are:

	<u>Judicial Branch Officials</u>	<u>Annual Salary</u>	
		<u>2005-2006</u>	<u>2006-2007</u>
37	Chief Justice, Supreme Court	\$123,819	\$127,533
38	Associate Justice, Supreme Court	120,583	124,201
39	Chief Judge, Court of Appeals	117,568	121,095
40	Judge, Court of Appeals	115,559	119,026
41	Judge, Senior Regular Resident Superior Court	112,419	115,792
42	Judge, Superior Court	109,279	112,557
43	Chief Judge, District Court	99,231	102,208
44	Judge, District Court	96,091	98,974
45	Administrative Officer of the Courts	112,419	115,792
46	Assistant Administrative Officer of the Courts	102,684	105,765

1 **SECTION 29.4.(b)** The district attorney or public defender of a judicial
 2 district, with the approval of the Administrative Officer of the Courts or the
 3 Commission on Indigent Defense Services, respectively, shall set the salaries of
 4 assistant district attorneys or assistant public defenders, respectively, in that district such
 5 that the average salaries of assistant district attorneys or assistant public defenders in
 6 that district do not exceed sixty-two thousand nine hundred thirty dollars (\$62,930), and
 7 the minimum salary of any assistant district attorney or assistant public defender is at
 8 least thirty-two thousand six hundred seventy-six dollars (\$32,676), effective July 1,
 9 2005.

10 **SECTION 29.4.(b1)** The district attorney or public defender of a judicial
 11 district, with the approval of the Administrative Officer of the Courts or the
 12 Commission on Indigent Defense Services, respectively, shall set the salaries of
 13 assistant district attorneys or assistant public defenders, respectively, in that district such
 14 that the average salaries of assistant district attorneys or assistant public defenders in
 15 that district do not exceed sixty-four thousand eight hundred eighteen dollars (\$64,818),
 16 and the minimum salary of any assistant district attorney or assistant public defender is
 17 at least thirty-three thousand six hundred fifty-six dollars (\$33,656), effective July 1,
 18 2006.

19 **SECTION 29.4.(c)** Effective July 1, 2005, the annual salaries of permanent,
 20 full-time employees of the Judicial Department whose salaries are not itemized in this
 21 act shall be increased by the greater of five hundred dollars (\$500.00) or two percent
 22 (2%).

23 **SECTION 29.4.(c1)** Effective July 1, 2006, the annual salaries of
 24 permanent, full-time employees of the Judicial Department whose salaries are not
 25 itemized in this act shall be increased three percent (3%).

26 **SECTION 29.4.(d)** Effective July 1, 2005, the annual salaries of permanent,
 27 part-time employees of the Judicial Department whose salaries are not itemized in this
 28 act shall be increased by pro rata amounts of five hundred dollars (\$500.00) or two
 29 percent (2%), whichever is greater.

30 **SECTION 29.4.(d1)** Effective July 1, 2006, the annual salaries of
 31 permanent, part-time employees of the Judicial Department whose salaries are not
 32 itemized in this act shall be increased by three percent (3%).

33
 34 Requested by: Senators Garrou, Dalton, Hagan
 35 **CLERK OF SUPERIOR COURT/SALARY INCREASES**

36 **SECTION 29.5.(a)** Effective July 1, 2005, G.S. 7A-101(a) reads as
 37 rewritten:

38 "(a) The clerk of superior court is a full-time employee of the State and shall
 39 receive an annual salary, payable in equal monthly installments, based on the population
 40 of the county as determined in subsection (a1) of this section, according to the following
 41 schedule:

Population	Annual Salary
Less than 100,000	\$71,659 <u>\$73,092</u>
100,000 to 149,999	80,413 <u>82,021</u>
150,000 to 249,999	89,169 <u>90,952</u>
250,000 and above	97,925 <u>99,884</u>

47 The salary schedule in this subsection is intended to represent the following
 48 approximate percentage of the salary of a chief district court judge:

Population	Annual Salary
Less than 100,000	73%
100,000 to 149,999	82%
150,000 to 249,999	91%
250,000 and above	100%.

54 When a county changes from one population group to another, the salary of the clerk
 55 shall be changed, on July 1 of the fiscal year for which the change is reported, to the

1 salary appropriate for the new population group, except that the salary of an incumbent
 2 clerk shall not be decreased by any change in population group during his continuance
 3 in office."

4 **SECTION 29.5.(b)** Effective July 1, 2006, G.S. 7A-101(a), as amended by
 5 subsection (a) of this section, reads as rewritten:

6 "(a) The clerk of superior court is a full-time employee of the State and shall
 7 receive an annual salary, payable in equal monthly installments, based on the population
 8 of the county as determined in subsection (a1) of this section, according to the following
 9 schedule:

Population	Annual Salary	
Less than 100,000	\$73,092	<u>\$75,285</u>
100,000 to 149,999	82,021	<u>84,482</u>
150,000 to 249,999	90,952	<u>93,681</u>
250,000 and above	99,884	<u>102,880</u>

15 The salary schedule in this subsection is intended to represent the following
 16 approximate percentage of the salary of a chief district court judge:

Population	Annual Salary
Less than 100,000	73%
100,000 to 149,999	82%
150,000 to 249,999	91%
250,000 and above	100%.

22 When a county changes from one population group to another, the salary of the clerk
 23 shall be changed, on July 1 of the fiscal year for which the change is reported, to the
 24 salary appropriate for the new population group, except that the salary of an incumbent
 25 clerk shall not be decreased by any change in population group during his continuance
 26 in office."

27
 28 Requested by: Senators Garrou, Dalton, Hagan

29 **ASSISTANT AND DEPUTY CLERKS OF COURT/SALARY INCREASES**

30 **SECTION 29.6.(a)** Effective July 1, 2005, G.S. 7A-102(c1) reads as
 31 rewritten:

32 "(c1) A full-time assistant clerk or a full-time deputy clerk, and up to one full-time
 33 deputy clerk serving as head bookkeeper per county, shall be paid an annual salary
 34 subject to the following minimum and maximum rates:

Assistant Clerks and Head Bookkeeper	Annual Salary	
Minimum	\$27,515	<u>\$28,065</u>
Maximum	47,626	<u>48,579</u>

Deputy Clerks	Annual Salary	
Minimum	\$23,565	<u>\$24,065</u>
Maximum	36,934	<u>37,673</u> ."

42 **SECTION 29.6.(b)** Effective July 1, 2006, G.S. 7A-102(c1), as amended by
 43 subsection (a) of this section, reads as rewritten:

44 "(c1) A full-time assistant clerk or a full-time deputy clerk, and up to one full-time
 45 deputy clerk serving as head bookkeeper per county, shall be paid an annual salary
 46 subject to the following minimum and maximum rates:

Assistant Clerks and Head Bookkeeper	Annual Salary	
Minimum	\$28,065	<u>\$28,907</u>
Maximum	48,579	<u>50,036</u>

Deputy Clerks	Annual Salary	
Minimum	\$24,065	<u>\$24,787</u>
Maximum	37,673	<u>38,803</u> ."

55 Requested by: Senators Garrou, Dalton, Hagan

MAGISTRATES' SALARY INCREASES

SECTION 29.7.(a) Effective July 1, 2005, G.S. 7A-171.1(a)(1) reads as rewritten:

"(1) A full-time magistrate shall be paid the annual salary indicated in the table set out in this subdivision. A full-time magistrate is a magistrate who is assigned to work an average of not less than 40 hours a week during the term of office. The Administrative Officer of the Courts shall designate whether a magistrate is full-time. Initial appointment shall be at the entry rate. A magistrate's salary shall increase to the next step every two years on the anniversary of the date the magistrate was originally appointed for increases to Steps 1 through 3, and every four years on the anniversary of the date the magistrate was originally appointed for increases to Steps 4 through 6.

Table of Salaries of Full-Time Magistrates

Step Level	Annual Salary	
Entry Rate	\$27,889	<u>\$28,477</u>
Step 1	30,525	<u>31,136</u>
Step 2	33,393	<u>34,061</u>
Step 3	36,523	<u>37,253</u>
Step 4	39,952	<u>40,751</u>
Step 5	43,789	<u>44,665</u>
Step 6	48,036.	<u>48,997."</u>

SECTION 29.7.(a1) Effective July 1, 2006, G.S. 7A-171.1(a)(1), as amended by subsection (a) of this section, reads as rewritten:

"(1) A full-time magistrate shall be paid the annual salary indicated in the table set out in this subdivision. A full-time magistrate is a magistrate who is assigned to work an average of not less than 40 hours a week during the term of office. The Administrative Officer of the Courts shall designate whether a magistrate is full-time. Initial appointment shall be at the entry rate. A magistrate's salary shall increase to the next step every two years on the anniversary of the date the magistrate was originally appointed for increases to Steps 1 through 3, and every four years on the anniversary of the date the magistrate was originally appointed for increases to Steps 4 through 6.

Table of Salaries of Full-Time Magistrates

Step Level	Annual Salary	
Entry Rate	\$28,477	<u>\$29,300</u>
Step 1	31,136	<u>32,070</u>
Step 2	34,061	<u>35,083</u>
Step 3	37,253	<u>38,371</u>
Step 4	40,751	<u>41,974</u>
Step 5	44,665	<u>46,005</u>
Step 6	48,997.	<u>50,467."</u>

SECTION 29.7.(b) Effective July 1, 2005, G.S. 7A-171.1(a1)(1) reads as rewritten:

"(1) The salaries of magistrates who on June 30, 1994, were paid at a salary level of less than five years of service under the table in effect that date shall be as follows:

Less than 1 year of service	\$22,325	<u>\$22,825</u>
1 or more but less than 3 years of service	23,389	<u>23,889</u>
3 or more but less than 5 years of service	25,530.	<u>26,041.</u>

1 Upon completion of five years of service, those magistrates shall
 2 receive the salary set as the Entry Rate in the table in subsection (a)."

3 **SECTION 29.7.(b1)** Effective July 1, 2006, G.S. 7A-171.1(a1)(1), as
 4 amended by subsection (b) of this section, reads as rewritten:

5 "(1) The salaries of magistrates who on June 30, 1994, were paid at a salary
 6 level of less than five years of service under the table in effect that date
 7 shall be as follows:

8 Less than 1 year of service	\$22,825	\$23,510
9 1 or more but less than 3 years of service	23,889	24,606
10 3 or more but less than 5 years of service	26,041	26,822

11 Upon completion of five years of service, those magistrates shall
 12 receive the salary set as the Entry Rate in the table in subsection (a)."
 13

14 Requested by: Senators Garrou, Dalton, Hagan

15 **GENERAL ASSEMBLY PRINCIPAL CLERKS/SALARY INCREASES**

16 **SECTION 29.8.(a)** Effective July 1, 2005, G.S. 120-37(c), reads as
 17 rewritten:

18 "(c) The principal clerks shall be full-time officers. Each principal clerk shall be
 19 entitled to other benefits available to permanent legislative employees and shall be paid
 20 an annual salary of ~~ninety thousand five hundred fourteen dollars (\$90,514)~~ninety-two
 21 thousand three hundred twenty-four dollars (\$92,324) payable monthly. The Legislative
 22 Services Commission shall review the salary of the principal clerks prior to submission
 23 of the proposed operating budget of the General Assembly to the Governor and
 24 Advisory Budget Commission and shall make appropriate recommendations for
 25 changes in those salaries. Any changes enacted by the General Assembly shall be by
 26 amendment to this paragraph."

27 **SECTION 29.8.(b)** Effective July 1, 2006, G.S. 120-37(c), as amended by
 28 subsection (a) of this section, reads as rewritten:

29 "(c) The principal clerks shall be full-time officers. Each principal clerk shall be
 30 entitled to other benefits available to permanent legislative employees and shall be paid
 31 an annual salary of ~~ninety two thousand three hundred twenty four dollars (\$92,324)~~
 32 ninety-five thousand ninety-four dollars (\$95,094) payable monthly. The Legislative
 33 Services Commission shall review the salary of the principal clerks prior to submission
 34 of the proposed operating budget of the General Assembly to the Governor and
 35 Advisory Budget Commission and shall make appropriate recommendations for
 36 changes in those salaries. Any changes enacted by the General Assembly shall be by
 37 amendment to this paragraph."
 38

39 Requested by: Senators Garrou, Dalton, Hagan

40 **SERGEANTS-AT-ARMS AND READING CLERKS**

41 **SECTION 29.9.(a)** Effective July 1, 2005, G.S. 120-37(b) reads as
 42 rewritten:

43 "(b) The sergeant-at-arms and the reading clerk in each house shall be paid a
 44 salary of ~~three hundred eleven dollars (\$311.00)~~three hundred twenty-one dollars
 45 (\$321.00) per week plus subsistence at the same daily rate provided for members of the
 46 General Assembly, plus mileage at the rate provided for members of the General
 47 Assembly for one round trip only from their homes to Raleigh and return. The
 48 sergeants-at-arms shall serve during sessions of the General Assembly and at such time
 49 prior to the convening of, and subsequent to adjournment or recess of, sessions as may
 50 be authorized by the Legislative Services Commission. The reading clerks shall serve
 51 during sessions only."

52 **SECTION 29.9.(b)** Effective July 1, 2006, G.S. 120-37(b), as amended by
 53 subsection (a) of this section, reads as rewritten:

54 "(b) The sergeant-at-arms and the reading clerk in each house shall be paid a
 55 salary of ~~three hundred twenty one dollars (\$321.00)~~three hundred thirty dollars

1 (\$330.00) per week plus subsistence at the same daily rate provided for members of the
2 General Assembly, plus mileage at the rate provided for members of the General
3 Assembly for one round trip only from their homes to Raleigh and return. The
4 sergeants-at-arms shall serve during sessions of the General Assembly and at such time
5 prior to the convening of, and subsequent to adjournment or recess of, sessions as may
6 be authorized by the Legislative Services Commission. The reading clerks shall serve
7 during sessions only."
8

9 Requested by: Senators Garrou, Dalton, Hagan

10 **LEGISLATIVE EMPLOYEES**

11 **SECTION 29.10.(a)** Effective July 1, 2005, the Legislative Services Officer
12 shall increase the salaries of nonelected employees of the General Assembly in effect
13 June 30, 2005, by the greater of five hundred dollars (\$500.00) or two percent (2%).
14 Nothing in this act limits any of the provisions of G.S. 120-32.

15 **SECTION 29.10.(b)** Effective July 1, 2006, the Legislative Services Officer
16 shall increase the salaries of nonelected employees of the General Assembly in effect
17 June 30, 2006, by three percent (3%). Nothing in this act limits any of the provisions of
18 G.S. 120-32.
19

20 Requested by: Senators Garrou, Dalton, Hagan

21 **COMMUNITY COLLEGE PERSONNEL/SALARY INCREASES**

22 **SECTION 29.11.(a)** The Director of the Budget shall transfer from the
23 Reserve for Compensation Increases, created in this act for fiscal years 2005-2006 and
24 2006-2007, funds to the North Carolina Community Colleges System Office necessary
25 to provide an annual salary increase of the greater of five hundred dollars (\$500.00) or
26 two percent (2%), including funds for the employer's retirement and social security
27 contributions, commencing July 1, 2005, for all community college employees
28 supported by State funds.

29 **SECTION 29.11.(b)** The Director of the Budget shall transfer from the
30 Reserve for Compensation Increases, created in this act for fiscal year 2006-2007, funds
31 to the North Carolina Community Colleges System Office necessary to provide an
32 annual salary increase of three percent (3%), including funds for the employer's
33 retirement and social security contributions, commencing July 1, 2006, for all
34 community college employees supported by State funds.
35

36 Requested by: Senators Garrou, Dalton, Hagan

37 **UNIVERSITY OF NORTH CAROLINA SYSTEM/EPA COMPENSATION**

38 **SECTION 29.12.(a)** The Director of the Budget shall transfer to the Board
39 of Governors of The University of North Carolina sufficient funds from the Reserve for
40 Compensation Increases, created in this act for fiscal years 2005-2006 and 2006-2007,
41 to provide an average annual salary increase of the greater of five hundred dollars
42 (\$500.00) or two percent (2%), including funds for the employer's retirement and social
43 security contributions, commencing July 1, 2005, for all employees of The University of
44 North Carolina, as well as employees other than teachers of the North Carolina School
45 of Science and Mathematics, supported by State funds and whose salaries are exempt
46 from the State Personnel Act (EPA). The percentage annual salary increase of two
47 percent (2%) authorized by this section shall be made on an aggregated average basis,
48 and these funds shall be allocated to individuals according to the rules adopted by the
49 Board of Governors of The University of North Carolina or the Board of Trustees of the
50 North Carolina School of Science and Mathematics, as appropriate, and may not be
51 used for any purpose other than for salary increases and necessary employer
52 contributions provided by this section.

53 **SECTION 29.12.(a1)** The Director of the Budget shall transfer to the Board
54 of Governors of The University of North Carolina sufficient funds from the Reserve for
55 Compensation Increases, created in this act for fiscal year 2006-2007, to provide an

1 average annual salary increase of three percent (3%), including funds for the employer's
2 retirement and social security contributions, commencing July 1, 2006, for all
3 employees of The University of North Carolina, as well as employees other than
4 teachers of the North Carolina School of Science and Mathematics, supported by State
5 funds and whose salaries are exempt from the State Personnel Act (EPA). These funds
6 shall be allocated to individuals according to the rules adopted by the Board of
7 Governors of The University of North Carolina or the Board of Trustees of the North
8 Carolina School of Science and Mathematics, as appropriate, and may not be used for
9 any purpose other than for salary increases and necessary employer contributions
10 provided by this section.

11 **SECTION 29.12.(b)** The Director of the Budget shall transfer to the Board
12 of Governors of The University of North Carolina sufficient funds from the Reserve for
13 Compensation Increases, created in this act for fiscal years 2005-2006 and 2006-2007,
14 to provide an average annual salary increase of two percent (2%), including funds for
15 the employer's retirement and social security contributions, commencing July 1, 2005,
16 for all teaching employees of the North Carolina School of Science and Mathematics,
17 supported by State funds and whose salaries are exempt from the State Personnel Act
18 (EPA). These funds shall be allocated to individuals according to the rules adopted by
19 the Board of Trustees of the North Carolina School of Science and Mathematics and
20 may not be used for any purpose other than for salary increases and necessary employer
21 contributions provided by this section.

22 **SECTION 29.12.(b1)** The Director of the Budget shall transfer to the Board
23 of Governors of The University of North Carolina sufficient funds from the Reserve for
24 Compensation Increases, created in this act for fiscal year 2006-2007, to provide an
25 average annual salary increase of three percent (3%), including funds for the employer's
26 retirement and social security contributions, commencing July 1, 2006, for all teaching
27 employees of the North Carolina School of Science and Mathematics, supported by
28 State funds and whose salaries are exempt from the State Personnel Act (EPA). These
29 funds shall be allocated to individuals according to the rules adopted by the Board of
30 Trustees of the North Carolina School of Science and Mathematics and may not be used
31 for any purpose other than for salary increases and necessary employer contributions
32 provided by this section.

33
34 Requested by: Senators Garrou, Dalton, Hagan

35 **MOST STATE EMPLOYEES/SALARY INCREASES**

36 **SECTION 29.13.(a)** The salaries in effect June 30, 2005, of all permanent
37 full-time State employees whose salaries are set in accordance with the State Personnel
38 Act and who are paid from the General Fund or the Highway Fund shall be increased,
39 effective July 1, 2005, by the greater of five hundred dollars (\$500.00) or two percent
40 (2%), unless otherwise provided by this act. The salaries in effect June 30, 2006, of all
41 permanent full-time State employees whose salaries are set in accordance with the State
42 Personnel Act and who are paid from the General Fund or the Highway Fund shall be
43 increased, effective July 1, 2006, by three percent (3%), unless otherwise provided by
44 this act.

45 **SECTION 29.13.(b)** Except as otherwise provided in this act, the salaries in
46 effect June 30, 2005, for permanent full-time State officials and persons in exempt
47 positions that are recommended by the Governor or the Governor and the Advisory
48 Budget Commission and set by the General Assembly shall be increased by the greater
49 of five hundred dollars (\$500.00) or two percent (2%), effective July 1, 2005, unless
50 otherwise provided by this act. Except as otherwise provided in this act, the salaries in
51 effect June 30, 2006, for permanent full-time State officials and persons in exempt
52 positions that are recommended by the Governor or the Governor and the Advisory
53 Budget Commission and set by the General Assembly shall be increased by three
54 percent (3%), effective July 1, 2006, unless otherwise provided by this act.

1 **SECTION 29.13.(c)** The salaries in effect June 30, 2005, for all permanent
2 part-time State employees shall be increased, effective July 1, 2005, by pro rata amounts
3 of five hundred dollars (\$500.00) or two percent (2%), whichever is greater. The
4 salaries in effect for June 30, 2006, for all permanent part-time State employees shall be
5 increased, effective July 1, 2006, by three percent (3%).

6 **SECTION 29.13.(d)** The Director of the Budget may allocate out of special
7 operating funds or from other sources of the employing agency, except tax revenues,
8 sufficient funds to allow a salary increase, effective July 1, 2005, and July 1, 2006, in
9 accordance with subsection (a), (b), or (c) of this section, including funds for the
10 employer's retirement and social security contributions, for the permanent full-time and
11 part-time employees of the agency, provided the employing agency elects to make
12 available the necessary funds.

13 **SECTION 29.13.(e)** Within regular Executive Budget Act procedures as
14 limited by this act, all State agencies and departments may increase on an equitable
15 basis the rate of pay of temporary and permanent hourly State employees, subject to
16 availability of funds in the particular agency or department, by pro rata amounts of the
17 greater of the five hundred dollar (\$500.00) or two percent (2%) increase provided for
18 permanent full-time employees covered by the provisions of subsection (a) of this
19 section, commencing July 1, 2005. Within regular Executive Budget Act procedures as
20 limited by this act, all State agencies and departments may increase on an equitable
21 basis the rate of pay of temporary and permanent hourly State employees, subject to
22 availability of funds in the particular agency or department, by the three percent (3%)
23 increase provided for permanent full-time employees covered by the provisions of
24 subsection (a) of this section, commencing July 1, 2006.

25
26 Requested by: Senators Garrou, Dalton, Hagan

27 **ALL STATE-SUPPORTED PERSONNEL/SALARY INCREASES**

28 **SECTION 29.14.(a)** Salaries and related benefits for positions that are
29 funded partially from the General Fund or Highway Fund and partially from sources
30 other than the General Fund or Highway Fund shall be increased from the General Fund
31 or Highway Fund appropriation only to the extent of the proportionate part of the
32 salaries paid from the General Fund or Highway Fund.

33 **SECTION 29.14.(b)** The granting of the salary increases under this act does
34 not affect the status of eligibility for salary increments for which employees may be
35 eligible unless otherwise required by this act.

36 **SECTION 29.14.(c)** The salary increases provided in this act to be effective
37 July 1, 2005, do not apply to persons separated from State service due to resignation,
38 dismissal, reduction in force, death, or retirement, or whose last workday is prior to July
39 1, 2005. The salary increases provided in this act to be effective July 1, 2006, do not
40 apply to persons separated from State service due to resignation, dismissal, reduction in
41 force, death, or retirement, or whose last workday is prior to July 1, 2006.

42 Payroll checks issued to employees after July 1, 2005, which represent
43 payment of services provided prior to July 1, 2005, shall not be eligible for salary
44 increases provided for in this act. This subsection shall apply to all employees, subject
45 to or exempt from the State Personnel Act, paid from State funds, including public
46 schools, community colleges, and The University of North Carolina. Payroll checks
47 issued to employees after July 1, 2006, which represent payment of services provided
48 prior to July 1, 2006, shall not be eligible for salary increases provided for in this act.
49 This subsection shall apply to all employees, subject to or exempt from the State
50 Personnel Act, paid from State funds, including public schools, community colleges,
51 and The University of North Carolina.

52 **SECTION 29.14.(d)** The Director of the Budget shall transfer from the
53 Reserve for Compensation Increases in this act for fiscal years 2005-2006 and
54 2006-2007 all funds necessary for the salary increases provided by this act, including
55 funds for the employer's retirement and social security contributions.

1 **SECTION 29.14.(e)** Nothing in this act authorizes the transfer of funds
2 between the General Fund and the Highway Fund for salary increases.

3 **SECTION 29.14.(f)** For fiscal year 2005-2006, permanent full-time
4 employees who work a nine-, ten-, or eleven-month work year schedule shall receive
5 the five hundred dollars (\$500.00) or two percent (2%) annual increase provided by this
6 act, whichever is greater.

7 For fiscal year 2006-2007, permanent full-time employees who work a nine-,
8 ten-, or eleven-month work year schedule shall receive the three percent (3%) annual
9 increase provided by this act.

10
11 Requested by: Senators Garrou, Dalton, Hagan

12 **SALARY ADJUSTMENT FUND**

13 **SECTION 29.15.(a)** Any remaining appropriations in the Reserve for
14 Compensation Increases authorized for employee salary increases not required for that
15 purpose may be used to supplement the Salary Adjustment Fund.

16 **SECTION 29.15.(b)** Funds appropriated or otherwise transferred to the
17 Salary Adjustment Fund by this act or any other provision of law shall be used to fund
18 agency requests for the following purposes:

- 19 (1) Salary range revisions to provide competitive salary rates for affected
20 job classifications in response to changes in labor market salary rates
21 as documented through data collection and analysis according to
22 accepted human resource professional practices and standards.
23 (2) Reallocation of positions to higher-level job classifications to
24 compensate employees for more difficult duties at competitive salary
25 rates as documented through data collection and analysis according to
26 accepted human resource professional practices and standards.

27 Priority funding shall be given to those salary range revisions previously
28 approved by the State Personnel Commission and reallocations previously approved by
29 the Office of State Personnel or designee.

30 **SECTION 29.15.(c)** The Director of the Budget shall consult with the Joint
31 Legislative Commission on Governmental Operations prior to transferring any salary
32 adjustment funds for any State agency.

33 **SECTION 29.15.(d)** The Director of the Budget may transfer to General
34 Fund budget codes from the General Fund Salary Adjustment Fund and may transfer to
35 Highway Fund budget codes from the Highway Fund Salary Adjustment Fund amounts
36 required to support salary adjustments authorized by this section.

37 **SECTION 29.15.(e)** The Judicial Department is eligible for the funding
38 authorized in subsection (a) of this section.

39
40 Requested by: Senators Garrou, Dalton, Hagan

41 **TEMPORARY SALES TAX TRANSFER FOR WILDLIFE RESOURCES**
42 **COMMISSION SALARY INCREASES**

43 **SECTION 29.16.** For the 2005-2006 and 2006-2007 fiscal years, the
44 Secretary of Revenue shall transfer at the end of each quarter from the State sales and
45 use tax net collections received by the Department of Revenue under Article 5 of
46 Chapter 105 of the General Statutes to the State Treasurer for the Wildlife Resources
47 Fund to fund the cost of any legislative salary increase for employees of the Wildlife
48 Resources Commission.

49
50 Requested by: Senators Garrou, Dalton, Hagan

51 **STATE AGENCY TEACHERS' COMPENSATION**

52 **SECTION 29.17.** Funds in the Reserve for Compensation Increases shall be
53 used for experience step increases for employees of schools operated by the Department
54 of Health and Human Services, the Department of Correction, or the Department of

1 Juvenile Justice and Delinquency Prevention, who are paid on the Teacher Salary
2 Schedule or the School Based Administrator Salary Schedule.

3
4 Requested by: Senators Garrou, Dalton, Hagan, Dorsett

5 **STATE GOVERNMENT EMPLOYMENT FAIR MINIMUM WAGE**

6 **SECTION 29.18.(a)** All permanent, full-time employees subject to the State
7 Personnel Act shall be paid a minimum salary of at least twenty thousand one hundred
8 twelve dollars (\$20,112) per year. Permanent, full-time employees subject to the State
9 Personnel Act working on a schedule requiring less than 12 months' service per year
10 shall be paid the minimum salary pro rata.

11 **SECTION 29.18.(b)** Of the funds appropriated in this act from the General
12 Fund to the Reserve for Compensation Increases, the sum of one hundred fifty-six
13 thousand dollars (\$156,000) for the 2005-2006 fiscal year and the sum of one hundred
14 fifty-six thousand dollars (\$156,000) for the 2006-2007 fiscal year shall be used to
15 provide a fairer minimum wage to employees subject to the State Personnel Act.

16 **SECTION 29.18.(c)** In order to lessen salary compression and potential pay
17 inequities, State agencies, departments, and institutions, and The University of North
18 Carolina may, when increasing salaries pursuant to this section, make adjustments to the
19 salaries of supervisors and other employees who have, when considering classification,
20 significantly more experience and length of service compared to the employees
21 receiving this pay increase. These salary compression and pay equity determinations
22 shall be made in consultation with the Office of State Personnel.

23 Of the funds appropriated in this act from the General Fund to the Reserve for
24 Compensation Increases, the Office of State Budget and Management shall use funds in
25 an amount not to exceed seven hundred fifty thousand dollars (\$750,000) for the
26 2005-2006 fiscal year and not to exceed seven hundred fifty thousand dollars
27 (\$750,000) for the 2006-2007 fiscal year to implement this subsection. The Director of
28 the Budget shall consult with the Joint Legislative Commission on Governmental
29 Operations prior to the transfer of any funds pursuant to this subsection.

30 **SECTION 29.18.(d)** The fair minimum wage salary adjustment provided by
31 this section shall be calculated and awarded after any across-the-board salary increases
32 authorized by this act.

33
34 Requested by: Senators Garrou, Dalton, Hagan

35 **SALARY SUPPLEMENTS FOR PERSONNEL EMPLOYED IN CERTAIN**
36 **STATE AGENCIES**

37 **SECTION 29.19.(a)** G.S. 143B-146.21 is amended by adding the following
38 new subsection to read:

39 "(e) The Secretary of Health and Human Services, in consultation with the Office
40 of State Personnel, shall set the salary supplement paid to personnel who are employed
41 in the programs operated by the Department of Health and Human Services and are
42 licensed by the State Board of Education. The salary supplement shall be at least five
43 percent (5%), but not more than the percentage supplement they would receive if they
44 were employed in the LEA where the job site is located. Nothing in this subsection shall
45 be construed to include "merit pay" under the term "salary supplement"."

46 **SECTION 29.19.(b)** G.S. 143B-516(b) is amended by adding the following
47 new subdivision to read:

48 "(b) The Secretary shall have the following powers and duties:

49
50 (17a) Set, in consultation with the Office of State Personnel, the salary
51 supplement paid to personnel who are employed at juvenile facilities
52 and are licensed by the State Board of Education. The salary
53 supplement shall be at least five percent (5%), but not more than the
54 percentage supplement they would receive if they were employed in
55 the LEA where the job site is located. Nothing in this subdivision shall

1 be construed to include "merit pay" under the term "salary
2 supplement".

3 "....."

4 **SECTION 29.19.(c)** G.S. 148-22.1 is amended by adding the following new
5 subsection to read:

6 **"§ 148-22.1. Educational facilities and programs for selected inmates.**

7
8 (c) The Secretary of Correction, in consultation with the Office of State
9 Personnel, shall set the salary supplement paid to personnel who are Division of Prison
10 employees that serve in youth facilities and are licensed by the State Board of
11 Education. The salary supplement shall be at least five percent (5%), but not more than
12 the percentage supplement they would receive if they were employed in the LEA where
13 the job site is located. Nothing in this subsection shall be construed to include "merit
14 pay" under the term "salary supplement".

15
16 Requested by: Senators Garrou, Dalton, Hagan, Kerr, Hoyle, Berger of Franklin
17 **INDUSTRIAL COMMISSION IN-RANGE SALARY ADJUSTMENTS**

18 **SECTION 29.20.** Of the revenue generated by implementing a fee for the
19 required review of Form 21 Agreements, the Industrial Commission may use up to one
20 hundred seventy-one thousand nine hundred dollars (\$171,900) in fiscal years
21 2005-2006 and 2006-2007 to provide in-range salary adjustments for Industrial
22 Commission staff.

23
24 Requested by: Senators Garrou, Dalton, Hagan
25 **COASTAL MANAGEMENT DIVISION SALARY INCREASES**

26 **SECTION 29.21.** The Department of Environment and Natural Resources is
27 authorized to, and shall, provide to the employees of the Division of Coastal
28 Management an increase in annual salary of five percent (5%). This increase shall be in
29 addition to any other increase authorized by this act.

30
31 Requested by: Senators Garrou, Dalton, Hagan, Kerr, Albertson
32 **NCSU SALARY INCREASES FOR AGRICULTURAL PROGRAM**
33 **EMPLOYEES**

34 **SECTION 29.22.** Of the funds appropriated in this act to the Board of
35 Governors of The University of North Carolina, the sum of two million dollars
36 (\$2,000,000) for the 2005-2006 fiscal year and the sum of two million dollars
37 (\$2,000,000) for the 2006-2007 fiscal year shall be used to support salary increases for
38 Agricultural Program employees of North Carolina State University who are exempt
39 from the State Personnel Act. These funds shall be allocated to individuals according to
40 rules adopted by the Board of Governors of The University of North Carolina and may
41 not be used for any other purpose other than for salary increases and the necessary
42 employer contributions provided by this section.

43
44 Requested by: Senators Garrou, Dalton, Hagan, Clodfelter
45 **LONGEVITY SERVICE DEFINITION**

46 **SECTION 29.23.(a)** G.S. 7A-10(c) reads as rewritten:

47 "(c) In lieu of merit and other increment raises paid to regular State employees,
48 the Chief Justice and each of the Associate Justices shall receive as longevity pay an
49 annual amount equal to four and eight-tenths percent (4.8%) of the annual salary set
50 forth in the Current Operations Appropriations Act payable monthly after five years of
51 service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and
52 four-tenths percent (14.4%) after 15 years of service, and nineteen and two-tenths
53 percent (19.2%) after 20 years of service. "Service" means service as a justice or judge
54 of the General Court of Justice or as a member of the Utilities Commission. Service

1 shall also mean service as a district attorney or as a clerk of superior ~~court~~court, or
2 service as a member of the General Assembly."

3 **SECTION 29.23.(b)** G.S. 7A-18(b) reads as rewritten:

4 "(b) In lieu of merit and other increment raises paid to regular State employees, a
5 judge of the Court of Appeals shall receive as longevity pay an annual amount equal to
6 four and eight-tenths percent (4.8%) of the annual salary set forth in the Current
7 Operations Appropriations Act payable monthly after five years of service, nine and
8 six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent
9 (14.4%) after 15 years of service, and nineteen and two-tenths percent (19.2%) after 20
10 years of service. "Service" means service as a justice or judge of the General Court of
11 Justice or as a member of the Utilities Commission. Service shall also mean service as a
12 district attorney or as a clerk of superior ~~court~~court, or service as a member of the
13 General Assembly."

14 **SECTION 29.23.(c)** G.S. 7A-44(b) reads as rewritten:

15 "(b) In lieu of merit and other increment raises paid to regular State employees, a
16 judge of the superior court, regular or special, shall receive as longevity pay an annual
17 amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the
18 Current Operations Appropriations Act payable monthly after five years of service, nine
19 and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent
20 (14.4%) after 15 years of service, and nineteen and two-tenths percent (19.2%) after 20
21 years of service. "Service" means service as a justice or judge of the General Court of
22 Justice or as a member of the Utilities Commission or as director or assistant director of
23 the Administrative Office of the Courts. Service shall also mean service as a district
24 attorney or as a clerk of superior ~~court~~court, or service as a member of the General
25 Assembly."

26 **SECTION 29.23.(d)** G.S. 7A-144(b) reads as rewritten:

27 "(b) Notwithstanding merit, longevity and other increment raises paid to regular
28 State employees, a judge of the district court shall receive as longevity pay an annual
29 amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the
30 Current Operations Appropriations Act payable monthly after five years of service, nine
31 and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent
32 (14.4%) after 15 years of service, and nineteen and two-tenths percent (19.2%) after 20
33 years of service. "Service" means service as a justice or judge of the General Court of
34 Justice or as a member of the Utilities Commission or as director or assistant director of
35 the Administrative Office of the Courts. Service shall also mean service as a district
36 attorney or as a clerk of superior ~~court~~court, or service as a member of the General
37 Assembly."

38
39 Requested by: Senators Garrou, Dalton, Hagan

40 **SALARY-RELATED CONTRIBUTIONS/EMPLOYER**

41 **SECTION 29.24.(a)** Required employer salary-related contributions for
42 employees whose salaries are paid from department, office, institution, or agency
43 receipts shall be paid from the same source as the source of the employees' salary. If an
44 employee's salary is paid in part from the General Fund or Highway Fund and in part
45 from department, office, institution, or agency receipts, required employer salary-related
46 contributions may be paid from the General Fund or Highway Fund only to the extent of
47 the proportionate part paid from the General Fund or Highway Fund in support of the
48 salary of the employee, and the remainder of the employer's requirements shall be paid
49 from the source that supplies the remainder of the employee's salary. The requirements
50 of this section as to source of payment are also applicable to payments on behalf of the
51 employee for hospital-medical benefits, longevity pay, unemployment compensation,
52 accumulated leave, workers' compensation, severance pay, separation allowances, and
53 applicable disability income benefits.

54 **SECTION 29.24.(b)** Effective July 1, 2005, the State's employer
55 contribution rates budgeted for retirement and related benefits as percentage of covered

1 salaries for the 2005-2006 fiscal year are: (i) six and eighty-three hundredths percent
2 (6.83%) – Teachers and State Employees; (ii) eleven and eighty-three hundredths
3 percent (11.83%) – State Law Enforcement Officers; (iii) eleven and sixteen hundredths
4 percent (11.16%) – University Employees' Optional Retirement System; (iv) eleven and
5 sixteen hundredths percent (11.16%) – Community College Optional Retirement
6 Program; (v) sixteen and thirty-nine hundredths percent (16.39%) – Consolidated
7 Judicial Retirement System; and (vi) three and eight-tenths percent (3.8%) – Legislative
8 Retirement System. Each of the foregoing contribution rates includes three and
9 eight-tenths percent (3.8%) for hospital and medical benefits. The rate for Teachers and
10 State Employees, State Law Enforcement Officers, Community College Optional
11 Retirement Program, and for the University Employees' Optional Retirement Program
12 includes fifty-two hundredths percent (0.52%) for the Disability Income Plan. The rates
13 for Teachers and State Employees and State Law Enforcement Officers include
14 sixteen-hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law
15 Enforcement Officers includes five percent (5%) for Supplemental Retirement Income.

16 **SECTION 29.24.(c)** Effective July 1, 2006, the State's employer
17 contribution rates budgeted for retirement and related benefits as percentage of covered
18 salaries for the 2006-2007 fiscal year are: (i) six and eighty-three hundredths percent
19 (6.83%) – Teachers and State Employees; (ii) eleven and eighty-three hundredths
20 percent (11.83%) – State Law Enforcement Officers; (iii) eleven and sixteen hundredths
21 percent (11.16%) – University Employees' Optional Retirement System; (iv) eleven and
22 sixteen hundredths percent (11.16%) – Community College Optional Retirement
23 Program; (v) sixteen and thirty-nine hundredths percent (16.39%) – Consolidated
24 Judicial Retirement System; and (vi) three and eight-tenths percent (3.8%) – Legislative
25 Retirement System. Each of the foregoing contribution rates includes three and
26 eight-tenths percent (3.8%) for hospital and medical benefits. The rate for Teachers and
27 State Employees, State Law Enforcement Officers, Community College Optional
28 Retirement Program, and for the University Employees' Optional Retirement Program
29 includes fifty-two hundredths percent (0.52%) for the Disability Income Plan. The rates
30 for Teachers and State Employees and State Law Enforcement Officers include
31 sixteen-hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law
32 Enforcement Officers includes five percent (5%) for Supplemental Retirement Income.

33 **SECTION 29.24.(d)** The maximum annual employer contributions, payable
34 monthly, by the State for each covered employee or retiree for the 2005-2006 fiscal year
35 to the Teachers' and State Employees' Comprehensive Major Medical Plan are: (i)
36 Medicare-eligible employees and retirees – two thousand nine hundred ten dollars
37 (\$2,910) and (ii) non-Medicare-eligible employees and retirees – three thousand eight
38 hundred twenty-two dollars (\$3,822).

39 **SECTION 29.24.(e)** The maximum annual employer contributions, payable
40 monthly, by the State for each covered employee or retiree for the 2006-2007 fiscal year
41 to the Teachers' and State Employees' Comprehensive Major Medical Plan are: (i)
42 Medicare-eligible employees and retirees – three thousand ten dollars (\$3,010) and (ii)
43 non-Medicare-eligible employees and retirees – three thousand nine hundred fifty-four
44 dollars (\$3,954).

45
46 Requested by: Senators Garrou, Dalton, Hagan

47 **PROVIDE COST-OF-LIVING INCREASES FOR RETIREES OF THE**
48 **TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE**
49 **JUDICIAL RETIREMENT SYSTEM, THE LOCAL RETIREMENT**
50 **SYSTEM, AND THE LEGISLATIVE RETIREMENT SYSTEM**

51 **SECTION 29.25.(a)** G.S. 135-5 is amended by adding a new subsection to
52 read:

53 "(nnn) From and after July 1, 2005, the retirement allowance to or on account of
54 beneficiaries whose retirement commenced on or before July 1, 2004, shall be increased
55 by two percent (2%) of the allowance payable on June 1, 2005, in accordance with

1 G.S. 135-5(o). Furthermore, from and after July 1, 2005, the retirement allowance to or
2 on account of beneficiaries whose retirement commenced after July 1, 2004, but before
3 June 30, 2005, shall be increased by a prorated amount of two percent (2%) of the
4 allowance payable as determined by the Board of Trustees based upon the number of
5 months that a retirement allowance was paid between July 1, 2004, and June 30, 2005."

6 **SECTION 29.25.(b)** G.S. 135-65 is amended by adding a new subsection to
7 read:

8 "(z) From and after July 1, 2005, the retirement allowance to or on account of
9 beneficiaries whose retirement commenced on or before July 1, 2004, shall be increased
10 by two percent (2%) of the allowance payable on June 1, 2005. Furthermore, from and
11 after July 1, 2005, the retirement allowance to or on account of beneficiaries whose
12 retirement commenced after July 1, 2004, but before June 30, 2005, shall be increased
13 by a prorated amount of two percent (2%) of the allowance payable as determined by
14 the Board of Trustees based upon the number of months that a retirement allowance was
15 paid between July 1, 2004, and June 30, 2005."

16 **SECTION 29.25.(c)** G.S. 120-4.22A is amended by adding a new subsection
17 to read:

18 "(t) In accordance with subsection (a) of this section, from and after July 1, 2005,
19 the retirement allowance to or on account of beneficiaries whose retirement commenced
20 on or before January 1, 2005, shall be increased by two percent (2%) of the allowance
21 payable on June 1, 2005. Furthermore, from and after July 1, 2005, the retirement
22 allowance to or on account of beneficiaries whose retirement commenced after January
23 1, 2005, but before June 30, 2005, shall be increased by a prorated amount of two
24 percent (2%) of the allowance payable as determined by the Board of Trustees based
25 upon the number of months that a retirement allowance was paid between January 1,
26 2005, and June 30, 2005."

27 **SECTION 29.25.(d)** G.S. 128-27 is amended by adding a new subsection to
28 read:

29 "(ggg) From and after July 1, 2005, the retirement allowance to or on account of
30 beneficiaries whose retirement commenced on or before July 1, 2004, shall be increased
31 by two percent (2%) of the allowance payable on June 1, 2005, in accordance with
32 subsection (k) of this section. Furthermore, from and after July 1, 2005, the retirement
33 allowance to or on account of beneficiaries whose retirement commenced after July 1,
34 2004, but before June 30, 2005, shall be increased by a prorated amount of two percent
35 (2%) of the allowance payable as determined by the Board of Trustees based upon the
36 number of months that a retirement allowance was paid between July 1, 2004, and June
37 30, 2005."

38 **SECTION 29.25.(e)** It is the intent of the General Assembly to provide a
39 cost-of-living increase, effective July 1, 2006, to retirees of the Teachers' and State
40 Employees' Retirement System, the Judicial Retirement System, the Local
41 Governmental Employees' Retirement System, and the Legislative Retirement System
42 that is comparable to the increases given to State employees in this act, subject to
43 available actuarial gains within each system.
44

45 Requested by: Senators Hoyle, Garrou, Dalton, Hagan, Kerr, Malone, Rand,
46 Snow, Swindell, Thomas, Weinstein

47 **INCREASE THE MONTHLY PENSION FOR MEMBERS OF THE FIREMEN'S**
48 **AND RESCUE SQUAD WORKERS' PENSION FUND**

49 **SECTION 29.26.** G.S. 58-86-55 reads as rewritten:

50 **"§ 58-86-55. Monthly pensions upon retirement.**

51 Any member who has served 20 years as an "eligible fireman" or "eligible rescue
52 squad worker" in the State of North Carolina, as provided in G.S. 58-86-25 and
53 G.S. 58-86-30, and who has attained the age of 55 years is entitled to be paid a monthly
54 pension from this fund. The monthly pension shall be in the amount of ~~one hundred~~
55 ~~sixty one dollars (\$161.00)~~ one hundred sixty-three dollars (\$163.00) per month. Any

1 retired fireman receiving a pension shall, effective ~~July 1, 2004,~~ July 1, 2005, receive a
2 pension of ~~one hundred sixty one dollars (\$161.00)~~ one hundred sixty-three dollars
3 (\$163.00) per month.

4 Members shall pay ten dollars (\$10.00) per month as required by G.S. 58-86-35 and
5 G.S. 58-86-40 for a period of no longer than 20 years. No "eligible rescue squad
6 member" shall receive a pension prior to July 1, 1983. No member shall be entitled to a
7 pension hereunder until the member's official duties as a fireman or rescue squad
8 worker for which the member is paid compensation shall have been terminated and the
9 member shall have retired as such according to standards or rules fixed by the board of
10 trustees.

11 A member who is totally and permanently disabled while in the discharge of the
12 member's official duties as a result of bodily injuries sustained or as a result of extreme
13 exercise or extreme activity experienced in the course and scope of those official duties
14 and who leaves the fire or rescue squad service because of this disability shall be
15 entitled to be paid from the fund a monthly benefit in an amount of ~~one hundred~~
16 ~~sixty one dollars (\$161.00)~~ one hundred sixty-three dollars (\$163.00) per month
17 beginning the first month after the member's fifty-fifth birthday. All applications for
18 disability are subject to the approval of the board who may appoint physicians to
19 examine and evaluate the disabled member prior to approval of the application, and
20 annually thereafter. Any disabled member shall not be required to make the monthly
21 payment of ten dollars (\$10.00) as required by G.S. 58-86-35 and G.S. 58-86-40.

22 A member who is totally and permanently disabled for any cause, other than line of
23 duty, who leaves the fire or rescue squad service because of this disability and who has
24 at least 10 years of service with the pension fund, may be permitted to continue making
25 a monthly contribution of ten dollars (\$10.00) to the fund until the member has made
26 contributions for a total of 240 months. The member shall upon attaining the age of 55
27 years be entitled to receive a pension as provided by this section. All applications for
28 disability are subject to the approval of the board who may appoint physicians to
29 examine and evaluate the disabled member prior to approval of the application and
30 annually thereafter.

31 A member who, because his residence is annexed by a city under Part 2 or Part 3 of
32 Article 4 of Chapter 160A of the General Statutes, or whose department is closed
33 because of an annexation by a city under Part 2 or Part 3 of Article 4 of Chapter 160A
34 of the General Statutes, or whose volunteer department is taken over by a city or county,
35 and because of such annexation or takeover is unable to perform as a fireman or rescue
36 squad worker of any status, and if the member has at least 10 years of service with the
37 pension fund, may be permitted to continue making a monthly contribution of ten
38 dollars (\$10.00) to the fund until the member has made contributions for a total of 240
39 months. The member upon attaining the age of 55 years and completion of such
40 contributions shall be entitled to receive a pension as provided by this section. Any
41 application to make monthly contributions under this section shall be subject to a
42 finding of eligibility by the Board of Trustees upon application of the member.

43 The pensions provided shall be in addition to all other pensions or benefits under any
44 other statutes of the State of North Carolina or the United States, notwithstanding any
45 exclusionary provisions of other pensions or retirement systems provided by law."
46

47 Requested by: Senators Thomas, Garrou, Dalton, Hagan, Hoyle, Jenkins, Rand,
48 Swindell, Weinstein

49 **INCREASE THE MAXIMUM MONTHLY PENSION BENEFITS FOR**
50 **RETIRED MEMBERS OF THE NORTH CAROLINA NATIONAL GUARD**

51 **SECTION 29.27.** G.S. 127A-40(a) reads as rewritten:

52 "(a) Every member and former member of the North Carolina national guard who
53 meets the requirements hereinafter set forth shall receive, commencing at age 60, a
54 pension of ~~fifty dollars (\$50.00)~~ seventy-five dollars (\$75.00) per month for 20 years'
55 creditable military service with an additional ~~five dollars (\$5.00)~~ seven dollars and fifty

1 cents (\$7.50) per month for each additional year of such service; provided, however,
2 that the total pension shall not exceed ~~one hundred dollars (\$100.00)~~ one hundred fifty
3 dollars (\$150.00) per month. The requirements for such pension are that each member
4 shall:

- 5 (1) Have served and qualified for at least 20 years' creditable military
6 service, including national guard, reserve and active duty, under the
7 same requirement specified for entitlement to retired pay for
8 nonregular service under Chapter 67, Title 10, United States Code.
- 9 (2) Have at least 15 years of the aforementioned service as a member of
10 the North Carolina national guard.
- 11 (3) Have received an honorable discharge from the North Carolina
12 national guard."
13

14 Requested by: Senators Garrou, Dalton, Hagan

15 **CONFORM RETIREE RETURN TO TEACHING BENEFIT TO IRS**
16 **GUIDELINES/CLARIFY DEFINITION OF RETIREMENT**

17 **SECTION 29.28.(a)** Subsection (d) of Section 28.24 of S.L. 1998-212, as
18 amended by Section 31.18A of S.L. 2004-124, reads as rewritten:

19 "(d) This section becomes effective January 1, 1999, and expires June 30, ~~2005-~~
20 2006."

21 **SECTION 29.28.(b)** The introductory language of Section 67 of S.L.
22 1998-217, as amended by Section 31.18A of S.L. 2004-124, reads as rewritten:

23 "**SECTION 67.** Effective January 1, 1999, through June 30, ~~2005,~~ 2006,
24 G.S. 135-3(8)c., as rewritten by Section 28.24(a) of S.L. 1998-212 reads as rewritten:"

25 **SECTION 29.28.(c)** Subsection (b) of Section 67.1 of S.L. 1998-217, as
26 amended by Section 31.18A of S.L. 2004-124, reads as rewritten:

27 "(b) This section becomes effective January 1, 1999, and expires June 30, ~~2005-~~
28 2006."

29 **SECTION 29.28.(d)** Subsection (c) of Section 32.25 of S.L. 2001-424, as
30 amended by Section 31.18A of S.L. 2004-124, reads as rewritten:

31 "**SECTION 32.25.(c)** This section becomes effective July 1, 2001, and expires June
32 30, ~~2005-~~ 2006."

33 **SECTION 29.28.(e)** G.S. 135-3(8)c. reads as rewritten:

- 34 c. Should a beneficiary who retired on an early or service
35 retirement allowance under this Chapter be reemployed, or
36 otherwise engaged to perform services, by an employer
37 participating in the Retirement System on a part-time,
38 temporary, interim, or on a fee-for-service basis, whether
39 contractual or otherwise, and if such beneficiary earns an
40 amount during the 12-month period immediately following the
41 effective date of retirement or in any calendar year which
42 exceeds fifty percent (50%) of the reported compensation,
43 excluding terminal payments, during the 12 months of service
44 preceding the effective date of retirement, or twenty thousand
45 dollars (\$20,000), whichever is greater, as hereinafter indexed,
46 then the retirement allowance shall be suspended as of the first
47 day of the month following the month in which the
48 reemployment earnings exceed the amount above, for the
49 balance of the calendar year. The retirement allowance of the
50 beneficiary shall be reinstated as of January 1 of each year
51 following suspension. The amount that may be earned before
52 suspension shall be increased on January 1 of each year by the
53 ratio of the Consumer Price Index to the Index one year earlier,
54 calculated to the nearest tenth of a percent (1/10 of 1%).

1 The computation of postretirement earnings of a beneficiary
 2 under this sub-subdivision, G.S. 135-3(8)c., who has been
 3 retired at least six months and has not been employed in any
 4 ~~capacity, except as a substitute teacher or a part time tutor,~~
 5 ~~capacity~~ with a public school for at least six months
 6 immediately preceding the effective date of reemployment,
 7 shall not include earnings while the beneficiary is employed to
 8 teach on a ~~substitute, interim, or~~ permanent basis in a public
 9 school. The Department of Public Instruction shall certify to the
 10 Retirement System that a beneficiary is employed to teach by a
 11 local school administrative unit under the provisions of this
 12 sub-subdivision and as a retired teacher as the term is defined
 13 under the provisions of G.S. 115C-325(a)(5a).

14 Beneficiaries employed under this sub-subdivision are not
 15 entitled to any benefits otherwise provided under this Chapter
 16 as a result of this period of employment."

17 **SECTION 29.28.(f)** G.S. 115C-325(a)(5a) reads as rewritten:

18 "(5a) "Retired teacher" means a beneficiary of the Teachers' and State
 19 Employees' Retirement System of North Carolina who has been retired
 20 at least six months, has not been employed in any ~~capacity, other than~~
 21 ~~as a substitute teacher or a part time tutor, with a local board of~~
 22 ~~education or a charter school~~ ~~capacity~~ for at least six months,
 23 immediately preceding the effective date of reemployment, is
 24 determined by a local board of education or a charter school to have
 25 had satisfactory performance during the last year of employment by a
 26 local board of education or a charter school, and who is employed to
 27 teach as provided in G.S. 135-3(8)c. A retired teacher at a school other
 28 than a charter school shall be treated the same as a probationary
 29 teacher except that (i) a retired teacher is not eligible for career status
 30 and (ii) the performance of a retired teacher who had attained career
 31 status prior to retirement shall be evaluated in accordance with a local
 32 board of education's policies and procedures applicable to career
 33 teachers."

34 **SECTION 29.28.(g)** Notwithstanding any other provision of law, each local
 35 school administrative unit shall pay to the Teachers' and State Employees' Retirement
 36 System a Reemployed Teacher Contribution Rate of eleven and seventy-hundredths
 37 percent (11.70%) as a percentage of covered salaries that the retired teachers, who are
 38 exempt from the earnings cap, are being paid. Each local school administrative unit
 39 shall report monthly to the Retirement Systems Division on payments made pursuant to
 40 this subsection.

41 Notwithstanding any other provision of law, any portion of the payment made
 42 by a local school administrative unit to a reemployed teacher who is exempt from the
 43 earnings cap, consisting of salary plus the Reemployed Teacher Contribution Rate, that
 44 exceeds the State-supported salary level for that position, shall be paid from local funds.

45 **SECTION 29.28.(h)** G.S. 135-1(20) reads as rewritten:

46 "(20) "Retirement" ~~shall mean~~ means the termination of employment and the
 47 ~~withdrawal- complete separation~~ complete separation from active service with no intent or
 48 agreement, express or implied, to return to service. ~~a~~ A retirement
 49 allowance granted under the provisions of this Chapter. ~~Chapter may~~
 50 only be granted upon retirement of a member. In order for a member's
 51 retirement to become effective in any month, the member must render
 52 no ~~service~~ service, including part-time, temporary, substitute, or
 53 contractor service, at any time during that month. the six months
 54 immediately following the effective date of retirement."

1 **SECTION 29.28.(i)** Subsection (h) of this section becomes effective July 1,
2 2005, but does not apply to participants in The University of North Carolina Phased
3 Retirement Program until June 30, 2007. The remainder of this section becomes
4 effective June 30, 2005.

5
6 Requested by: Senators Garrou, Dalton, Hagan

7 **OPTIONAL RETIREMENT PROGRAM VESTING**

8 **SECTION 29.29.** G.S. 135-5.1(b) reads as rewritten:

9 "(b) Participation in the Optional Retirement Program shall be governed as
10 follows:

- 11 (1) Those participating in the Optional Retirement Program immediately
12 prior to July 1, 1985, under the provisions of Chapter 338, Session
13 Laws of 1971, are deemed automatically enrolled in the Program as
14 established by this section.
- 15 (2) Eligible employees initially appointed on or after July 1, 1985, shall at
16 the same time of entering upon eligible employment elect (i) to join
17 the Retirement System in accordance with the provisions of law
18 applicable thereto or (ii) to participate in the Optional Retirement
19 Program. This election shall be in writing and filed with the
20 Retirement System and with the employing institution and shall be
21 effective as of the date of entry into eligible service.
- 22 (3) An election to participate in the Optional Retirement Program shall be
23 irrevocable. An eligible employee failing to elect to participate in the
24 Optional Retirement Program at the time of entry into eligible service
25 shall automatically be enrolled as a member of the Retirement System.
- 26 (4) No election by an eligible employee of the Optional Retirement
27 Program shall be effective unless it is accompanied by an appropriate
28 application for the issuance of a contract or contracts or trust
29 participation under the Program.
- 30 (5) If any participant having less than ~~five years~~ one year of coverage
31 under the Optional Retirement Program leaves the employ of The
32 University of North Carolina and either retires or commences
33 employment with an employer not having a retirement program with
34 the same company underwriting the participant's annuity contract,
35 regardless of whether the annuity contract is held by the participant, a
36 trust, or the Retirement System, the participant's interest in the
37 Optional Retirement Program attributable to contributions of The
38 University of North Carolina shall be forfeited and shall either (i) be
39 refunded to The University of North Carolina and forthwith paid by it
40 to the Retirement System and credited to the pension accumulation
41 fund or (ii) be paid directly to the Retirement System and credited to
42 the pension accumulation fund."

43
44 Requested by: Senators Thomas, Rand, Dalton, Garrou, Hagan

45 **INCREASE BENEFIT/SHERIFFS' SUPPLEMENTAL PENSION FUND**

46 **SECTION 29.30.(a)** G.S. 143-166.85(a) reads as rewritten:

47 "(a) An eligible retired sheriff shall be entitled to and receive an annual pension
48 benefit, payable in equal monthly installments, equal to one share for each full year of
49 eligible service as sheriff multiplied by his total number of years of eligible service. The
50 amount of each share shall be determined by dividing the total number of years of
51 eligible service for all eligible retired sheriffs on December 31 of each calendar year
52 into the amount to be disbursed as monthly pension payments in accordance with the
53 provisions of G.S., 143 166.83(b). In no event however shall a monthly pension under
54 this Article exceed an amount, which when added to a retired allowance at retirement
55 from the Local Governmental Employees' Retirement System or to the amount he

1 would have been eligible to receive if service had not been forfeited by the withdrawal
2 of accumulated contributions, is greater than seventy -five percent (75%) of a sheriff's
3 equivalent annual salary immediately preceding retirement computed on the latest
4 monthly base rate, to a maximum amount of ~~one thousand two hundred dollars (\$1,200)-~~
5 one thousand five hundred dollars (\$1,500)."

6 **SECTION 29.30.(b)** G.S. 7A-304(a)(3a) reads as rewritten:

7 "(3a) For the supplemental pension benefits of sheriffs, the sum of
8 ~~seventy five cents (75¢) one dollar twenty-five cents (\$1.25)~~ to be
9 remitted to the Department of Justice and administered under the
10 provisions of Article 12G of Chapter 143 of the General Statutes."
11

12 Requested by: Senators Garrou, Dalton, Hagan, Rand

13 **STATE HEALTH PLAN CHANGES**

14 **SECTION 29.31.(a)** G.S. 135-40.5 reads as rewritten:

15 "**§ 135-40.5. Benefits not subject to deductible or coinsurance.**

16 (a) Repealed by Session Laws 1985, c. 192, s. 5.

17 (b) Repealed by Session Laws 1991, c. 427, s. 20.

18 (c) Preadmission Testing. – The Plan will pay one hundred percent (100%) of
19 reasonable and customary charges for diagnostic, laboratory and x-ray examinations
20 performed on an outpatient basis.

21 (d) Repealed by Session Laws 2001-253, s. 1(d), effective July 1, 2001.

22 (e) Routine Diagnostic Examinations. – The Plan will pay one hundred percent
23 (100%) of allowable charges for routine diagnostic examinations and tests, including
24 breast, colon, rectal, and prostate exams, X rays, ~~mammograms~~, blood and blood
25 pressure checks, urine tests, tuberculosis tests, and general health checkups that are
26 medically necessary for the maintenance and improvement of individual health but no
27 more often than once every three years for covered individuals to age 40 years, once
28 every two years for covered individuals to age 50 years, and once a year for covered
29 individuals age 50 years and older, unless a more frequent occurrence is warranted by a
30 medical condition when such charges are incurred in a medically supervised facility.
31 The Plan will pay one hundred percent (100%) of allowable charges for mammograms
32 once per year for covered individuals age 40 years and over, and not more often than
33 once every three years for covered individuals to age 40 years, when such charges are
34 incurred in a medically supervised facility. Routine diagnostic examinations and tests
35 covered under this subsection also include examinations and tests for the screening for
36 the early detection of cervical cancer. The coverage shall be in accordance with the
37 most recently published American Cancer Society guidelines or guidelines adopted by
38 the North Carolina Advisory Committee on Cancer Coordination and Control for any
39 covered female. For the purposes of this subsection, "examinations and laboratory tests
40 for the screening for the early detection of cervical cancer" means conventional PAP
41 smear screening, liquid-based cytology, and human papilloma virus (HPV) detection
42 methods for women with equivocal findings on cervical cytologic analysis that are
43 subject to the approval of and have been approved by the United States Food and Drug
44 Administration. Provided, however, that charges for such examinations and tests are not
45 covered by the Plan when they are incurred to obtain or continue employment, to secure
46 insurance coverage, to comply with legal proceedings, to attend schools or camps, to
47 meet travel requirements, to participate in athletic and related activities, or to comply
48 with governmental licensing requirements. The maximum amount payable under this
49 subsection for a covered individual is one hundred fifty dollars (\$150.00) per fiscal
50 year.

51 (f) Immunizations. – The Plan will pay one hundred percent (100%) of allowable
52 charges for immunizations for the prevention of contagious diseases as generally
53 accepted medical practices would dictate when directed by an attending physician.

54 (g) Prescription Drugs. – The Plan's allowable charges for prescription legend
55 drugs to be used outside of a hospital or skilled nursing facility are to be determined by

1 the Plan's Executive Administrator and Board of Trustees. The Plan will pay allowable
 2 charges for each outpatient prescription drug less a copayment to be paid by each
 3 covered individual equal to the following amounts: pharmacy charges up to ten dollars
 4 (\$10.00) for each generic prescription, ~~twenty five dollars (\$25.00)~~ thirty dollars
 5 (\$30.00) for each branded prescription, and ~~thirty five dollars (\$35.00)~~ forty dollars
 6 (\$40.00) for each branded prescription with a generic equivalent drug, and ~~forty dollars~~
 7 ~~(\$40.00)~~ fifty dollars (\$50.00) for each branded or generic prescription not on a
 8 formulary used by the Plan. Allowable charges shall not be greater than a pharmacy's
 9 usual and customary charge to the general public for a particular prescription.
 10 Prescriptions shall be for no more than a 34-day supply for the purposes of the
 11 copayments paid by each covered individual. By accepting the copayments and any
 12 remaining allowable charges provided by this subsection, pharmacies shall not balance
 13 bill an individual covered by the Plan. A prescription legend drug is defined as an article
 14 the label of which, under the Federal Food, Drug, and Cosmetic Act, is required to bear
 15 the legend: "Caution: Federal Law Prohibits Dispensing Without Prescription." Such
 16 articles may not be sold to or purchased by the public without a prescription order.
 17 Benefits are provided for insulin even though a prescription is not required. The Plan
 18 may use a pharmacy benefit manager to help manage the Plan's outpatient prescription
 19 drug coverage. In managing the Plan's outpatient prescription drug benefits, the Plan
 20 and its pharmacy benefit manager shall not provide coverage for erectile dysfunction,
 21 growth hormone, antiwrinkle, weight loss, and hair growth drugs unless such coverage
 22 is medically necessary to the health of the member. The Plan and its pharmacy benefit
 23 manager shall not provide coverage for growth hormone and weight loss drugs and
 24 antifungal drugs for the treatment of nail fungus and botulinum toxin without approval
 25 in advance by the pharmacy benefit manager. Any formulary used by the Plan's
 26 Executive Administrator and pharmacy benefit manager shall be an open formulary.
 27 Plan members shall not be assessed more than two thousand five hundred dollars
 28 (\$2,500) per person per fiscal year in copayments required by this subsection.

29 **SECTION 29.31.(b)** The first paragraph of G.S. 135-40.6 reads as rewritten:

30 **"§ 135-40.6. Benefits subject to deductible and coinsurance (comprehensive**
 31 **benefits).**

32 The benefits provided in this section are subject to a deductible of three hundred
 33 fifty dollars (\$350.00) per covered individual to an aggregate maximum of one thousand
 34 fifty dollars (\$1,050) per employee and child(ren) or employee and family coverage
 35 contract per fiscal year and are payable on the basis of eighty percent (80%) by the Plan
 36 and twenty percent (20%) by the covered individual up to a maximum of ~~one thousand~~
 37 ~~five hundred dollars (\$1,500)~~ two thousand dollars (\$2,000) out-of-pocket per fiscal
 38 year. The aggregate maximum out-of-pocket required of individuals covered by this
 39 section shall not be more than ~~four thousand five hundred dollars (\$4,500)~~ six thousand
 40 dollars (\$6,000) per employee and child(ren) or employee and family coverage contract
 41 per fiscal year.

42"

43 **SECTION 29.31.(c)** G.S. 135-40.6(8)n. reads as rewritten:

44 **"§ 135-40.6. Benefits subject to deductible and coinsurance (comprehensive**
 45 **benefits).**

46 ...
 47 (8) Other Covered Charges. –

48 ...

49 n. Chiropractic Services: Limited to the alignment of the spine and
 50 releasing of pressure by manipulation in accordance with the
 51 definitions in G.S. 90-143. Covered services shall be provided
 52 only to Plan members over the age of five years. Maximum
 53 benefits for x-rays, manipulations, and modalities shall be two
 54 thousand dollars (\$2,000) per fiscal year."

55 **SECTION 29.31.(d)** G.S. 135-40.8 reads as rewritten:

1 **"§ 135-40.8. Out-of-pocket expenditures.**

2 (a) For the balance of any fiscal year after each eligible employee, retired
3 employee, or dependent satisfies the cash deductible, the Plan pays eighty percent
4 (80%) of the eligible expenses outlined in G.S. 135-40.6. The remaining twenty percent
5 (20%) is paid by the covered individual until ~~one thousand five hundred dollars (\$1,500)~~
6 two thousand dollars (\$2,000) per covered individual up to an aggregate of ~~four~~
7 ~~thousand five hundred dollars (\$4,500)~~six thousand dollars (\$6,000) per employee and
8 child(ren) or employee and family coverage contract per fiscal year in excess of the
9 deductible has been paid out of pocket. The Plan then pays one hundred percent (100%)
10 of the remaining covered expenses.

11 (b) Repealed by Session Laws 2001-253, s. 1(m), effective July 1, 2001.

12 (c) Notwithstanding any other provision of this Article, on the first day of each
13 confinement the Plan does not pay the first one hundred ~~dollars (\$100.00)~~ fifty dollars
14 (\$150.00) of the room accommodation charge allowable under G.S. 135-40.6(1). Any
15 readmission within 60 days after discharge for the same reason shall be considered the
16 same confinement for the purpose of this subsection. The exclusion made under this
17 subsection shall not count toward the deductible nor toward the maximum amount of
18 coinsurance out-of-pocket costs.

19 (c1) Notwithstanding any other provision of this Article, the Plan does not pay the
20 first ~~fifty dollars (\$50.00)~~ one hundred fifty dollars (\$150.00) of the facility fees and
21 ancillary charges for allowable charges exceeding five hundred dollars (\$500.00) per
22 episode of care for hospital outpatient departments and ambulatory surgical facilities
23 under G.S. 135-40.6(4). Readmission within 30 days after discharge for the same reason
24 shall be considered the same episode of care for the purpose of this subsection. The
25 exclusion made under this subsection shall not count toward the deductible nor toward
26 the maximum amount of coinsurance out-of-pocket costs.

27 (c2) Notwithstanding any other provision of this Article, the Plan does not pay the
28 first ~~one hundred dollars (\$100.00)~~ one hundred fifty dollars (\$150.00) of allowable
29 emergency room charges when admission to a hospital pursuant to the emergency room
30 use does not immediately follow. This subsection shall apply only when less costly
31 alternative means of emergency medical care are reasonably available as determined by
32 the Executive Administrator and Board of Trustees. The exclusion made under this
33 subsection shall not count toward the deductible nor toward the maximum amount of
34 coinsurance out-of-pocket costs.

35 (c3) Notwithstanding any other provision of this Article, the Plan does not pay for
36 the first fifteen dollars (\$15.00) of allowable charges for each home, office, or skilled
37 nursing facility visit under the provisions of G.S. 135-40.6(7)a. and b.,
38 G.S. 135-40.6(4), G.S. 135-40.6(8)i., j., k., n., r., and s., and G.S. 135-40.5(e). The
39 co-payment assessed by this subsection shall be assessed only once per person per
40 provider per day and shall not apply to laboratory, pathology, and radiology services, or
41 to charges for injected medications. The exclusion made under this subsection shall not
42 count toward the deductible nor toward the maximum amount of coinsurance
43 out-of-pocket costs.

44 (c4) Notwithstanding any other provision of this Article, the Plan does not pay for
45 the first twenty-five dollars (\$25.00) of allowable charges for services provided by
46 medical specialists. The co-payment assessed by this subsection shall be assessed only
47 once per person per provider per day and shall not apply to laboratory, pathology, and
48 radiology services, or to charges for injected medications. The exclusion made under
49 this subsection shall not count toward the deductible nor toward the maximum amount
50 of coinsurance out-of-pocket costs.

51 (d) Where a network of qualified preferred providers of inpatient and outpatient
52 hospital care is reasonably available for use by those individuals covered by the Plan,
53 use of providers outside of the preferred network shall be subject to a twenty percent
54 (20%) coinsurance rate up to five thousand dollars (\$5,000) per fiscal year per covered
55 individual up to an aggregate of fifteen thousand dollars (\$15,000) per employee and

1 child(ren) or employee and family coverage contract per fiscal year in addition to the
 2 general coinsurance percentage and maximum fiscal year amount specified by
 3 G.S. 135-40.4 and G.S. 135-40.6. The Plan then pays one hundred percent (100%) of
 4 the remaining covered expenses.

5 (e) Where qualified out-of-state preferred providers of medical care are not
 6 reasonably available in medical emergencies, the Plan pays the amounts covered by
 7 subsection (a) of this section. Any amount of charges for services under this section that
 8 exceeds the amount allowed by the Plan for the services of qualified preferred providers
 9 under this section shall be negotiated between the Plan and the provider of medical
 10 services, and the Plan shall ensure that the Plan member is not held financially
 11 responsible for the amount of these excess charges. If a Plan member is not capable of
 12 making a decision about choosing an in-State qualified preferred provider and
 13 emergency services personnel transport the Plan member to a provider outside of the
 14 Plan network, then the coverage under this subsection shall apply. As used in this
 15 section, a "medical emergency" is the sudden and unexpected onset of a condition
 16 manifesting itself by acute symptoms of sufficient severity that, in the absence of
 17 immediate medical care, could imminently result in injury or danger to self or others."
 18

19 Requested by: Senators Dalton, Garrou, Hagan
 20 **FOREST CITY EMPLOYEES IN STATE HEALTH PLAN**

21 **SECTION 29.32.** Section 31.26(j) of S.L. 2004-124 reads as rewritten:

22 **"SECTION 31.26.(j)** This section applies ~~to~~:

23 (1) Bladen, Cherokee, Rutherford, Washington, and Wilkes Counties
 24 ~~only, only, and~~

25 (2) The Town of Forest City only."
 26

27 **PART XXX. CAPITAL APPROPRIATIONS.**

28
 29 Requested by: Senators Garrou, Dalton, Hagan
 30 **GENERAL FUND CAPITAL APPROPRIATIONS/INTRODUCTION**

31 **SECTION 30.1.** The appropriations made by the 2005 General Assembly
 32 for capital improvements are for constructing, repairing, or renovating State buildings,
 33 utilities, and other capital facilities, for acquiring sites for them where necessary, and
 34 acquiring buildings and land for State government purposes.
 35

36 Requested by: Senators Garrou, Dalton, Hagan
 37 **CAPITAL APPROPRIATIONS/GENERAL FUND**

38 **SECTION 30.2.** There is appropriated from the General Fund for the
 39 2005-2006 fiscal year the following amount for capital improvements:
 40

Capital Improvements – General Fund	2005-2006
Department of Commerce – State Ports Authority	
Port of Wilmington – Container Cranes	\$ 5,000,000
Department of Environment and Natural Resources	
Water Resources Development Projects	14,760,000
Department of Health and Human Services	
Division of Public Health	100,000
University of North Carolina System – Board of Governors	
UNC-Chapel Hill – Renaissance Computing Institute	500,000
UNC-Greensboro and NC A&T Joint Millennium Campus	5,000,000

1 Winston-Salem State University – Laboratory Facility Planning Funds 750,000

2
3 **TOTAL CAPITAL IMPROVEMENTS – GENERAL FUND \$ 26,110,000**

4
5 Requested by: Senators Garrou, Dalton, Hagan

6 **WATER RESOURCES DEVELOPMENT PROJECT FUNDS**

7 **SECTION 30.3.(a)** The Department of Environment and Natural Resources
8 shall allocate the funds appropriated in this act for water resources development projects
9 to the following projects whose costs are as indicated:

10
11 **Name of Project 2005-2006**

12		
13	(1) Wilmington Harbor Deepening	\$1,300,000
14	(2) Manteo (Shallowbag) Bay Channel Maintenance	50,000
15	(3) Wilmington Harbor Maintenance Dredging	500,000
16	(4) B. Everett Jordan Water Supply Storage	100,000
17	(5) John H. Kerr Reservoir Operations Evaluation	600,000
18	(6) Bogue Banks Shore Protection Study (Carteret County)	75,000
19	(7) Surf City/North Topsail Beach Protection Study	250,000
20	(8) West Onslow Beach (Topsail)	100,000
21	(9) Wrightsville Beach Nourishment	580,000
22	(10) Hurricane Stream Restoration – Western North Carolina	2,000,000
23	(11) Swan Quarter (Hyde County) Flood Control Dikes	100,000
24	(12) Ocracoke NCCAT Estuarine Shoreline Protection	1,500,000
25	(13) Far Creek Maintenance Dredging	120,000
26	(14) Belhaven Harbor Environmental Improvements	250,000
27	(15) Lower Lockwoods Folly River	286,000
28	(16) Walters Slough Maintenance Dredging	122,000
29	(17) Hurricane Isabel Emergency Stream Cleanup – Northeast NC	1,370,000
30	(18) State-Local Projects	2,000,000
31	(19) Princeville Flood Control	250,000
32	(20) Currituck Sound Water Management Study	300,000
33	(21) Aquatic Weed Control, Lake Gaston and Statewide	375,000
34	(22) Tar River and Pamlico Sound Feasibility Study	100,000
35	(23) Deep Creek (Yadkin County) Water Management	2,000,000
36	(24) North Carolina Oyster Habitat Restoration	50,000
37	(25) Emergency Flood Control Projects	187,000
38	(26) Projected Feasibility Studies	100,000
39	(27) Planning Assistance to Communities	95,000

40
41 **TOTALS \$14,760,000**

42
43 **SECTION 30.3.(b)** Where the actual costs are different from the estimated
44 costs under subsection (a) of this section, the Department may adjust the allocations
45 among projects as needed. If any projects funded under subsection (a) of this section are
46 delayed and the budgeted State funds cannot be used during the 2005-2006 fiscal year,
47 or if the projects funded under subsection (a) of this section are accomplished at a lower
48 cost, the Department may use the resulting fund availability to fund any of the
49 following:

- 50 (1) U.S. Army Corps of Engineers project feasibility studies.
- 51 (2) U.S. Army Corps of Engineers projects whose schedules have
52 advanced and require State-matching funds in fiscal year 2005-2006.
- 53 (3) State-local water resources development projects.

54 Funds not expended or encumbered for these purposes shall revert to the
55 General Fund at the end of the 2006-2007 fiscal year.

1 **SECTION 30.3.(c)** The Department shall make semiannual reports on the
2 use of these funds to the Joint Legislative Commission on Governmental Operations,
3 the Fiscal Research Division, and the Office of State Budget and Management. Each
4 report shall include all of the following:

- 5 (1) All projects listed in this section.
- 6 (2) The estimated cost of each project.
- 7 (3) The date that work on each project began or is expected to begin.
- 8 (4) The date that work on each project was completed or is expected to be
9 completed.
- 10 (5) The actual cost of each project.

11 The semiannual reports shall also show those projects advanced in schedule,
12 those projects delayed in schedule, and an estimate of the amount of funds expected to
13 revert to the General Fund.

14
15 Requested by: Senators Garrou, Dalton, Hagan

16 **PROCEDURES FOR DISBURSEMENT OF CAPITAL FUNDS**

17 **SECTION 30.4.** The appropriations made by the 2005 General Assembly
18 for capital improvements shall be disbursed for the purposes provided by this act.
19 Expenditure of funds shall not be made by any State department, institution, or agency
20 until an allotment has been approved by the Governor as Director of the Budget. The
21 allotment shall be approved only after full compliance with the Executive Budget Act,
22 Article 1 of Chapter 143 of the General Statutes. Prior to the award of construction
23 contracts for projects to be financed in whole or in part with self-liquidating
24 appropriations, the Director of the Budget shall approve the elements of the method of
25 financing of those projects including the source of funds, interest rate, and liquidation
26 period. Provided, however, that if the Director of the Budget approves the method of
27 financing a project, the Director shall report that action to the Joint Legislative
28 Commission on Governmental Operations at its next meeting.

29 Where direct capital improvement appropriations include the purpose of
30 furnishing fixed and movable equipment for any project, those funds for equipment
31 shall not be subject to transfer into construction accounts except as authorized by the
32 Director of the Budget. The expenditure of funds for fixed and movable equipment and
33 furnishings shall be reviewed and approved by the Director of the Budget prior to
34 commitment of funds.

35 Capital improvement projects authorized by the 2005 General Assembly shall
36 be completed, including fixed and movable equipment and furnishings, within the limits
37 of the amounts of the direct or self-liquidating appropriations provided, except as
38 otherwise provided in this act. Capital improvement projects authorized by the 2005
39 General Assembly for the design phase only shall be designed within the scope of the
40 project as defined by the approved cost estimate filed with the Director of the Budget,
41 including costs associated with site preparation, demolition, and movable and fixed
42 equipment.

43
44 Requested by: Senators Garrou, Dalton, Hagan

45 **ENCUMBERED APPROPRIATIONS AND PROJECT RESERVE FUNDS**

46 **SECTION 30.5.** When each capital improvement project appropriated by the
47 2005 General Assembly, other than those projects under the Board of Governors of The
48 University of North Carolina, is placed under a construction contract, direct
49 appropriations shall be encumbered to include all costs for construction, design,
50 investigation, administration, movable equipment, and a reasonable contingency.
51 Unencumbered direct appropriations remaining in the project budget shall be placed in a
52 project reserve fund credited to the Office of State Budget and Management. Funds in
53 the project reserve may be used for emergency repair and renovation projects at State
54 facilities with the approval of the Director of the Budget. The project reserve fund may
55 be used, at the discretion of the Director of the Budget, to allow for award of contracts

1 where bids exceed appropriated funds, if those projects supplemented were designed
2 within the scope intended by the applicable appropriation or any authorized change in it,
3 and if, in the opinion of the Director of the Budget, all means to award contracts within
4 the appropriation were reasonably attempted. At the discretion of the Director of the
5 Budget, any balances in the project reserve fund shall revert to the original source.
6

7 **REPAIR AND RENOVATION RESERVE ALLOCATION**

8 **SECTION 30.6.** Of the funds in the Reserve for Repairs and Renovations
9 for the 2005-2006 fiscal year, forty-six percent (46%) shall be allocated to the Board of
10 Governors of The University of North Carolina for repairs and renovations pursuant to
11 G.S. 143-15.3A, in accordance with guidelines developed in The University of North
12 Carolina Funding Allocation Model for Reserve for Repairs and Renovations, as
13 approved by the Board of Governors of The University of North Carolina, and fifty-four
14 percent (54%) shall be allocated to the Office of State Budget and Management for
15 repairs and renovations pursuant to G.S. 143-15.3A.

16 Notwithstanding G.S. 143-15.3A, the Board of Governors may allocate funds
17 for the repair and renovation of facilities not supported from the General Fund if the
18 Board determines that sufficient funds are not available from other sources and that
19 conditions warrant General Fund assistance. Any such finding shall be included in the
20 Board's submission to the Joint Legislative Commission on Governmental Operations
21 on the proposed allocation of funds.

22 The Board of Governors and the Office of State Budget and Management
23 shall consult with the Joint Legislative Commission on Governmental Operations prior
24 to the allocation or reallocation of these funds.
25

26 Requested by: Senators Garrou, Dalton, Hagan

27 **PROJECT COST INCREASE**

28 **SECTION 30.7.** Upon the request of the administration of a State agency,
29 department, or institution, the Director of the Budget may, when in the Director's
30 opinion it is in the best interest of the State to do so, increase the cost of a capital
31 improvement project. Provided, however, that if the Director of the Budget increases
32 the cost of a project, the Director shall report that action to the Joint Legislative
33 Commission on Governmental Operations at its next meeting. The increase may be
34 funded from gifts, federal or private grants, special fund receipts, excess patient receipts
35 above those budgeted at the University of North Carolina Hospitals at Chapel Hill, or
36 direct capital improvement appropriations to that department or institution.
37

38 Requested by: Senators Garrou, Dalton, Hagan

39 **NEW PROJECT AUTHORIZATION**

40 **SECTION 30.8.** Upon the request of the administration of any State agency,
41 department, or institution, the Director of the Budget may authorize the construction of
42 a capital improvement project not specifically authorized by the General Assembly if
43 such project is to be funded by gifts, federal or private grants, special fund receipts,
44 excess patient receipts above those budgeted at the University of North Carolina
45 Hospitals at Chapel Hill, or self-liquidating indebtedness. Prior to authorizing the
46 construction of a capital improvement project pursuant to this section, the Director shall
47 consult with the Joint Legislative Commission on Governmental Operations.
48

49 Requested by: Senators Garrou, Dalton, Hagan

50 **ADVANCE PLANNING OF CAPITAL IMPROVEMENT PROJECTS**

51 **SECTION 30.9.** Funds that become available by gifts, excess patient
52 receipts above those budgeted at the University of North Carolina Hospitals at Chapel
53 Hill, federal or private grants, receipts becoming a part of special funds by act of the
54 General Assembly, or any other funds available to a State department or institution may

1 be utilized for advance planning through the working drawing phase of capital
2 improvement projects, upon approval of the Director of the Budget.

3
4 Requested by: Senators Garrou, Dalton, Hagan

5 **APPROPRIATIONS LIMITS/REVERSION OR LAPSE**

6 **SECTION 30.10.** Except as permitted in previous sections of this act, the
7 appropriations for capital improvements made by the 2005 General Assembly may be
8 expended only for specific projects set out by the 2005 General Assembly and for no
9 other purpose. Construction of all capital improvement projects enumerated by the
10 2005 General Assembly shall be commenced, or self-liquidating indebtedness with
11 respect to them shall be incurred, within 12 months following the first day of the fiscal
12 year in which the funds are available. If construction contracts on those projects have
13 not been awarded or self-liquidating indebtedness has not been incurred within that
14 period, the direct appropriation for those projects shall revert to the original source, and
15 the self-liquidating appropriation shall lapse; except that direct appropriations may be
16 placed in a reserve fund as authorized in this act. This deadline with respect to both
17 direct and self-liquidating appropriations may be extended with the approval of the
18 Director of the Budget up to an additional 12 months if circumstances and conditions
19 warrant such extension.

20
21 **PART XXXI. LOTTERY.**

22
23 **LOTTERY**

24 **SECTION 31.1.(a)** If House Bill 1023, 2005 Regular Session, becomes law,
25 then the title of House Bill 1023, 2005 Regular Session, is amended by deleting the
26 following phrase "TO FUND COLLEGE AND UNIVERSITY SCHOLARSHIPS,".

27 **SECTION 31.1.(b)** If House Bill 1023, 2005 Regular Session, becomes law,
28 then G.S. 18C-103(4), as enacted by that act, reads as rewritten:

29 **"§ 18C-103. Definitions.**

30 As used in this Chapter, unless the context requires otherwise:

- 31
32 (4) 'Game' or 'lottery game' means any procedure or amusement
33 authorized by the Commission where prizes are distributed among
34 persons who have paid, or unconditionally agreed to pay, for tickets or
35 shares that provide the opportunity to win those ~~prizes~~ prizes and does
36 not utilize a video gaming machine as defined in G.S. 14-306.1(c).

37
38 **SECTION 31.1.(c)** If House Bill 1023, 2005 Regular Session, becomes law,
39 then G.S. 18C-110, as enacted by that act, reads as rewritten:

40 **"§ 18C-110. Establishment of the North Carolina State Lottery Commission to be
41 a self-supporting agency of the State.**

42 There is created the North Carolina State Lottery Commission to establish and
43 oversee the operation of a Lottery. The Commission shall be located in the Department
44 of ~~Commerce Administration~~ for budgetary purposes only; otherwise, the Commission
45 shall be an independent, self-supporting, and revenue-raising agency of the State. The
46 Commission shall reimburse other governmental entities that provide services to the
47 Commission."

48 **SECTION 31.1.(d)** If House Bill 1023, 2005 Regular Session, becomes law,
49 then G.S. 18C-111, as enacted by that act, reads as rewritten:

50 **"§ 18C-111. Commission membership; appointment; selection of chair; vacancies;
51 removal; meetings; compensation.**

52 (a) The Commission shall consist of nine members, ~~three-five~~ of whom shall be
53 appointed by the Governor, ~~three-two~~ of whom shall be appointed by the General
54 Assembly upon the recommendation of the President Pro Tempore of the Senate, and
55 ~~three-two~~ of whom shall be appointed by the General Assembly upon the

1 recommendation of the Speaker of the House of Representatives. The Governor shall
2 select the initial chair of the Commission from among its membership, who shall serve
3 as chair for one year from the date of appointment. Thereafter, the Commission shall
4 select a chair from among its membership to serve at the pleasure of the Commission.

5 (b) Of the initial appointees of the Governor, ~~one member~~ three members shall
6 serve a term of one year, one member shall serve a term of two years, and one member
7 shall serve a term of three years. Of the initial appointees of the General Assembly upon
8 the recommendation of the President Pro Tempore of the Senate, ~~one member shall~~
9 ~~serve a term of one year~~, one member shall serve a term of two years, and one member
10 shall serve a term of three years. Of the initial appointees of the General Assembly upon
11 the recommendation of the Speaker of the House of Representatives, ~~one member shall~~
12 ~~serve a term of one year~~, one member shall serve a term of two years, and one member
13 shall serve a term of three years. All succeeding appointments shall be for terms of five
14 years. Members shall not serve for more than two successive terms.

15 (c) Vacancies shall be filled by the appointing authority for the unexpired portion
16 of the term in which they occur.

17 (d) The Commission shall meet at least quarterly upon the call of the chair. A
18 majority of the total membership of the Commission shall constitute a quorum.

19 (e) Members of the Commission shall receive per diem, subsistence, and travel
20 as provided in G.S. 138-5 and G.S. 138-6."

21 **SECTION 31.1.(e)** If House Bill 1023, 2005 Regular Session, becomes law,
22 then G.S. 18C-112, as enacted by that act, reads as rewritten:

23 "**§ 18C-112. Qualifications of Commissioners.**

24 (a) Of the members of the Commission appointed by the Governor, at least one
25 member shall have a minimum of five years' experience in law ~~enforcement, and no~~
26 ~~more than two members shall be from the same political party as the~~
27 ~~Governor.~~ enforcement.

28 (b) Of the members appointed by the General Assembly upon the
29 recommendation of the President Pro Tempore of the Senate, one member shall be a
30 certified public ~~accountant, and no more than two members shall be from the same~~
31 ~~political party as the President Pro Tempore of the Senate.~~ accountant.

32 (c) Of the members of the Commission appointed by the General Assembly upon
33 the recommendation of the Speaker of the House of Representatives, one member shall
34 have ~~retail sales experience, and no more than two members shall be from the same~~
35 ~~political party as the Speaker of the House of Representatives.~~ at least five years retail
36 sales experience as an owner or manager.

37 (d) In making appointments to the Commission, the appointing authorities shall
38 consider the composition of the State with regard to geographic representation and
39 gender, ethnic, racial, and age composition."

40 **SECTION 31.1.(f)** If House Bill 1023, 2005 Regular Session, becomes law,
41 then G.S. 18C-114(a)(8) and G.S. 18C-114(a)(11), as enacted by that act, read as
42 rewritten:

43 "(a) The Commission shall have the following powers and duties:

44
45 ~~(8) To determine the salary of the Director and the terms and conditions~~
46 ~~for employment contracts for the Director.~~ To charge a fee of lottery
47 vendors not to exceed the cost of the criminal record check of the
48 lottery vendor.

49
50 ~~(11) To approve and authorize the Director to enter into contracts with~~
51 ~~lottery game retailers upon terms and conditions as specified by the~~
52 ~~Commission. To specify the authority, selection, and role of the~~
53 ~~Director and other employees of the Commission. All of the following~~
54 apply to all employees of the Commission:

- a. No employee of the Commission may have a financial interest in any lottery vendor or lottery contractor.
- b. No employee of the Commission with decision-making authority shall participate in any decision involving the retailer or vendor with whom the employee has a financial interest.
- c. No employee of the Commission who leaves the employment of the Commission may represent any vendor or retailer before the Commission for a period of two years following termination of employment with the Commission.
- d. A background investigation shall be conducted on each applicant for employment with the Commission.
- e. The Commission shall bond all employees with access to lottery funds or revenue and security."

SECTION 31.1.(g) If House Bill 1023, 2005 Regular Session, becomes law, then G.S. 18C-120(b)(3) and G.S. 18C-120(b)(6), as enacted by that act, read as rewritten:

"(b) The Director shall have the following powers and duties, under the supervision of the Commission:

- ...
(3) To set the salaries of all Commission employees, subject to the approval of the ~~Commission, and to employ all personnel of the Commission.~~ Commission. Except for the provisions of Articles 6 and 7 of Chapter 126 of the General Statutes, all employees of the Commission shall be exempt from the State Personnel Act.
- ...
(6) To ~~receive reports of alleged violations of the law relating to the operation of the Lottery and report those violations to~~ coordinate and collaborate with the appropriate law enforcement authority ~~authorities regarding investigations of violations of the laws relating to the operation of the Lottery and make reports to the Commission regarding those investigations.~~

...
SECTION 31.1.(h) If House Bill 1023, 2005 Regular Session, becomes law, then G.S. 18C-121, as enacted by that act, reads as rewritten:

"§ 18C-121. Accountability; books and records.

The Director shall ~~make and keep~~ have made and kept books and records that accurately and completely reflect each day's transactions, including the distribution of tickets or shares to lottery game retailers, receipt of funds, prize claims, prizes paid directly by the Commission, expenses, and all other financial transactions involving lottery funds necessary to permit preparation of financial statements that conform with generally accepted accounting principles."

SECTION 31.1.(i) If House Bill 1023, 2005 Regular Session, becomes law, then G.S. 18C-122, as enacted by that act, reads as rewritten:

"§ 18C-122. Independent audits.

(a) At the beginning of each calendar year, the ~~Director-Commission~~ shall engage an independent firm experienced in security procedures, including computer security and systems security, to conduct a comprehensive study and evaluation of all aspects of security in the operation of the Commission and of the Lottery. At a minimum, such a security assessment should include a review of network vulnerability, application vulnerability, application code review, wireless security, security policy and processes, security/privacy program management, technology infrastructure and security controls, security organization and governance, and operational effectiveness.

...
(d) Biennially at the end of the fiscal year, the ~~Director-Commission~~ shall engage an independent auditing firm that has experience in evaluating the operation of lotteries

1 to perform an audit of the Lottery. The results of this audit shall be presented to the
2 Commission, to the Governor, and to the General Assembly."

3 **SECTION 31.1.(j)** If House Bill 1023, 2005 Regular Session, becomes law,
4 then G.S. 18C-130(e), as enacted by that act, reads as rewritten:

5 "(e) ~~The only advertising of the Lottery that shall be permitted is point of sale~~
6 ~~advertising and advertising on the premises of lottery retailers.~~ Lottery advertising shall
7 be designed and presented in a manner to minimize the appeal of lottery games to
8 minors. The use of cartoon characters or of false, misleading, or deceptive information
9 in lottery advertising is prohibited. All advertising promoting the sale of lottery tickets
10 or shares for a particular game shall include the actual or estimated overall odds of
11 winning the game."

12 **SECTION 31.1.(k)** If House Bill 1023, 2005 Regular Session, becomes law,
13 then G.S. 18C-132, as enacted by that act, is amended by adding the following new
14 subsection to read:

15 "(l) All prizes are subject to the State income tax."

16 **SECTION 31.1.(i)** If House Bill 1023, 2005 Regular Session, becomes law,
17 then G.S. 18C-140, as enacted by that act, reads as rewritten:

18 "**§ 18C-140. Contracting with lottery game retailers.**

19 The Commission may contract with lottery game retailers to sell tickets or shares for
20 lottery games upon such terms and conditions as it considers appropriate. The contract
21 entered into between the Commission and the lottery game retailer shall be considered a
22 permit for purposes of Chapter 18B of the General Statutes. No contract to act as a
23 lottery game retailer is assignable or transferable. All contracts with lottery game
24 retailers shall provide that the Director may terminate the contract if the lottery game
25 retailer knowingly violates a provision of this Chapter."

26 **SECTION 31.1.(m)** If House Bill 1023, 2005 Regular Session, becomes
27 law, then G.S. 18C-141(b), as enacted by that act, reads as rewritten:

28 "(b) The Director may not recommend contracting with any of the following:

- 29 (1) A natural person under 21 years of age. This minimum age shall not
30 prohibit employees of a lottery game retailer who are under 21 years of
31 age from selling lottery tickets or shares during their employment.
- 32 (2) A person who would be engaged exclusively in the business of selling
33 lottery tickets or shares or operating electronic computer terminals or
34 other devices solely for entertainment.
- 35 (3) A person who is not current in filing all applicable tax returns to the
36 State and in payment of all taxes, interest, and penalties owed to the
37 State, excluding items under formal appeal under applicable statutes.
38 Upon request of the Director, the Department of Revenue shall provide
39 this information about a specific person to the Commission.
- 40 (4) A person who resides in the same household as a member of the
41 Commission, the Director, or any other employee of the Commission."

42 **SECTION 31.1.(n)** If House Bill 1023, 2005 Regular Session, becomes law,
43 then G.S. 18C-142, as enacted by that act, reads as rewritten:

44 "**§ 18C-142. Compensation for lottery game retailers.**

45 The amount of compensation paid to lottery game retailers for their sales of lottery
46 tickets or shares shall be ~~six percent (6%)~~ seven percent (7%) of the retail price of the
47 tickets or shares sold for each lottery game. The Commission shall ~~authorize an~~
48 ~~incentive bonus of up to one percent (1%) of the retail price of the tickets or shares sold~~
49 ~~based on~~ require submission of reports and remission of lottery revenues to the
50 Commission on a timely basis."

51 **SECTION 31.1.(o)** If House Bill 1023, 2005 Regular Session, becomes law,
52 then G.S. 18C-143, as enacted by that act, reads as rewritten:

53 "**§ 18C-143. Responsibilities of lottery game retailers.**

54 (a) A lottery game retailer shall comply with all provisions of this Article and the
55 contract with the Commission.

1 (b) A lottery game retailer shall sell no lottery tickets or shares unless the retailer
2 conspicuously displays a certificate of authority, signed by the Director, to sell lottery
3 tickets or shares. The Commission shall issue a certificate of authority to each lottery
4 game retailer for purposes of display for each retail outlet owned or operated by the
5 lottery game retailer. No certificate is assignable or transferable.

6 (c) A lottery game retailer shall furnish an appropriate bond or letter of credit, if
7 so requested by the Director. The Commission may authorize the Director to purchase
8 blanket bonds covering the activities of any or all lottery game retailers.

9 (d) The Commission shall adopt rules to establish procedures governing how the
10 lottery game retailers:

11 (1) Account for all tickets or shares in their custody, including tickets and
12 shares sold.

13 (2) Account for the money collected from the sale of tickets and shares.

14 (3) Remit funds to the Commission, provided that all payments shall be in
15 the form of electronic fund transfers or other recorded financial
16 instruments as authorized by the Commission and approved by the
17 Director.

18 (e) No lottery retailer or applicant to be a lottery retailer shall pay, give, or make
19 any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality, or
20 service, excluding food and beverages having an aggregate value not exceeding one
21 hundred dollars (\$100.00) in any calendar year, to the Director, to any member or
22 employee of the Commission, or to any member of the immediate family residing in the
23 same household as one of these individuals."

24 **SECTION 31.1.(p)** If House Bill 1023, 2005 Regular Session, becomes law,
25 then G.S. 18C-151, as enacted by that act, reads as rewritten:

26 "**§ 18C-151. Contracts.**

27 (a) Except as otherwise provided in this subsection for contracts for the purchase
28 of services, apparatus, supplies, materials, or equipment requiring an estimated
29 expenditure of public money in an amount equal to or more than seventy-five thousand
30 dollars (\$75,000), Article 8 of Chapter 143 of the General Statutes shall apply to all
31 contracts entered into by the Commission, including the provisions relating to minority
32 participation goals, and the Commission shall be considered a political subdivision of
33 the State for those purposes of contracting under Article 8 of Chapter 143 of the General
34 Statutes. Commission. Contracts for the provision of services to the Commission shall be
35 treated as a contract for the purchase of apparatus, supplies, materials, or equipment.
36 The bonding requirements of G.S. 143-129(b) for construction contracts shall apply to
37 all contracts of the Commission and may be waived at the discretion of the
38 Commission. In recognition of the particularly sensitive nature of the Lottery and the
39 competence, quality of product, experience, and timeliness, fairness, and integrity in the
40 operation and administration of the Lottery and maximization of the objective of raising
41 revenues, a contract for the purchase of services, apparatus, supplies, materials, or
42 equipment requiring an estimated expenditure of public money in an amount equal to or
43 more than seventy-five thousand dollars (\$75,000) may be awarded by the Commission
44 only after the following have occurred:

45 (1) The Commission has invited proposals to be submitted by
46 advertisement by electronic means or advertisement in a newspaper
47 having general circulation in the State of North Carolina and
48 containing the following information:

49 a. The time and place where a complete description of the
50 services, apparatus, supplies, materials, or equipment may be
51 had.

52 b. The time and place for opening of the proposals.

53 c. A statement reserving to the Commission the right to reject any
54 or all proposals.

- 1 (2) Proposals may be rejected for any reason determined by the
2 Commission to be in the best interest of the Lottery.
3 (3) All proposals shall be accompanied by a bond or letter of credit in an
4 amount equal to not less than five percent (5%) of the proposal and the
5 fee to cover the cost of the criminal record check conducted under
6 G.S. 114-19.6.
7 (4) The Commission has complied with G.S. 143-128.2 and
8 G.S. 143-128.3.
9 (5) The Commission may not award a contract to a lottery vendor who has
10 been convicted of a felony or any gambling offense in any state or
11 federal court of the United States within 10 years of entering into the
12 contract, or employs officers and directors who have been convicted of
13 a felony or any gambling offense in any state or federal court of the
14 United States within 10 years of entering into the contract.
15 (6) The Commission shall investigate and compare the overall business
16 practices, ethical reputation, criminal record, civil litigation,
17 competence, integrity, background, and regulatory compliance record
18 of lottery vendors.
19 (7) The Commission may engage an independent firm experienced in
20 evaluating government procurement proposals to aid in evaluating
21 proposals for a major procurement.
22 (8) The Commission shall award the contract to the responsible lottery
23 vendor who submits the best proposal that maximizes the benefits to
24 the State.

25 (b) Upon the completion of the bidding process, a contract may be awarded to a
26 lottery contractor with whom the Commission has previously contracted for the same
27 purposes.

28 (c) Before a contract ~~required to be let under G.S. 143-129~~ is awarded, the
29 Director shall conduct ~~an~~ a thorough background investigation of all of the following:

- 30 (1) The vendor to whom the contract is to be awarded.
31 (2) Any parent or subsidiary corporation of the vendor to whom the
32 contract is to be awarded.
33 (3) All shareholders with a five percent (5%) or more interest in the
34 vendor or parent or subsidiary corporation of the vendor to whom the
35 contract is to be awarded.
36 (4) All officers and directors of the vendor or parent or subsidiary
37 corporation of the vendor to whom the contract is to be awarded.

38 (d) The Commission may terminate the contract, without penalty, of a lottery
39 contractor that fails to comply with the Commission's instruction to implement the
40 recommendations of the State Auditor or an independent auditor in an audit conducted
41 of Lottery security or operations.

42 (e) After entering into a contract with a lottery contractor, the Commission shall
43 require the lottery contractor to periodically update the information required to be
44 disclosed under G.S. 18C-149. Any contract with a lottery contractor who does not
45 periodically update the required disclosures may be terminated by the Commission.

46 (f) No lottery system vendor nor any applicant for a major procurement contract
47 may pay, give, or make any economic opportunity, gift, loan, gratuity, special discount,
48 favor, hospitality, or service, excluding food and beverages having an aggregate value
49 not exceeding one hundred dollars (\$100.00) in any calendar year, to the Director, any
50 member or employee of the corporation, or a member of the immediate family residing
51 in the same household as any of these individuals."

52 **SECTION 31.1.(q)** If House Bill 1023, 2005 Regular Session, becomes law,
53 then G.S. 18C-152, as enacted by that act, reads as rewritten:

54 "**§ 18C-152. Investigation of lottery vendors.**

1 (a) Lottery vendors shall cooperate with the Director in completing any
2 investigation required under G.S. 18C-151(c), including any appropriate investigation
3 authorizations needed to facilitate these investigations.

4 (b) The Commission shall adopt rules that provide for disclosures of information
5 required to be disclosed under subsection (c) of this section by lottery vendors to ensure
6 that the vendors provide all the information necessary to allow for a full and complete
7 evaluation by the Director and Commission of the competence, integrity, background,
8 and character of the lottery vendors. Information shall be disclosed for the following:

9 (1) If the vendor is a corporation, the officers, directors, and each
10 stockholder in that corporation; however, in the case of owners of
11 equity securities of a publicly traded corporation, only the names and
12 addresses of those known to the corporation to own beneficially five
13 percent (5%) or more of the securities need be disclosed.

14 (2) If the vendor is a trust, the trustee and all persons entitled to receive
15 income or benefits from the trust.

16 (3) If the vendor is an association, the members, officers, and directors.

17 (4) If the vendor is a partnership or joint venture, all of the general
18 partners, limited partners, or joint venturers.

19 (5) For any vendor, any person who can exercise control or authority, or
20 both, on behalf of the vendor.

21 (c) For purposes of this subsection, the term "vendor" shall include the vendor
22 and each of the persons applicable under subsection (b) of this section. At a minimum,
23 the vendor required to disclose information for a thorough background investigation
24 under G.S. 18C-151 shall disclose all of the following:

25 (1) A disclosure of the vendor's name, phone number, and address.

26 (2) A disclosure of all the states and jurisdictions in which the vendor does
27 business and the nature of the business for each state or jurisdiction.

28 (3) A disclosure of all the states and jurisdictions in which the vendor has
29 contracts to supply gaming goods or services, including lottery goods
30 and services, and the nature of the goods or services involved for each
31 state or jurisdiction.

32 (4) A disclosure of all the states and jurisdictions in which the vendor has
33 applied for, has sought renewal of, has received, has been denied, has
34 pending, or has had revoked a lottery or gaming license or permit of
35 any kind or had fines or penalties assessed on a license, permit,
36 contract, or operation and the disposition of such in each such state or
37 jurisdiction. If any lottery or gaming license, permit, or contract has
38 been revoked or has not been renewed or any lottery or gaming
39 license, permit, or application has been either denied or is pending and
40 has remained pending for more than six months, all of the facts and
41 circumstances underlying the failure to receive that license shall be
42 disclosed.

43 (5) A disclosure of the details of any finding or plea, conviction, or
44 adjudication of guilt in a state or federal court of the vendor for any
45 felony or any other criminal offense other than a minor traffic
46 violation.

47 (6) A disclosure of the details of any bankruptcy, insolvency,
48 reorganization, or corporate or individual purchase or takeover of
49 another corporation, including bonded indebtedness, or any pending
50 litigation of the vendor.

51 (7) If at least twenty-five percent (25%) of the cost of a vendor's contract
52 is subcontracted, the vendor shall disclose all of the information
53 required by this section for the subcontractor as if the subcontractor
54 were itself a vendor.

1 (8) Any additional disclosures and information the Commission
2 determines to be appropriate for the contract involved.

3 ~~(e)~~(d) All documents compiled by the Director in conducting the investigation of
4 the lottery vendors shall be held as confidential information under Chapter 132."

5 **SECTION 31.1.(r)** If House Bill 1023, 2005 Regular Session, becomes law,
6 then G.S. 18C-162, as enacted by that act, reads as rewritten:

7 "**§ 18C-162. Allocation of revenues.**

8 (a) To the extent practicable, the Commission shall allocate revenues to the
9 North Carolina State Lottery Fund in the following manner:

10 (1) At least fifty percent (50%) of the total annual revenues, as described
11 in this Chapter, shall be returned to the public in the form of prizes.

12 (2) At least ~~thirty four percent (34%)~~ thirty-five percent (35%) of the total
13 annual revenues, as described in this Chapter, shall be transferred as
14 provided in G.S. 18C-164.

15 (3) No more than ~~sixteen percent (16%)~~ eight percent (8%) of the total
16 annual revenues, as described in this Chapter, shall be allocated for
17 payment of expenses of the Lottery.

18 (4) No more than seven percent (7%) of the total annual revenues, as
19 described in this Chapter, shall be allocated for compensation paid to
20 lottery game retailers.

21 (b) Unclaimed prize money held by the Commission in the North Carolina State
22 Lottery Fund may be used by the Commission to enhance prizes in other lottery games.

23 (c) To the extent that the expenses of the Commission are less than ~~sixteen~~
24 ~~percent (16%)~~ eight percent (8%) of total annual revenues, the Commission may
25 allocate any surplus funds:

26 (1) To increase prize payments; or

27 (2) To the benefit of the public purposes as described in this Chapter."

28 **SECTION 31.1.(s)** If House Bill 1023, 2005 Regular Session, becomes law,
29 then G.S. 18C-163(3), as enacted by that act, is repealed.

30 **SECTION 31.1.(t)** If House Bill 1023, 2005 Regular Session, becomes law,
31 then G.S. 18C-164(b), as enacted by that act, reads as rewritten:

32 "(b) ~~On June 30 of each year, the~~The Commission shall distribute the net revenue
33 of the North Carolina State Lottery Fund as follows:

34 (1) ~~Fifty percent (50%)~~ During the 2005-2006 fiscal year, seventy million
35 dollars (\$70,000,000) shall be transferred to the Public School
36 Building Capital and Technology Fund created in Article 38A of
37 Chapter 115C of the General Statutes and is appropriated for
38 expenditure in accordance with that Article. The amounts transferred
39 under this subdivision shall be transferred in four equal installments,
40 one during each fiscal quarter. It is the purpose of this subdivision for
41 counties to appropriate funds generated under this subdivision to
42 increase the level of county spending for public school capital outlay
43 purposes other than the retirement of indebtedness. A county must
44 continue to spend for public school capital outlay purposes the same
45 amount of money it would have spent for those purposes if it had not
46 received the monies appropriated under this subdivision.

47 (2) ~~Twenty five percent (25%) shall be transferred to the State~~
48 ~~Educational Assistance Authority and is appropriated to fund~~
49 ~~scholarships pursuant to Article 35A of Chapter 115C of the General~~
50 ~~Statutes. Beginning with the 2006-2007 fiscal year and annually~~
51 ~~thereafter, one hundred fifty million dollars (\$150,000,000) shall be~~
52 ~~transferred to a special revenue fund to be established by the State~~
53 ~~Treasurer and to be known as the County Assistance Fund. The~~
54 ~~amounts transferred under this subdivision shall be transferred in four~~
55 ~~equal installments, one during each fiscal quarter. Monies in this Fund~~

1 shall be used to pay for school construction projects in local school
 2 administrative units and to retire indebtedness incurred for school
 3 construction projects incurred on or after January 1, 2003. Monies in
 4 this Fund shall be distributed based on average daily membership, the
 5 county's ability to pay, the county's tax rate, growth in average daily
 6 membership, the county's debt capacity, and an appropriate
 7 requirement for matching funds from the county.

8 (3) Twenty five percent (25%) Beginning with the 2005-2006 fiscal year,
 9 and annually thereafter, after the revenue is distributed as provided in
 10 subdivisions (1) and (2) of this subsection, the remainder shall be
 11 transferred to a special revenue fund to be established in the State
 12 treasury and to be known as the Education Enhancement Fund. This
 13 fund shall be subject to appropriation by the General Assembly and
 14 shall be used to further the goal of providing enhanced educational
 15 opportunities so that all students in the public schools can achieve their
 16 full potential. Initially, the Fund shall be used for the following
 17 primary purposes:

18 a. To support reduction of class size in early grades to class size
 19 allotments not exceeding 1:18 in order to eliminate achievement
 20 gaps.

21 b. To support academic prekindergarten programs for at-risk
 22 four-year-olds who would otherwise not be served in a
 23 high-quality education program in order to help those
 24 four-year-olds be prepared developmentally to succeed in
 25 school.

26 c. To support other educational priorities identified by the General
 27 Assembly."

28 **SECTION 31.1.(u)** If House Bill 1023, 2005 Regular Session, becomes law,
 29 then G.S. 18C-171, as enacted by that act, reads as rewritten:

30 "**§ 18C-171. Lawful activity.**

31 Other than this Chapter, any other State or local law, ordinance, or regulation
 32 providing any penalty, ~~disability~~, restriction, regulation, or prohibition for the
 33 manufacture, transportation, storage, distribution, advertising, possession, or sale of any
 34 lottery tickets or shares or for the operation of any lottery game shall not apply to the
 35 operation of the Commission or lottery games established by this ~~Chapter~~.
 36 Chapter where the penalty, restriction, regulation, or prohibition applies only to the Lottery as
 37 operated by the North Carolina State Lottery Commission."

38 **SECTION 31.1.(v)** If House Bill 1023, 2005 Regular Session, becomes law,
 39 then Sections 2 and 4 of that act are repealed.

40 **SECTION 31.1.(w)** If House Bill 1023, 2005 Regular Session, becomes law,
 41 then G.S. 114-19.6, as enacted by that act, reads as rewritten:

42 "**§ 114-19.16. Criminal record checks for the North Carolina State Lottery**
 43 **Commission and its Director.**

44 The Department of Justice may provide to the North Carolina State Lottery
 45 Commission and to its Director from the State and National Repositories of Criminal
 46 Histories the criminal history of any prospective employee of the Commission and any
 47 ~~prospective lottery retailer or lottery contractor~~ lottery vendor. The North Carolina State
 48 Lottery Commission or its Director shall provide to the Department of Justice, along
 49 with the request, the fingerprints of the prospective employee of the Commission, or of
 50 the ~~prospective lottery retailer or lottery contractor~~ lottery vendor, a form signed by the
 51 prospective employee of the Commission, or of the ~~prospective lottery retailer or lottery~~
 52 ~~contractor~~ lottery vendor consenting to the criminal record check and use of fingerprints
 53 and other identifying information required by the State and National Repositories, and
 54 any additional information required by the Department of Justice. The fingerprints of
 55 the prospective employee of the Commission, or ~~prospective lottery retailer or lottery~~

1 ~~contractor, lottery vendor,~~ shall be forwarded to the State Bureau of Investigation for a
2 search of the State's criminal history record file, and the State Bureau of Investigation
3 shall forward a set of fingerprints to the Federal Bureau of Investigation for a national
4 criminal history record check. The North Carolina State Lottery Commission and its
5 Director shall remit any fingerprint information retained by the Commission to alcohol
6 law-enforcement agents appointed under Article 5 of Chapter 18B of the General
7 Statutes and shall keep all information obtained pursuant to this section confidential.
8 The Department of Justice shall charge a reasonable fee only for conducting the checks
9 of the national criminal history records authorized by this section."

10 **SECTION 31.1.(x)** G.S. 18B-101 is amended by adding a new subdivision
11 to read:

12 "(8a) 'Lottery law' or 'lottery laws' means any provision of Chapter 18C of
13 the General Statutes and the rules issued by the Lottery Commission
14 under the authority of Chapter 18C of the General Statutes."

15 **SECTION 31.1.(y)** If House Bill 1023, 2005 Regular Session, becomes law,
16 then G.S. 18B-500(b) reads as rewritten:

17 "(b) Subject Matter Jurisdiction. – After taking the oath prescribed for a peace
18 officer, an alcohol law-enforcement agent shall have authority to arrest and take other
19 investigatory and enforcement actions for any criminal offense. The primary
20 responsibility of an agent shall be enforcement of the ABC ~~laws-laws,~~ lottery laws, and
21 Article 5 of Chapter 90 (The Controlled Substances Act); however, an agent may
22 perform any law-enforcement duty assigned by the Secretary of Crime Control and
23 Public Safety or the Governor."

24 **SECTION 31.1.(z)** If House Bill 1023, 2005 Regular Session, becomes law,
25 then G.S. 18B-500(d) reads as rewritten:

26 "(d) Service of Commission Orders. – Alcohol law-enforcement agents may serve
27 and execute notices, orders, or demands issued by the Alcoholic Beverage Control
28 Commission or the North Carolina State Lottery Commission for the surrender of
29 permits or relating to any administrative proceeding. While serving and executing such
30 notices, orders, or demands, alcohol law-enforcement agents shall have all the power
31 and authority possessed by law-enforcement officers when executing an arrest warrant."

32 **SECTION 31.1.(aa)** If House Bill 1023, 2005 Regular Session, becomes
33 law, then, effective for taxable years beginning on or after January 1, 2005,
34 G.S. 105-134.5(b) reads as rewritten:

35 "(b) Nonresidents. – For nonresident individuals, the term "North Carolina taxable
36 income" means the taxpayer's taxable income as determined under the Code, adjusted as
37 provided in G.S. 105-134.6 and G.S. 105-134.7, multiplied by a fraction the
38 denominator of which is the taxpayer's gross income as determined under the Code,
39 adjusted as provided in G.S. 105-134.6 and G.S. 105-134.7, and the numerator of which
40 is the amount of that gross income, as adjusted, that is derived from North Carolina
41 sources and is attributable to the ownership of any interest in real or tangible personal
42 property in this ~~State or State,~~ is derived from a business, trade, profession, or
43 occupation carried on in this State, State, or is derived from gambling activities in this
44 State."

45 **SECTION 31.1.(bb)** If House Bill 1023, 2005 Regular Session, becomes
46 law, then, effective for taxable years beginning on or after January 1, 2005, Article 4A
47 of Chapter 105 of the General Statutes is amended by adding a new section to read:

48 "**§ 105-163.2B. North Carolina State Lottery Commission must withhold taxes.**

49 The North Carolina State Lottery Commission, established by Chapter 18C of the
50 General Statutes, must deduct and withhold State income taxes from the payment of
51 winnings that are reportable to the Internal Revenue Service under section 3406 of the
52 Code. The amount of taxes to be withheld is seven percent (7%) of the winnings less the
53 amount wagered. The Commission must file a return and pay the withheld taxes in the
54 time and manner required under G.S. 105-163.6 as if the winnings were wages. The
55 taxes the Commission withholds are held in trust for the Secretary."

1 **SECTION 31.1.(cc)** If House Bill 1023, 2005 Regular Session, becomes
2 law, then G.S. 105-259(b) is amended by adding a new subdivision to read:

3 "(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State
4 who has access to tax information in the course of service to or employment by the State
5 may not disclose the information to any other person unless the disclosure is made for
6 one of the following purposes:

7 ...
8 (32) To provide to the North Carolina State Lottery Commission the
9 information required under G.S. 18C-141."

10
11 Requested by: Senators Albertson, Garrou, Dalton, Hagan

12 **PROHIBIT THE POSSESSION OR OPERATION OF VIDEO GAMING**
13 **MACHINES EXCEPT BY A FEDERALLY RECOGNIZED INDIAN TRIBE**
14 **AS AUTHORIZED BY THE INDIAN GAMING REGULATORY ACT AND A**
15 **VALID TRIBAL-STATE COMPACT**

16 **SECTION 31.2.(a)** G.S. 14-306.1 is repealed.

17 **SECTION 31.2.(b)** Part 1 of Article 37 of Chapter 14 of the General
18 Statutes is amended by adding a new section to read:

19 **"§ 14-306.1A. Types of machines and devices prohibited by law; penalties.**

20 (a) Ban on Machines. – It shall be unlawful for any person to operate, allow to be
21 operated, place into operation, or keep in that person's possession for the purpose of
22 operation any video gaming machine as defined in subsection (b) of this section, except
23 for the exemption for a federally recognized Indian tribe under subsection (e) of this
24 section for whom it shall be lawful to operate and possess machines as listed in
25 subsection (b) of this section if conducted in accordance with an approved Class III
26 Tribal-State Compact applicable to that tribe, as provided in G.S. 147-12(14) and
27 G.S. 71A-8.

28 (b) Definitions. – As used in this section, a video gaming machine means a slot
29 machine, as defined in G.S. 14-306(a), and other forms of electrical, mechanical, or
30 computer games such as, by way of illustration:

31 (1) A video poker game or any other kind of video playing card game.

32 (2) A video bingo game.

33 (3) A video craps game.

34 (4) A video keno game.

35 (5) A video lotto game.

36 (6) Eight liner.

37 (7) Pot-of-gold.

38 (8) A video game based on or involving the random or chance matching of
39 different pictures, words, numbers, or symbols not dependent on the
40 skill or dexterity of the player.

41 For the purpose of this section, a video gaming machine is a video machine which
42 requires deposit of any coin or token, or use of any credit card, debit card, or any other
43 method that requires payment to activate play of any of the games listed in this
44 subsection. The enumeration of games in the list in this subsection does not authorize
45 the possession or operation of such game if it is otherwise prohibited by law.

46 For the purpose of this section, a video gaming machine includes those that are
47 within the scope of the exclusion provided in G.S. 14-306(b)(2) unless conducted in
48 accordance with an approved Class III Tribal-State Compact applicable to that tribe as
49 provided in G.S. 147-12(14) and G.S. 71A-8. For the purpose of this section, a video
50 gaming machine does not include those that are within the scope of the exclusion
51 provided in G.S. 14-306(b)(1).

52 (c) Exemption for Certain Machines. – This section shall not apply to
53 assemblers, repairers, manufacturers, sellers, lessors, or transporters of video gaming
54 machines who assemble, repair, manufacture, sell, lease, or transport them for use
55 out-of-state as long as the machines, while located in this State, cannot be used to play

1 the prohibited games and does not apply to those who assemble, repair, manufacture,
2 sell, or lease such machines for use only by a federally recognized Indian tribe if such
3 machines may be lawfully used on Indian land under the Indian Gaming Regulatory
4 Act.

5 (d) Ban on Warehousing. – It is unlawful to warehouse any video gaming
6 machine except in conjunction with the activities permitted under subsection (c) of this
7 section.

8 (e) Exemption for Activities Under IGRA. – Notwithstanding any other
9 prohibitions in State law, the form of Class III gaming otherwise prohibited by
10 subsections (a) through (d) of this section may be legally conducted on Indian lands
11 which are held in trust by the United States government for and on behalf of federally
12 recognized Indian tribes if conducted in accordance with an approved Class III
13 Tribal-State Gaming Compact applicable to that tribe as provided in G.S. 147-12(14)
14 and G.S. 71A-8."

15 **SECTION 31.2.(c)** G.S. 14-306.2 reads as rewritten:

16 **"§ 14-306.2. Violation of ~~G.S. 14-306.1~~ G.S. 14-306.1A a violation of the ABC laws.**

17 A violation of ~~G.S. 14-306.1~~ G.S. 14-306.1A is a violation of the gambling statutes
18 for the purposes of G.S. 18B-1005(a)(3)."

19 **SECTION 31.2.(d)** G.S. 147-12(14) reads as rewritten:

20 "(14) ~~To~~ Notwithstanding subsections (a) through (d) of G.S. 14-306.1A, to
21 negotiate and enter into Class III Tribal-State gaming compacts, and
22 amendments thereto, on behalf of the ~~State~~ State, consistent with State
23 law (G.S. 14-306.1A(e) and G.S. 71A-8) and the Indian Gaming
24 Regulatory Act, Public Law 100-497, as necessary to allow a federally
25 recognized Indian tribe to operate gaming activities—activities,
26 including those games allowed pursuant to G.S. 14-306.1A(e), in this
27 State as permitted under federal law."

28 **SECTION 31.2.(e)** G.S. 71A-8 reads as rewritten:

29 **"§ 71A-8. Authorization for federally recognized Indian tribes.**

30 In recognition of the governmental relationship between the State, federally
31 recognized Indian tribes and the United States, a federally recognized Indian tribe may
32 conduct games consistent with the Indian Gaming Regulatory Act, Public Law 100-497,
33 that are in accordance with a valid Tribal-State compact executed by the Governor
34 pursuant to G.S. 147-12(14) and approved by the U.S. Department of Interior under the
35 Indian Gaming Regulatory Act, and such ~~games~~ games, including those permitted under
36 G.S. 14-306.1A(e), shall not be unlawful or be lawful and not against the public policy
37 of the State if the State permits such gaming for any purpose by any person,
38 organization, or entity, if conducted by a federally recognized Indian tribe on federal
39 Indian Trust Lands within the State in accordance with a Tribal-State Gaming Compact
40 applicable to that tribe as provided in G.S. 147-12(14) and G.S. 71A-8."

41 **SECTION 31.2.(f)** G.S. 14-298 reads as rewritten:

42 **"§ 14-298. Seizure of illegal gaming items.**

43 Upon a determination that probable cause exists to believe that any gaming table
44 prohibited to be used by G.S. 14-289 through G.S. 14-300, any illegal punchboard or
45 illegal slot machine, or any video game machine prohibited to be used by G.S. 14-306
46 or ~~G.S. 14-306.1~~ G.S. 14-306.1A, is in the illegal possession or use of any person
47 within the limits of their jurisdiction, all sheriffs and law enforcement officers are
48 authorized to seize the items in accordance with applicable State law. Any law
49 enforcement agency in possession of that item shall retain the item pending a
50 disposition order from a district or superior court judge. Upon application by the law
51 enforcement agency, district attorney, or owner, and after notice and opportunity to be
52 heard by all parties, if the court determines that the item is unlawful to possess, it shall
53 enter an order releasing the item to the law enforcement agency for destruction or for
54 training purposes. If the court determines that the item is not unlawful to possess and
55 will not be used in violation of the law, the item shall be ordered released to its owner

1 upon satisfactory proof of ownership. The foregoing procedures for release shall not
 2 apply, however, with respect to an item seized for use as evidence in any criminal action
 3 or proceeding until after entry of final judgment. This section does not prohibit any
 4 activities which are legally conducted by a federally recognized Indian tribe pursuant to
 5 G.S. 14-306.1A(e), 147-12(14), and 71A-8."

6 **SECTION 31.2.(g)** Effective with respect to offenses committed on or after
 7 December 1, 2005, G.S. 14-309(b) is repealed.

8 **SECTION 31.2.(h)** G.S. 105-256(d)(1) is repealed, but that repeal does not
 9 affect reports for activities prior to December 1, 2005.

10 **SECTION 31.2.(i)** G.S. 14-309 reads as rewritten:

11 **"§ 14-309. Violation made criminal.**

12 (a) Any person who violates any provision of G.S. 14-304 through 14-309 is
 13 guilty of a Class 1 misdemeanor for the first offense, and is guilty of a Class I felony for
 14 a second offense and a Class H felony for a third or subsequent offense.

15 (b) Notwithstanding the provisions of subsection (a) of this section, any person
 16 violating the provisions of ~~G.S. 14-306.1~~ G.S. 14-306.1A involving the operation of five
 17 or more machines prohibited by that section is guilty of a Class G felony."

18 **SECTION 31.2.(j)** This section becomes effective December 1, 2005, and
 19 applies to offenses committed on or after that date but also applies to compacts and
 20 amendments thereto executed before that date. If a court of competent jurisdiction in
 21 this State issues a stay to prohibit possession or operation of video gaming machines by
 22 a federally recognized Indian tribe, as authorized by a valid Tribal-State Compact,
 23 because that activity is not allowed on non-Indian lands pursuant to this section, this
 24 section is suspended and shall not have the force of law until such time as the stay is
 25 dissolved or a final order is entered. If a court of competent jurisdiction in this State
 26 issues a final order that prohibits the possession or operation of video gaming machines
 27 by a federally recognized Indian tribe, as authorized by a valid Tribal-State Compact,
 28 because that activity is not allowed on non-Indian lands, this section is void.

30 PART XXXII. STREAMLINED SALES TAX CHANGES

31
 32 Requested by: Senators Hoyle, Kerr

33 STREAMLINED SALES TAX CHANGES

34 **SECTION 32.1.(a)** Subdivisions (4a) and (4b) of G.S. 105-164.3 are
 35 recodified as subdivisions (4b) and (4c) respectively.

36 **SECTION 32.1.(b)** G.S. 105-164.3 reads as rewritten:

37 **"§ 105-164.3. Definitions.**

38 The following definitions apply in this Article:

39 ...
 40 (4a) Combined general rate. – The State's general rate of tax set in
 41 G.S. 105-164.4(a) plus the sum of the rates of the local sales and use
 42 taxes authorized by Subchapter VIII of this Chapter for every county
 43 in this State.

44 ...
 45 (4d) Computer supply. – An item that is considered a 'school computer
 46 supply' under the Streamlined Agreement.

47 ...
 48 (10) Food. – Substances that are sold for ingestion or chewing by humans
 49 and are consumed for their taste or nutritional value. The substances
 50 may be in liquid, concentrated, solid, frozen, dried, or dehydrated
 51 form. The term does not include an alcoholic beverage, as defined in
 52 G.S. 105-113.68, or a tobacco ~~products,~~ product, as defined in
 53 G.S. 105-113.4.

54 ...

1 (37b) School supply. – An item that is commonly used by a student in the
2 course of study and is considered a 'school supply', a 'school art
3 supply', or 'school instructional material' under the Streamlined
4 Agreement.

5
6 (45a) Streamlined Agreement. – The Streamlined Sales and Use Tax
7 Agreement adopted November 12, 2002, as amended on November 19,
8 2003, November 16, 2004, and April 16, 2005."

9 **SECTION 32.1(c)** G.S. 105-164.4(a), as amended by Section 33.1(a) of this
10 act, reads as rewritten:

11 "(a) A privilege tax is imposed on a retailer at the following percentage rates of
12 the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is
13 four and one-half percent (4 1/2%).

14
15 (1b) The rate of three percent (3%) applies to the sales price of each
16 ~~aircraft, boat, railway car, or locomotive~~ aircraft or boat sold at retail,
17 including all accessories attached to the item when it is delivered to the
18 purchaser. The maximum tax is one thousand five hundred dollars
19 (\$1,500) per article.

20 (1c) ~~The rate of one percent (1%) applies to the sales price of the following~~
21 ~~articles:~~

22 a. ~~Horses or mules by whomsoever sold.~~

23 b. ~~Semen to be used in the artificial insemination of animals.~~

24 c. ~~Sales of fuel, other than electricity, to farmers to be used by~~
25 ~~them for any farm purposes other than preparing food, heating~~
26 ~~dwelling, and other household purposes. The quantity of fuel~~
27 ~~purchased or used at any one time shall not in any manner be a~~
28 ~~determinative factor as to whether any sale or use of fuel is or is~~
29 ~~not subject to the one percent (1%) rate of tax imposed by this~~
30 ~~subdivision.~~

31 d. ~~Sales of fuel, other than electricity, to manufacturing industries~~
32 ~~and manufacturing plants for use in connection with the~~
33 ~~operation of such industries and plants other than sales of fuels~~
34 ~~to be used for residential heating purposes. The quantity of fuel~~
35 ~~purchased or used at any one time shall not in any manner be a~~
36 ~~determinative factor as to whether any sale or use of fuel is or is~~
37 ~~not subject to the rate of tax provided in this subdivision.~~

38 e. ~~Sales of fuel, other than electricity, to commercial laundries or~~
39 ~~to pressing and dry cleaning establishments for use in~~
40 ~~machinery used in the direct performance of the laundering or~~
41 ~~the pressing and cleaning service.~~

42 f. ~~Sales to freezer locker plants of wrapping paper, cartons and~~
43 ~~supplies consumed directly in the operation of such plant.~~

44 (1d) ~~The rate of one percent (1%) applies to the sales price of the articles~~
45 ~~listed in G.S. 105-164.4A. The maximum tax is eighty dollars (\$80.00)~~
46 ~~per article. As used in G.S. 105-164.4A and G.S. 105-187.51, the term~~
47 ~~"accessories" does not include electricity.~~

48 a. ~~through k. Recodified as § 105-164.4A by Session Laws~~
49 ~~1999-360, s. 3(a), effective August 4, 1999.~~

50 (1e) ~~The rate of three percent (3%) applies to the sales price of each mobile~~
51 ~~classroom or mobile office sold at retail, including all accessories~~
52 ~~attached to the mobile classroom or mobile office when it is delivered~~
53 ~~to the purchaser. The maximum tax is one thousand five hundred~~
54 ~~dollars (\$1,500) per article. Each section of a mobile classroom or~~

1 ~~mobile office that is transported separately to the site where it is to be~~
 2 ~~placed is a separate article.~~

3
 4 ~~...~~
 5 (4c) ~~The rate of six percent (6%) combined general rate~~ applies to the gross
 6 receipts derived from providing telecommunications service. A person
 7 who provides telecommunications service is considered a retailer
 8 under this Article. Telecommunications service is taxed in accordance
 9 with G.S. 105-164.4C.

10 ~~...~~
 11 (6) ~~The rate of five percent (5%) combined general rate~~ applies to the gross
 12 receipts derived from providing direct to home satellite service to
 13 subscribers in this State. A person engaged in the business of
 14 providing direct-to-home satellite service is considered a retailer under
 15 this Article.

16 (7) ~~The rate of six percent (6%) combined general rate~~ applies to the sales
 17 price of spirituous liquor other than mixed beverages. As used in this
 18 subdivision, the terms 'spirituous liquor' and 'mixed beverage' have the
 19 meanings provided in G.S. 18B-101."

20 **SECTION 32.1.(d)** G.S. 105-164.4A is repealed.

21 **SECTION 32.1.(e)** G.S. 105-164.13 reads as rewritten:

22 **"§ 105-164.13. Retail sales and use tax.**

23 The sale at retail and the use, storage, or consumption in this State of the following
 24 tangible personal property and services are specifically exempted from the tax imposed
 25 by this Article:

26 ~~...~~
 27 (1) ~~Commercial fertilizer, lime, land plaster, plastic mulch, plant bed~~
 28 ~~covers, and seeds.~~ Any of the following items sold to a farmer for
 29 agricultural purposes: use by the farmer in the planting, cultivating,
 30 harvesting, or curing of farm crops or in the production of dairy
 31 products, eggs, or animals. A 'farmer' includes a dairy operator, a
 32 poultry farmer, an egg producer, a livestock farmer, a farmer of crops,
 33 and a farmer of an aquatic species, as defined in G.S. 106-758.

34 a. Commercial fertilizer, lime, land plaster, plastic mulch, plant
 35 bed covers, and seeds.

36 b. Farm machinery, attachment and repair parts for farm
 37 machinery, and lubricants applied to farm machinery. The term
 38 'machinery' includes implements that have moving parts or are
 39 operated or drawn by an animal. The term does not include
 40 implements operated wholly by hand or motor vehicles required
 41 to be registered under Chapter 20 of the General Statutes.

42 c. A horse or mule.

43 d. Fuel other than electricity.

44 (1a) A container sold to a farmer, as defined in subdivision (1) of this
 45 section, used for a purpose set out in that subdivision or in packaging
 46 and transporting the farmer's product for sale.

47 ~~...~~
 48 (2a) Any of the following substances when purchased for use on animals or
 49 plants, as appropriate, held or produced for commercial purposes. This
 50 exemption does not apply to any equipment or devices used to
 51 administer, release, apply, or otherwise dispense these substances:

52 a. Remedies, vaccines, medications, litter materials, and feeds for
 53 animals.

54 b. Rodenticides, insecticides, herbicides, fungicides, and
 55 pesticides.

c. Defoliant for use on cotton or other crops.

- 1 d. Plant growth inhibitors, regulators, or stimulators, including
2 systemic and contact or other sucker control agents for tobacco
3 and other crops.
4 e. Semen.
5
6 ~~...~~
7 (4c) Any of the following items concerning the housing, raising,
8 or feeding of animals:
9 a. Commercially manufactured facilities to be used for
10 commercial purposes for housing, raising, or feeding animals or
11 for housing equipment necessary for these commercial
12 activities.
13 b. Building materials, supplies, fixtures, and equipment that
14 become a part of and are used in the construction, repair, or
15 improvement of an enclosure or a structure specifically
16 designed, constructed, and used for housing, raising, or feeding
17 animals or for housing equipment necessary for one of these
18 commercial activities.
19 c. Commercially manufactured equipment, and parts and
20 accessories for the equipment, used in a facility that is exempt
21 from tax under this subdivision or in an enclosure or a structure
22 whose building materials are exempt from tax under this
23 subdivision.
24 (4d) Any of the following tobacco items:
25 a. The lease or rental of tobacco sheets used in handling tobacco
26 in the warehouse and transporting tobacco to and from the
27 warehouse.
28 b. A metal flue sold for use in curing tobacco, whether the flue is
29 attached to a handfired furnace or used in connection with a
30 mechanical burner.
31 c. A bulk tobacco barn or rack, parts and accessories attached to
32 the tobacco barn or rack, and any similar apparatus, part, or
33 accessory used to cure or dry tobacco or another crop.
34 (4e) A grain, feed, or soybean storage facility, and parts and accessories
35 attached to the facility.
36 ~~...~~
37 (5a) Mill machinery and machinery, mill machinery parts and accessories
38 accessories, and manufacturing fuel that are subject to tax under
39 Article 5F of this Chapter.
40 (5b) Sales to a telephone company regularly engaged in providing
41 telephone service to subscribers on a commercial basis of central
42 office equipment, switchboard equipment, private branch exchange
43 equipment, and parts and accessories for the equipment
44 (5c) Sales to a radio or television company regulated by the Federal
45 Communications Commission of towers, broadcasting equipment, and
46 parts and accessories for the equipment.
47 ~~...~~
48 (10) Sales of the following to commercial laundries or to pressing and dry
49 cleaning establishments of articles establishments:
50 a. Articles or materials used for the identification of garments
51 being laundered or dry cleaned, wrapping paper, bags, hangers,
52 starch, soaps, detergents, cleaning fluids and other compounds
53 or chemicals applied directly to the garments in the direct
54 performance of the laundering or the pressing and cleaning
service.

- 1 b. Laundry and dry-cleaning machinery, parts and accessories
- 2 attached to the machinery, and lubricants applied to the
- 3 machinery.
- 4 c. Fuel, other than electricity, used in the direct performance of
- 5 the laundering or the pressing and cleaning service.
- 6 (10a) Sales of the following to a major recycling facility of (i)
- 7 lubricants facility:
- 8 a. Lubricants and other additives for motor vehicles or machinery
- 9 and equipment used at the facility and (ii) materials, facility.
- 10 b. Materials, supplies, parts, and accessories, other than machinery
- 11 and equipment, that are not capitalized by the taxpayer and are
- 12 used or consumed in the manufacturing and material handling
- 13 processes at the facility.
- 14 (10b) c. Sales to a major recycling facility of electricity
- 15 Electricity used
- 16 at the facility.
- 17 d. Equipment that is subject to tax under Article 5F of this
- 18 Chapter.
- 19 ...
- 20 (18) ~~Funeral expenses, including coffins and caskets, not to exceed one~~
- 21 ~~thousand five hundred dollars (\$1,500). All other funeral expenses,~~
- 22 ~~including gross receipts for services rendered, shall be taxable at the~~
- 23 ~~general rate of tax set in G.S. 105-164.4. However, "services rendered"~~
- 24 ~~shall not include those services which have been taxed pursuant to~~
- 25 ~~G.S. 105-164.4(4), or to those services performed by any beautician,~~
- 26 ~~cosmetologist, hairdresser or barber employed by or at the specific~~
- 27 ~~direction of the family or personal representative of a deceased; and~~
- 28 ~~"funeral expenses" and "services rendered" shall not include death~~
- 29 ~~certificates procured by or at the specific direction of the family or~~
- 30 ~~personal representative of a deceased. Where coffins, caskets or vaults~~
- 31 ~~are purchased direct and a separate charge is paid for services, the~~
- 32 ~~provisions of this subdivision shall apply to the total for both.~~
- 33 ...
- 34 (45) Sales of the following items to an interstate passenger air carrier ~~or an~~
- 35 ~~interstate air courier for use at its hub: aircraft lubricants, aircraft~~
- 36 ~~repair parts, and aircraft accessories.~~ hub:
- 37 a. Aircraft lubricants, aircraft repair parts, and aircraft accessories.
- 38 b. Aircraft simulators for flight crew training.
- 39 ...
- 40 (45b) Sales of the following items to an interstate air courier for use at its
- 41 hub:
- 42 a. Aircraft lubricants, aircraft repair parts, and aircraft accessories.
- 43 b. Materials handling equipment, racking systems, and related
- 44 parts and accessories for the storage or handling and movement
- 45 of tangible personal property at an airport or in a warehouse or
- 46 distribution facility.

... "
SECTION 32.1.(f) G.S. 105-164.13C(a) reads as rewritten:

- 48 "(a) The taxes imposed by this Article do not apply to the following items of
- 49 tangible personal property if sold between 12:01A.M. on the first Friday of August and
- 50 11:59 P.M. the following Sunday:
- 51 (1) Clothing with a sales price of one hundred dollars (\$100.00) or less per
- 52 item.
- 53 (2) School supplies with a sales price of one hundred dollars (\$100.00) or
- 54 less per item.

- 1 (3) Computers with a sales price of three thousand five hundred dollars
2 (\$3,500) or less per item.
3 (3a) Computer supplies with a sales price of two hundred fifty dollars
4 (\$250.00) or less per item.
5 (4) Sport or recreational equipment with a sales price of fifty dollars
6 (\$50.00) or less per item."

7 **SECTION 32.1.(g)** G.S. 105-164.14(a) reads as rewritten:

8 "(a) Interstate Carriers. – An interstate carrier is allowed a refund, in accordance
9 with this section, of part of the sales and use taxes paid by it on the purchase in this
10 State of railway cars and locomotives, and fuel, lubricants, repair parts, and accessories
11 ~~purchased in this State~~ for a motor vehicle, railroad car, locomotive, or airplane the
12 carrier operates. An 'interstate carrier' is a person who is engaged in transporting
13 persons or property in interstate commerce for compensation. The Secretary shall
14 prescribe the periods of time, whether monthly, quarterly, semiannually, or otherwise,
15 with respect to which refunds may be claimed, and shall prescribe the time within
16 which, following these periods, an application for refund may be made.

17 An applicant for refund shall furnish the following information and any proof of the
18 information required by the Secretary:

- 19 (1) A list identifying the railway cars, locomotives, fuel, lubricants, repair
20 parts, and accessories purchased by the applicant inside or outside this
21 State during the refund period.
22 (2) The purchase price of the items listed in subdivision (1) of this
23 subsection.
24 (3) The sales and use taxes paid in this State on the listed items.
25 (4) The number of miles the applicant's motor vehicles, railroad cars,
26 locomotives, and airplanes were operated both inside and outside this
27 State during the refund period.
28 (5) Any other information required by the Secretary.

29 For each applicant, the Secretary shall compute the amount to be refunded as
30 follows. First, the Secretary shall determine the ratio of the number of miles the
31 applicant operated its motor vehicles, railroad cars, locomotives, and airplanes in this
32 State during the refund period to the number of miles it operated them both inside and
33 outside this State during the refund period. Second, the Secretary shall determine the
34 applicant's proportional liability for the refund period by multiplying this mileage ratio
35 by the purchase price of the items identified in subdivision (1) of this subsection and
36 then multiplying the resulting product by the tax rate that would have applied to the
37 items if they had all been purchased in this State. Third, the Secretary shall refund to
38 each applicant the excess of the amount of sales and use taxes the applicant paid in this
39 State during the refund period on these items over the applicant's proportional liability
40 for the refund period."

41 **SECTION 32.1.(h)** G.S. 105-164.28 reads as rewritten:

42 **"§ 105-164.28. Certificate of resale.**

43 (a) Seller's Responsibility. – A seller who accepts a certificate of resale from a
44 purchaser of tangible personal property has the burden of proving that the sale was not a
45 retail sale unless all of the following conditions are met:

- 46 (1) For a sale made in person, the certificate is signed by the ~~purchaser,~~
47 purchaser and states the purchaser's name, address, ~~and~~ registration
48 number, and ~~describes the type of tangible personal property generally~~
49 ~~sold by the purchaser in the regular course of business.~~ type of
50 business.
51 (2) For a sale made in person, the ~~purchaser is engaged in the business of~~
52 ~~selling tangible personal property of the type sold.~~ sold is typically used
53 in the type of business stated on the certificate.

1 (3) For a sale made over the Internet or by other remote means, the sales
2 tax registration number given by the purchaser matches the number on
3 the Department's registry.

4 (b) ~~Liabilities. Purchaser's Liability.~~ – A purchaser who does not resell property
5 purchased under a certificate of resale is liable for any tax subsequently determined to
6 be due on the sale. ~~A seller of property sold under a certificate of resale is jointly liable~~
7 ~~with the purchaser of the property for any tax subsequently determined to be due on the~~
8 ~~sale only if the Secretary proves that the sale was a retail sale."~~

9 **SECTION 32.1.(i)** Part 4 of Article 5 of Chapter 105 of the General Statutes
10 is amended by adding a new section to read:

11 **"§ 105-164.15A. Effective date of rate changes for services.**

12 The effective date of a rate change for a service taxable under this Article is
13 administered as follows:

14 (1) For a rate increase, the new rate applies to the first billing period that
15 starts on or after the effective date.

16 (2) For a rate decrease, the new rate applies to bills rendered on or after
17 the effective date."

18 **SECTION 32.1.(j)** Part 7A of Article 5 of Chapter 105 of the General
19 Statutes is amended by adding a new section to read:

20 **"§ 105-164.42K. Registration and effect of registration.**

21 Registration under the Agreement satisfies the registration requirements under this
22 Article. A seller who registers under the Agreement within 12 months after the State
23 becomes a member of the Agreement and who meets the following conditions is not
24 subject to assessment for sales tax for any period before the effective date of the seller's
25 registration:

26 (1) The seller was not registered with the State during the 12-month period
27 before the effective date of this State's participation in the Agreement.

28 (2) When the seller registered, the seller had not received a letter from the
29 Department notifying the seller of an audit.

30 (3) The seller continues to be registered under the Agreement and to remit
31 tax to the State for at least 36 months."

32 **SECTION 32.1.(k)** Article 5F of Chapter 105 of the General Statutes is
33 amended by adding new sections to read:

34 **"§ 105-187.51A. Tax imposed on manufacturing fuel.**

35 A privilege tax is imposed on a manufacturing industry or plant that purchases fuel
36 to operate the industry or plant. The tax is one percent (1%) of the sales price of the
37 fuel. The tax does not apply to electricity.

38 **"§ 105-187.51B. Tax imposed on recycling equipment.**

39 (a) Tax. – A privilege tax is imposed on a major recycling facility that purchases
40 any of the following tangible personal property for use in connection with the facility:

41 (1) Cranes, structural steel crane support systems, and foundations related
42 to the cranes and support systems.

43 (2) Port and dock facilities.

44 (3) Rail equipment.

45 (4) Material handling equipment.

46 (b) Rate. – The tax is one percent (1%) of the sales price of the tangible personal
47 property. The maximum tax is eighty dollars (\$80.00) per article."

48 **SECTION 32.1.(l)** G.S. 105-187.52 reads as rewritten:

49 **"§ 105-187.52. Administration.**

50 The privilege tax this Article imposes on a person listed in G.S. 105-187.51 is an
51 additional tax imposed by this Article are in addition to the State use tax. Except as
52 otherwise provided in this Article, the collection and administration of this tax these
53 taxes is the same as the State use tax imposed by Article 5 of this Chapter."

54 **SECTION 32.1.(m)** Section 18 of S.L. 2000-120, as amended by Section
55 44.1 of S.L. 2003-284, reads as rewritten:

1 "Section 18. Section 7 of this act becomes effective January 1, 2001. Sections 10
2 and 11 of this act become effective for taxable years beginning on or after January 1,
3 ~~2005-2010~~. The remainder of this act is effective when it becomes law."

4 **SECTION 32.1.(n)** G.S. 105-151.21(b) reads as rewritten:

5 "(b) Definitions. – The following definitions apply in this section:

- 6 (1) Farm machinery. – ~~Machinery subject to exempt from State sales tax~~
7 ~~at the rate of one percent (1%) under G.S. 105-164.4A.105-164.13(4e).~~
8 (2) Property taxes. – The principal amount of taxes levied and assessed by
9 a taxing unit under Subchapter II of this Chapter. The term does not
10 include costs, penalties, interest, or other charges that may be added to
11 the principal amount.
12 (3) Taxing unit. – Defined in G.S. 105-273."

13 **SECTION 32.1.(o)** G.S. 105-164.44F(a) reads as rewritten:

14 "(a) Amount. – The Secretary must distribute to the cities part of the taxes
15 imposed by G.S. 105-164.4(a) (4c) on telecommunications service. The Secretary must
16 make the distribution within 75 days after the end of each calendar quarter. The amount
17 the Secretary must distribute is eighteen and ~~twenty six hundredths percent~~
18 ~~(18.26%)~~ three one-hundredths percent (18.03%) of the net proceeds of the taxes
19 collected during the quarter, minus two million six hundred twenty thousand nine
20 hundred forty-eight dollars (\$2,620,948). This deduction is one-fourth of the annual
21 amount by which the distribution to cities of the gross receipts franchise tax on
22 telephone companies, imposed by former G.S. 105-120, was required to be reduced
23 beginning in fiscal year 1995-96 as a result of the 'freeze deduction.' The Secretary must
24 distribute the specified percentage of the proceeds, less the 'freeze deduction' among the
25 cities in accordance with this section."

26 **SECTION 32.1.(p)** G.S. 105-164.6 reads as rewritten:

27 **"§ 105-164.6. Imposition of Complementary use tax.**

28 (a) Tax. – An excise tax at the following percentage rates is imposed on the
29 storage, use, or consumption in this State of tangible personal property purchased inside
30 or outside the State for storage, use, or consumption in the State; at the applicable rate
31 set in G.S. 105-164.4 is imposed on the items listed below. The applicable rate is the
32 rate and maximum tax, if any, that would apply to the sale of the item.

- 33 (1) At the applicable percentage rate of the purchase price of each item or
34 article of tangible personal property that is stored, used, or consumed
35 in this State. The applicable percentage rate is the rate and the
36 maximum tax, if any, that applies to a sale of the property that is
37 stored, used, or consumed. Tangible personal property purchased inside
38 or outside this State for storage, use, or consumption in this State. This
39 subdivision includes property that becomes part of a building or
40 another structure.
41 (2) At the applicable percentage rate of the monthly lease or rental price
42 paid, contracted, or agreed to be paid by the lessee or renter to the
43 owner of tangible personal property that is stored, used, or consumed
44 in this State. The applicable percentage rate is the rate and the
45 maximum tax, if any, that applies to a lease or rental of the property
46 that is stored, used, or consumed. Tangible personal property leased or
47 rented inside or outside this State for storage, use, or consumption in
48 this State.
49 (3) Services sourced to this State.

50 (b) An excise tax at the general rate of tax set in G.S. 105-164.4 is imposed on
51 the purchase price of tangible personal property purchased inside or outside the State
52 that Liability. – The tax imposed by this section is payable by the person who purchases,
53 leases, or rents tangible personal property or who purchases a service. If the property
54 purchased becomes a part of a building or other structure in the State. The purchaser of
55 the property is liable for the tax. If the purchaser is a contractor, the contractor and

1 ~~owner are jointly and severally liable for the tax; if~~ State and the purchaser is a
2 ~~subcontractor, the subcontractor and contractor~~ contractor or subcontractor, the
3 ~~contractor, the subcontractor, and the owner of the building~~ are jointly and severally
4 liable for the tax. The liability of ~~an owner or a contractor~~ a contractor, a subcontractor,
5 ~~or an owner~~ who did not purchase the property is satisfied ~~if the purchaser delivers to~~
6 ~~the owner or contractor before final settlement between them~~ by receipt of an affidavit
7 ~~from the purchaser~~ certifying that the tax has been paid.

8 (c) ~~Where a retail sales tax has already been paid with respect to tangible~~
9 ~~personal property in this State by the purchaser thereof, the tax shall be credited upon~~
10 ~~the tax imposed by this Part. Where a retail sales and use tax is due and has been paid~~
11 ~~with respect to tangible personal property in another state by the purchaser for storage,~~
12 ~~use or consumption in this State, the tax shall be credited upon the tax imposed by this~~
13 ~~Part.~~ Credit. – A credit is allowed against the tax imposed by this section for the
14 following:

15 (1) The amount of sales or use tax paid on the item to this State. Payment
16 of sales or use tax to this State on an item by a retailer extinguishes the
17 liability of a purchaser for the tax imposed under this section.

18 (2) The amount of sales tax paid on the item to another State. If the
19 amount of tax paid to anotherthe other state is less than the amount of
20 tax imposed by this Part, the purchaser shall pay to the Secretary an
21 amount sufficient to make the tax paid to the other state and this State
22 equal to the amount imposed by this Part. The Secretary of Revenue
23 shall require such proof of payment of tax to another state as he deems
24 necessary. No credit shall be given under this subsection for sales or
25 use taxes paid in another state if thatsection, the difference is payable
26 to this State. The credit allowed by this subdivision does not apply to
27 tax paid to a state that does not grant a similar credit for sales or use
28 taxes paid in North Carolina.

29 (d) ~~Every person storing, using or otherwise consuming in this State tangible~~
30 ~~personal property purchased or received at retail either within or without this State shall~~
31 ~~be liable for the tax imposed by this Article and the liability shall not be extinguished~~
32 ~~until the tax has been paid to this State. Provided, however, that a receipt from a~~
33 ~~registered retailer engaged in business in this State given to the purchaser in accordance~~
34 ~~with the provisions of this Article shall be prima facie sufficient to relieve the purchaser~~
35 ~~from liability for the tax to which such receipt may refer and the liability of the~~
36 ~~purchaser shall be extinguished upon payment of the tax by any retailer from whom he~~
37 ~~has purchased the property.~~

38 (e) ~~Except as provided herein the tax so levied is and shall be in addition to all~~
39 ~~other taxes whether levied in the form of excise, license, privilege or other taxes.~~

40 (f) Registration. – Before a person may engage in business in this State selling or
41 delivering tangible personal property for storage, use, or consumption in this State, the
42 person must obtain a certificate of registration from the Department. To obtain a
43 certificate of registration, a person must register with the Department.

44 The holder of the certificate of registration must pay the tax levied under this
45 Article. A certificate of registration is valid unless it is revoked for failure to comply
46 with the provisions of this Article or becomes void. A certificate issued to a retailer
47 becomes void if, for a period of 18 months, the retailer files no returns or files returns
48 showing no sales."

49 **SECTION 32.1.(q)** G.S. 105-164.13B(a) reads as rewritten:

50 "(a) State Exemption. – Food is exempt from the taxes imposed by this Article
51 unless the food is included in one of the subdivisions in this subsection. The following
52 food items are subject to tax:

- 53 (1) ~~Alcoholic beverages, as defined in G.S. 105-113.68.~~
54 (2) Dietary supplements.
55 (3) Food sold through a vending machine.

1 (4) Prepared food.

2 (5) Soft drinks."

3 **SECTION 32.1.(r)** G.S. 105-164.42B(1) reads as rewritten:

4 **"§ 105-164.42B. Definitions.**

5 The following definitions apply in this Part:

6 (1) Agreement. ~~The Streamlined Sales and Use Tax~~
7 ~~Agreement.~~ Agreement, as defined in G.S. 105-164.3.

8 "...."

9 **SECTION 32.1.(s)** Subdivision (b)(5) of Section 5 of Part IV of Chapter 908
10 of the 1983 Session Laws, as amended by Chapter 821 of the 1989 Session Laws and
11 S.L. 2001-347, reads as rewritten:

12 "(b) Definitions. The definitions in G.S. 105-164.3 apply to this Part insofar as
13 they are not inconsistent with the provisions of this Part. In addition, the following
14 definitions apply in this Part:

15 "...."
16 (5) Prepared Food and Beverages. ~~The term has the same meaning as the~~
17 ~~term "prepared food" in G.S. 105-164.3, includes the following:~~

18 a. Prepared food, as defined in G.S. 105-164.3.

19 b. An alcoholic beverage, as defined in G.S. 18B-101, that meets
20 at least one of the conditions of prepared food under
21 G.S. 105-164.3."

22 **SECTION 32.1.(t)** Subdivision (a)(2) of Section 2 of Chapter 413 of the
23 1993 Session Laws, as amended by S.L. 2001-347, reads as rewritten:

24 "Sec. 2. Definitions; Sales and Use Tax Statutes. – (a) The definitions in
25 G.S. 105-164.3 apply to this act to the extent they are not inconsistent with the
26 provisions of this act. In addition, the following definitions apply in this act:

27 "...."
28 (2) Prepared food and beverages. ~~The term has the same meaning as the~~
29 ~~term "prepared food" in G.S. 105-164.3, includes the following:~~

30 a. Prepared food, as defined in G.S. 105-164.3.

31 b. An alcoholic beverage, as defined in G.S. 18B-101, that meets
32 at least one of the conditions of prepared food under
33 G.S. 105-164.3."

34 **SECTION 32.1.(u)** Section 2 of Chapter 449 of the 1985 Session Laws, as
35 amended by Chapter 826 of the 1985 Session Laws, Chapter 177 of the 1991 Session
36 Laws, and S.L. 2001-347, reads as rewritten:

37 "Sec. 2. Definitions. The definitions in G.S. 105-164.3 apply in this act. In addition,
38 the following definitions apply in this act.

39 (1) Net proceeds. ~~– Gross proceeds less the cost to the county of~~
40 ~~administering and collecting the tax.~~

41 (2) Prepared food and beverages. ~~The term has the same meaning as the~~
42 ~~term "prepared food" in G.S. 105-164.3, includes the following:~~

43 a. Prepared food, as defined in G.S. 105-164.3.

44 b. An alcoholic beverage, as defined in G.S. 18B-101, that meets
45 at least one of the conditions of prepared food under
46 G.S. 105-164.3."

47 **SECTION 32.1.(v)** Subsection (b) of Section 1 of Chapter 449 of the 1993
48 Session Laws, as amended by S.L. 2001-347, reads as rewritten:

49 "(b) Definitions; Sales and Use Tax Statutes. – The definitions in G.S. 105-164.3
50 apply to this section to the extent they are not inconsistent with the provisions of this
51 section. The provisions of Article 5 and Article 9 of Chapter 105 of the General Statutes
52 apply to this section to the extent they are not inconsistent with the provisions of this
53 section. In addition, For the purposes of this section, the term 'prepared food and
54 beverages' has the same meaning as the term "prepared food" in G.S. 105-164.3.
55 includes the following:

1 (1) Prepared food, as defined in G.S. 105-164.3.

2 (2) An alcoholic beverage, as defined in G.S. 18B-101, that meets at least
3 one of the conditions of prepared food under G.S. 105-164.3.

4 ~~The provisions of Article 5 and Article 9 of Chapter 105 of the General Statutes apply to~~
5 ~~this section to the extent they are not inconsistent with the provisions of this section."~~

6 **SECTION 32.1.(w)** Subdivision (3) of Section 2 of Chapter 594 of the 1991
7 Session Laws, as amended by S.L. 2001-347, reads as rewritten:

8 "Sec. 2. Definitions. The definitions in G.S. 105-164.3 apply to this act to the extent
9 they are not inconsistent with the provisions of this act. The following definitions also
10 apply in this act:

11 ~~...~~
12 (3) Prepared food and beverage. – The term has the same meaning as the
13 term "prepared food" in G.S. 105-164.3, includes the following:

14 a. Prepared food, as defined in G.S. 105-164.3.

15 b. An alcoholic beverage, as defined in G.S. 18B-101, that meets
16 at least one of the conditions of prepared food under
17 G.S. 105-164.3."

18 **SECTION 32.1.(x)** Section 3.1 of S.L. 2001-347, as amended by Section 13
19 of S.L. 2003-416, reads as rewritten:

20 ~~"SECTION 3.1. Part 1 of this act is effective when it becomes law and expires~~
21 ~~January 1, 2006, unless one of the following occurs: (i) 15 states have adopted the~~
22 ~~Streamlined Sales and Use Tax Agreement, or (ii) states representing a combined~~
23 ~~resident population equal to at least ten percent (10%) of the national resident~~
24 ~~population, as determined by the 2000 federal decennial census, have adopted the~~
25 ~~Agreement law."~~

26 **SECTION 32.1.(y)** Section 3.2 of S.L. 2001-347 reads as rewritten:

27 **SECTION 3.2.** Section 2.8, G.S. 105-164.13(5a), as enacted by Section 2.12, and
28 Section 2.17 of Part 2 of this act become effective ~~January 1, 2006.~~October 1, 2005. The
29 remainder of Part 2 of this act becomes effective January 1, 2002."

30 **SECTION 32.1.(z)** This subsection and subsection (m) of this section are
31 effective when they become law. Subsection (a) of this section, the changes made by
32 subsection (b) of this section to G.S. 105-164.3(4a) and (45a), the changes made by
33 subsection (c) of this section to G.S. 105-164.4(a)(4c) and (6), and subsection (i) of this
34 section become effective July 1, 2005. The remainder of this section becomes effective
35 October 1, 2005. Subsection (o) of this section applies to distributions for calendar
36 quarters that begin on or after October 1, 2005.

37 38 **PART XXXIII. SALES TAX CHANGES**

39
40 Requested by: Senators Hoyle, Kerr

41 **SALES TAX CHANGES**

42 **SECTION 33.1.(a)** Section 34.13(c) of S.L. 2001-424, as amended by
43 Section 38.1 of S.L. 2003-284, reads as rewritten:

44 **SECTION 34.13.(c)** This section becomes effective October 16, 2001, and applies
45 to sales made on or after that date. ~~This section is repealed effective for sales made on~~
46 ~~or after July 1, 2005.~~ This section does not affect the rights or liabilities of the State, a
47 taxpayer, or another person arising under a statute amended or repealed by this section
48 before the effective date of its amendment or repeal; nor does it affect the right to any
49 refund or credit of a tax that accrued under the amended or repealed statute before the
50 effective date of its amendment or repeal."

51 **SECTION 33.1.(b)** G.S. 105-164.3 is amended by adding new subdivisions
52 to read:

53 "(1a) Cable service. – The one-way transmission to subscribers of video
54 programming or another programming service and any subscriber
55 interaction required to select or use the service.

1
2 ...
3 (37a) Satellite digital audio radio service. – A radio communication service
4 in which audio programming is digitally transmitted by satellite to an
5 earth-based receiver, whether directly or via a repeater station."

6 **SECTION 33.1.(c)** G.S. 105-164.4(a), as amended by subsection (a) of this
7 section and subsection (c) of Section 32.1 of this act, reads as rewritten:

8 "(a) A privilege tax is imposed on a retailer at the following percentage rates of
9 the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is
10 four and one-half percent (4 1/2%).

11 ...
12 (6) The combined general rate applies to the gross receipts derived from
13 providing ~~direct to home satellite service to subscribers in this~~
14 ~~State.~~ any of the following broadcast services to a subscriber in this
15 State. A person engaged in the business of providing ~~direct to home~~
16 satellite service ~~any of these services~~ is considered a retailer under this
17 Article. Article:

18 a. Direct-to-home satellite service.

19 b. Cable service.

20 c. Satellite digital audio radio service. For service received by a
21 mobile or portable station, the service is sourced to the
22 subscriber's business or home address.

23 ...
24 (9) The general rate of tax applies to the sales price of a warranty
25 agreement, a maintenance agreement, a repair contract, or a similar
26 service agreement or contract by which the seller agrees to maintain or
27 repair tangible personal property. A person who sells a service
28 agreement or contract is considered a retailer under this Article."

29 **SECTION 33.1.(d)** G.S. 105-164.4C(b)(2) reads as rewritten:

30 "(2) Charges for directory assistance, directory listing that is not
31 yellow-page classified listing, call forwarding, call waiting, three-way
32 calling, caller ID, voice mail, and other similar services."

33 **SECTION 33.1.(e)** G.S. 105-164.4C(c)(11) is repealed.

34 **SECTION 33.1.(f)** G.S. 105-164.13(1), as amended by Section 32.1(c) of
35 this act, reads as rewritten:

36 "(1) Any of the following items sold to a farmer for use by the farmer in the
37 planting, cultivating, harvesting, or curing of farm crops or in the
38 production of dairy products, eggs, or animals. A 'farmer' includes a
39 dairy operator, a poultry farmer, an egg producer, a livestock farmer, a
40 farmer of crops, and a farmer of an aquatic species, as defined in
41 G.S. 106-758.

42 a. Commercial fertilizer, lime, land plaster, plastic mulch, plant
43 bed covers, potting soil, and seeds.

44 b. Farm machinery, attachment and repair parts for farm
45 machinery, and lubricants applied to farm machinery. The term
46 'machinery' includes implements that have moving parts or are
47 operated or drawn by an animal. The term does not include
48 implements operated wholly by hand or motor vehicles required
49 to be registered under Chapter 20 of the General Statutes.

50 c. A horse or mule.

51 d. Fuel other than electricity."

52 **SECTION 33.1.(g)** G.S. 105-164.13B(a) reads as rewritten:

53 "(a) State Exemption. – Food is exempt from the taxes imposed by this Article
54 unless the food is included in one of the subdivisions in this subsection. The following
55 food items are subject to tax:

(1) Alcoholic beverages, as defined in G.S. 105-113.68.

- 1 (2) Dietary supplements.
- 2 (3) Food sold through a vending machine.
- 3 (4) Prepared food.
- 4 (5) Soft drinks.
- 5 (6) Repealed.
- 6 (7) Candy."

7 **SECTION 33.1.(h)** Part 4 of Article 5 of Chapter 105 of the General
8 Statutes is amended by adding a new section to read:

9 **"§ 105-164.21B. Credit for local cable television franchise taxes.**

10 A cable service retailer is allowed a credit against the tax imposed by this Article on
11 cable service. The credit is for local cable television franchise taxes the retailer pays to a
12 city under G.S. 160A-214 or to a county under G.S. 153A-154 based on the amount it
13 receives from subscribers for cable service. The amount received from subscribers for
14 cable service does not include receipts from the lease or rental of tangible personal
15 property.

16 When making a payment or filing a return under G.S. 105-164.16, a cable service
17 retailer may claim a credit for the applicable pro rata amount of local cable television
18 franchise taxes for which this section allows a credit. The applicable pro rata amount is
19 the creditable amount of local cable television franchise taxes the retailer paid for the
20 most recent fiscal year divided by the number of sales tax payments the retailer is
21 required to make under this Article."

22 **SECTION 33.1.(i)** G.S. 105-467(a) is amended by adding a new subdivision
23 to read:

24 "(a) Sales Tax. – The sales tax that may be imposed under this Article is limited to
25 a tax at the rate of one percent (1%) of the transactions listed in this subsection. The
26 sales tax authorized by this Article does not apply to sales that are taxable by the State
27 under G.S. 105-164.4 but are not specifically included in this subsection.

- 28 ..
29 (7) The sales price of a service agreement or contract subject to the
30 general rate of tax under G.S. 105-164.4(a)(9)."

31 **SECTION 33.1.(j)** Subsections (a) and (j) of this section are effective when
32 they become law. The remainder of this section becomes effective October 1, 2005.

33
34 **PART XXXIV. TOBACCO TAX RATE CHANGES**

35
36 Requested by: Senators Hoyle, Kerr

37 **TOBACCO TAX RATE CHANGES**

38 **SECTION 34.1.(a)** G.S. 105-113.5 reads as rewritten:

39 **"§ 105-113.5. Tax on cigarettes.**

40 A tax is levied on the sale or possession for sale in this State, by a distributor, of all
41 cigarettes at the rate of two ~~and one half mills~~ cents (2¢) per individual cigarette."

42 **SECTION 34.1.(b)** G.S. 105-113.35(a) reads as rewritten:

43 "(a) Tax. – An excise tax is levied on tobacco products other than cigarettes at the
44 rate of ~~two percent (2%)~~ four percent (4%) of the cost price of the products. This tax
45 does not apply to the following:

- 46 (1) A tobacco product sold outside the State.
- 47 (2) A tobacco product sold to the federal government.
- 48 (3) A sample tobacco product distributed without charge."

49 **SECTION 34.1.(c)** G.S. 105-113.21(a1) reads as rewritten:

50 "(a1) Discount. – A distributor who files a timely report under G.S. 105-113.18 and
51 who sends a timely payment may deduct from the amount due with the report a discount
52 of two percent (2%). The discount a distributor deducts on all reports filed under this
53 Part for a 12-month period beginning July 1 may not exceed a maximum of one hundred
54 twenty-five thousand dollars (\$125,000). This discount covers expenses incurred in

1 preparing the records and reports required by this Part, and the expense of furnishing a
2 bond."

3 **SECTION 34.1.(d)** G.S. 105-113.39 reads as rewritten:

4 "**§ 105-113.39. Discount.**

5 A wholesale dealer or a retail dealer who is primarily liable under G.S.
6 105-113.35(b) for the excise taxes imposed by this Part, who files a timely report under
7 G.S. 105-113.37, and who sends a timely payment may deduct from the amount due
8 with the report a discount of two percent (2%). The discount a distributor deducts on all
9 reports filed under this Part for a 12-month period beginning July 1 may not exceed a
10 maximum of twelve thousand five hundred dollars (\$12,500). This discount covers
11 losses due to damage to tobacco products, expenses incurred in preparing the records
12 and reports required by this Part, and the expense of furnishing a bond."

13 **SECTION 34.1.(e)** This section becomes effective July 1, 2005.
14

15 PART XXXV. IRC UPDATE

16
17 Requested by: Senators Jenkins

18 IRC UPDATE

19 **SECTION 35.1.(a)** G.S. 105-228.90(b)(1b) reads as rewritten:

20 "(b) Definitions. – The following definitions apply in this Article:

21 ...
22 (1b) Code. – The Internal Revenue Code as enacted as of ~~May 1,~~
23 ~~2004,~~ January 1, 2005, including any provisions enacted as of that date
24 which become effective either before or after that ~~date,~~ date, but not
25 including the amendments made to section 164 of the Code by section
26 501 of P.L. 108-357."

27 **SECTION 35.1.(b)** G.S. 105-130.5(a) reads as rewritten:

28 "(a) The following additions to federal taxable income shall be made in
29 determining State net income:

30 ...
31 (16) The amount excluded from gross income under Subchapter R of
32 Chapter 1 of the Code.

33 (17) The amount excluded from gross income under section 199 of the
34 Code."

35 **SECTION 35.1.(c)** Notwithstanding subsection (a) of this section, any
36 amendments to the Internal Revenue Code enacted after May 1, 2004, that increase
37 North Carolina taxable income for the 2004 taxable year become effective for taxable
38 years beginning on or after January 1, 2005.

39 **SECTION 35.1.(d)** G.S. 105-228.90(b)(1b), as amended by subsection (a) of
40 this section, reads as rewritten:

41 "(b) Definitions. – The following definitions apply in this Article:

42 ...
43 (1b) Code. – The Internal Revenue Code as enacted as of January 1, 2005,
44 including any provisions enacted as of that date which become
45 effective either before or after that ~~date,~~ date, but not including the
46 ~~amendments made to Section 164 of the Code by Section 501 of P.L.~~
47 ~~108-357.~~ date."

48 **SECTION 35.1.(e)** G.S. 105-134.6(c) reads as rewritten:

49 "(c) Additions. – The following additions to taxable income shall be made in
50 calculating North Carolina taxable income, to the extent each item is not included in
51 taxable income:

52 ...
53 (3) Any amount deducted from gross income under section 164 of the
54 Code as state, local, or foreign income tax or as state or local general
55 sales tax to the extent that the taxpayer's total itemized deductions

deducted under the Code for the taxable year exceed the standard deduction allowable to the taxpayer under the Code reduced by the amount the taxpayer is required to add to taxable income under subdivision (4) of this subsection.

SECTION 35.1.(f) Notwithstanding any other provision of law, a taxpayer whose federal taxable income for 2004 is reduced due to a charitable contribution of cash made in January 2005 for Indian Ocean tsunami relief efforts in accordance with P.L. 109-1 is not required to add back the amount of the deduction related to that contribution in determining North Carolina taxable income for 2004.

SECTION 35.1.(g) Subsections (d) and (e) of this section become effective for taxable years beginning on or after January 1, 2005. The remainder of this section is effective when it becomes law.

PART XXXVI. INDIVIDUAL INCOME TAX CHANGES

Requested by: Senators Hoyle, Kerr

PHASE-OUT 8.25% INDIVIDUAL INCOME TAX RATE

SECTION 36.1.(a) Section 39.1 of S.L. 2003-284 is repealed.

SECTION 36.1.(b) Effective for taxable years beginning on or after January 1, 2006, G.S. 105-134.2(a) reads as rewritten:

(a) A tax is imposed upon the North Carolina taxable income of every individual. The tax shall be levied, collected, and paid annually and shall be computed at the following percentages of the taxpayer's North Carolina taxable income.

(1) For married individuals who file a joint return under G.S. 105-152 and for surviving spouses, as defined in section 2(a) of the Code:

Over	Up To	Rate
0	\$21,250	6%
\$21,250	\$100,000	7%
\$100,000	\$200,000	7.75%
\$200,000	NA	8.25% 8%

(2) For heads of households, as defined in section 2(b) of the Code:

Over	Up To	Rate
0	\$17,000	6%
\$17,000	\$80,000	7%
\$80,000	\$160,000	7.75%
\$160,000	NA	8.25% 8%

(3) For unmarried individuals other than surviving spouses and heads of households:

Over	Up To	Rate
0	\$12,750	6%
\$12,750	\$60,000	7%
\$60,000	\$120,000	7.75%
\$120,000	NA	8.25% 8%

(4) For married individuals who do not file a joint return under G.S. 105-152:

Over	Up To	Rate
0	\$10,625	6%

1	\$10,625	\$50,000	7%
2	\$50,000	\$100,000	7.75%
3	\$100,000	NA	8.25% 8%".

4 **SECTION 36.1(c)** Effective for taxable years beginning on or after January
 5 1, 2007, G.S. 105-134.2(a), as amended by this section, reads as rewritten:

6 "(a) A tax is imposed upon the North Carolina taxable income of every individual.
 7 The tax shall be levied, collected, and paid annually and shall be computed at the
 8 following percentages of the taxpayer's North Carolina taxable income.

9 (1) For married individuals who file a joint return under G.S. 105-152 and
 10 for surviving spouses, as defined in section 2(a) of the Code:

11	Over	Up To	Rate
12	0	\$21,250	6%
13	\$21,250	\$100,000	7%
14	\$100,000	\$200,000 NA	7.75%
15	\$200,000	NA	8%

16
 17
 18 (2) For heads of households, as defined in section 2(b) of the Code:

19	Over	Up To	Rate
20	0	\$17,000	6%
21	\$17,000	\$80,000	7%
22	\$80,000	\$160,000 NA	7.75%
23	\$160,000	NA	8%

24
 25
 26 (3) For unmarried individuals other than surviving spouses and heads of
 27 households:

28	Over	Up To	Rate
29	0	\$12,750	6%
30	\$12,750	\$60,000	7%
31	\$60,000	\$120,000 NA	7.75%
32	\$120,000	NA	8%

33
 34
 35 (4) For married individuals who do not file a joint return under
 36 G.S. 105-152:

37	Over	Up To	Rate
38	0	\$10,625	6%
39	\$10,625	\$50,000	7%
40	\$50,000	\$100,000 NA	7.75%
41	\$100,000	NA	8%".

42 **SECTION 36.1(d).** Except as otherwise provided, this section is effective
 43 when it becomes law.
 44

45
 46 **PART XXXVII. CONFORM ESTATE TAX TO FEDERAL SUNSET**
 47

48 Requested by: Senators Hoyle, Kerr
 49 **CONFORM ESTATE TAX TO FEDERAL SUNSET**

50 **SECTION 37.1(a)** Section 30C.3(b) of S.L. 2002-126, as amended by
 51 Section 37A.4 of S.L. 2003-284 and Section 1 of S.L. 2004-170, reads as rewritten:

52 "**SECTION 30C.3(b)** This section is effective on and after January 1, 2002, and
 53 applies to the estates of decedents dying on or after that date. ~~This section and Section~~
 54 ~~37A.5 of S.L. 2003-284 are repealed effective for the estates of decedents dying on or~~
 55 ~~after July 1, 2005."~~

1 **SECTION 37.1.(b)** This section is effective when it becomes law.

2
3 **PART XXXVIII. CORPORATE INCOME TAX CHANGES**

4
5 Requested by: Senators Hoyle, Kerr
6 **CORPORATE INCOME TAX REDUCTION**

7 **SECTION 38.1.(a)** G.S. 105-130.3 reads as rewritten:

8 **"§ 105-130.3. Corporations.**

9 A tax is imposed on the State net income of every C Corporation doing business in
10 this State. An S Corporation is not subject to the tax levied in this section. The tax is a
11 ~~percentage six and four-tenths percent (6.4%)~~ of the taxpayer's State net ~~income~~
12 ~~computed as follows:~~

Income Years Beginning	Tax
In 1997	7.5%
In 1998	7.25%
In 1999	7%
After 1999	6.9%-income."

13
14
15
16
17
18 **SECTION 38.1.(b)** G.S. 115C-546.1, as amended by Section 7.26 of this
19 act, reads as rewritten:

20 **"§ 115C-546.1. Creation of Fund; administration.**

21 (a) There is created the Public School Building Capital and Technology Fund.
22 The Fund shall be used to assist county governments in meeting their public school
23 building capital needs and their equipment needs under their local school technology
24 plans.

25 (b) ~~Each calendar quarter, the Secretary of Revenue shall remit to the State~~
26 ~~Treasurer for credit to the Public School Building Capital and Technology Fund an~~
27 ~~amount equal to the applicable fraction provided in the table below of the net collections~~
28 ~~received during the previous quarter by the Department of Revenue under~~
29 ~~G.S. 105-130.3 minus two million five hundred thousand dollars (\$2,500,000). All~~
30 ~~funds deposited in the Public School Building Capital and Technology Fund shall be~~
31 ~~invested as provided in G.S. 147-69.2 and G.S. 147-69.3.~~

Period	Fraction
10/1/97 to 9/30/98	One-fifteenth (1/15)
10/1/98 to 9/30/99	Two-twenty-ninths (2/29)
10/1/99 to 9/30/00	One-fourteenth (1/14)
After 9/30/00	Five-sixty-ninths (5/69)

32
33
34
35
36
37 (c) The Fund shall be administered by the Department of Public Instruction."

38 **SECTION 38.1.(c)** This section is effective for taxable years beginning on
39 or after January 1, 2007.

40
41 Requested by: Senators Hoyle, Kerr
42 **CORPORATE THROWOUT RULE AND OUTER JURISDICTIONAL**
43 **PROPERTY**

44 **SECTION 38.2.(a)** G.S. 105-130.4(a) is amended by adding a new
45 subdivision to read:

46 "(a) As used in this section, unless the context otherwise requires:

47
48 ~~...~~
49 (5b) 'Outer-jurisdictional property' means tangible personal property that is
50 not physically located in any state. The term includes orbiting satellites
51 and undersea transmission cables."

52 **SECTION 38.2.(b)** G.S. 105-130.4(j)(1) reads as rewritten:

53 "(1) The property factor is a fraction, the numerator of which is the average
54 value of the corporation's real and tangible personal property owned or
55 rented and used in this State during the income year and the
denominator of which is the average value of all the corporation's real

and tangible personal property owned or rented and used during the income year. Neither the numerator nor the denominator includes outer-jurisdictional property."

SECTION 38.2.(c) G.S. 105-130.4(l) reads as rewritten:

- "(1) (1) The sales factor is a ~~fraction, the fraction.~~ The numerator of which the fraction is the total sales of the corporation in this State during the income year, and the denominator of which is the total sales of the corporation everywhere the fraction is the sum of sales to the United States government and sales other than those attributable to the United States government that are attributable to a state in which the taxpayer is taxable during the income year. Notwithstanding any other provision under this Part, the receipts from any casual sale of property shall be excluded from both the numerator and the denominator of the sales factor. Where a corporation is not taxable in another state on its apportionable income but is taxable in another state only because of nonapportionable income, all sales shall be treated as having been made in this State.
- (2) Sales of tangible personal property are in this State if the property is received in this State by the purchaser. In the case of delivery of goods by common carrier or by other means of transportation, including transportation by the purchaser, the place at which the goods are ultimately received after all transportation has been completed shall be considered as the place at which the goods are received by the purchaser. Direct delivery into this State by the taxpayer to a person or firm designated by a purchaser from within or without the State shall constitute delivery to the purchaser in this State.
- (3) Other sales are in this State if:
- a. The receipts are from real or tangible personal property located in this State; or
 - b. The receipts are from intangible property and are received from sources within this State; or
 - c. The receipts are from services and the income-producing activities are in this State."

SECTION 38.2(d). This section is effective for taxable years beginning on or after January 1, 2005.

PART XXXIX. FILM INDUSTRY JOBS INCENTIVES

Requested by: Senators Boseman, Hoyle

FILM INDUSTRY JOBS INCENTIVES

SECTION 39.1.(a) Part 1 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-130.47. Credit for qualifying expenses of a production company.

(a) Definitions. – The following definitions apply in this section:

- (1) Highly compensated individual. – An individual who receives compensation in excess of one million dollars (\$1,000,000) with respect to a single production.
- (2) Qualifying expenses. – The sum of the total amount spent in this State for the following by a production company in connection with a production:
 - a. Goods and services purchased by the production company.
 - b. Compensation and wages paid by the production company, other than amounts paid to a highly compensated individual, on which the production company remitted withholding payments to the Department of Revenue under Article 4A of this Chapter.

1 (3) Production company. – Defined in G.S. 105-164.3.

2 (b) Credit. – A taxpayer that is a production company and has qualifying
3 expenses of at least one million dollars (\$1,000,000) with respect to a production is
4 allowed a credit against the taxes imposed by this Part equal to fifteen percent (15%) of
5 the production company's qualifying expenses that have been certified as required in
6 subsection (c) of this section. For the purposes of this section, in the case of an episodic
7 television series, an entire season of episodes is one production. The credit is computed
8 based on all of the taxpayer's qualifying expenses incurred with respect to the
9 production, not just the qualifying expenses incurred during the taxable year.

10 (c) Certification. – In order to be eligible for a credit under this section, a
11 taxpayer must submit a detailed accounting of its qualifying expenses to the North
12 Carolina Film Office of the Department of Commerce. The North Carolina Film Office,
13 with the assistance of the regional film commission for the location of the production,
14 must make a written certification of the amount of the qualifying expenses.

15 (d) Pass-Through Entity. – Notwithstanding the provisions of G.S. 105-131.8 and
16 G.S. 105-269.15, a pass-through entity that qualifies for the credit provided in this
17 section does not distribute the credit among any of its owners. The pass-through entity
18 is considered the taxpayer for purposes of claiming the credit allowed by this section. If
19 a return filed by a pass-through entity indicates that the entity is paying tax on behalf of
20 the owners of the entity, the credit allowed under this section does not affect the entity's
21 payment of tax on behalf of its owners.

22 (e) Return. – A taxpayer may claim the credit allowed by this section on a return
23 filed for the taxable year in which the production activities are completed. The return
24 must state the name of the production, a description of the production, and the
25 certification from the North Carolina Film Office of the qualifying expenses for which
26 the credit is claimed.

27 (f) Credit Refundable. – If the credit allowed by this section exceeds the amount
28 of tax imposed by this Part for the taxable year reduced by the sum of all credits
29 allowable, the Secretary must refund the excess to the taxpayer. The refundable excess
30 is governed by the provisions governing a refund of an overpayment by the taxpayer of
31 the tax imposed in this Part. In computing the amount of tax against which multiple
32 credits are allowed, nonrefundable credits are subtracted before refundable credits.

33 (g) Limitation. – No credit is allowed under this section for any production that
34 satisfies one of the following conditions:

35 (1) It is commercial or political advertising.

36 (2) It is a television production of a news program or sporting event.

37 (3) It contains material that is obscene, as defined in G.S. 14-190.1.

38 (h) Substantiation. – A taxpayer allowed a credit under this section must maintain
39 and make available for inspection any information or records required by the Secretary
40 of Revenue or the regional film commissions. The taxpayer has the burden of proving
41 eligibility for a credit and the amount of the credit.

42 (i) Report. – The Department of Revenue must publish by May 1 of each year
43 the following information, itemized by taxpayer for the 12-month period ending the
44 preceding April 1:

45 (1) The location of sites used in a production for which a credit was
46 claimed.

47 (2) The qualifying expenses for which a credit was claimed, classified by
48 whether the expenses were for goods, services, or compensation paid
49 by the production company.

50 (3) The number of people employed in the State with respect to credits
51 claimed.

52 (4) The total cost to the General Fund of the credits claimed.

53 (j) Sunset. – This section is repealed for qualifying expenses occurring on or
54 after January 1, 2010."

1 **SECTION 39.1.(b)** Part 2 of Article 4 of Chapter 105 of the General
2 Statutes is amended by adding a new section to read:

3 **"§ 105-151.29. Credit for qualifying expenses of a production company.**

4 (a) Definitions. – The following definitions apply in this section:

5 (1) Highly compensated individual. – An individual who receives
6 compensation in excess of one million dollars (\$1,000,000) with
7 respect to a single production.

8 (2) Qualifying expenses. – The sum of the total amount spent in this State
9 for the following by a production company in connection with a
10 production:

11 a. Goods and services purchased by the production company.

12 b. Compensation and wages paid by the production company,
13 other than amounts paid to a highly compensated individual, on
14 which the production company remitted withholding payments
15 to the Department of Revenue under Article 4A of this Chapter.

16 (3) Production company. – Defined in G.S. 105-164.3.

17 (b) Credit. – A taxpayer that is a production company and has qualifying
18 expenses of at least one million dollars (\$1,000,000) with respect to a production is
19 allowed a credit against the taxes imposed by this Part equal to fifteen percent (15%) of
20 the production company's qualifying expenses that have been certified as required in
21 subsection (c) of this section. For the purposes of this section, in the case of an episodic
22 television series, an entire season of episodes is one production. The credit is computed
23 based on all of the taxpayer's qualifying expenses incurred with respect to the
24 production, not just the qualifying expenses incurred during the taxable year.

25 (c) Certification. – In order to be eligible for a credit under this section, a
26 taxpayer must submit a detailed accounting of its qualifying expenses to the North
27 Carolina Film Office of the Department of Commerce. The North Carolina Film Office,
28 with the assistance of the regional film commission for the location of the production,
29 must make a written certification of the amount of the qualifying expenses.

30 (d) Pass-Through Entity. – Notwithstanding the provisions of G.S. 105-131.8 and
31 G.S. 105-269.15, a pass-through entity that qualifies for the credit provided in this
32 section does not distribute the credit among any of its owners. The pass-through entity
33 is considered the taxpayer for purposes of claiming the credit allowed by this section. If
34 a return filed by a pass-through entity indicates that the entity is paying tax on behalf of
35 the owners of the entity, the credit allowed under this section does not affect the entity's
36 payment of tax on behalf of its owners.

37 (e) Return. – A taxpayer may claim the credit allowed by this section on a return
38 filed for the taxable year in which the production activities are completed. The return
39 must state the name of the production, a description of the production, and the
40 certification from the North Carolina Film Office of the qualifying expenses for which
41 the credit is claimed.

42 (f) Credit Refundable. – If the credit allowed by this section exceeds the amount
43 of tax imposed by this Part for the taxable year reduced by the sum of all credits
44 allowable, the Secretary must refund the excess to the taxpayer. The refundable excess
45 is governed by the provisions governing a refund of an overpayment by the taxpayer of
46 the tax imposed in this Part. In computing the amount of tax against which multiple
47 credits are allowed, nonrefundable credits are subtracted before refundable credits.

48 (g) Limitation. – No credit is allowed under this section for any production that
49 satisfies one of the following conditions:

50 (1) It is commercial or political advertising.

51 (2) It is a television production of a news program or sporting event.

52 (3) It contains material that is obscene, as defined in G.S. 14-190.1.

53 (h) Substantiation. – A taxpayer allowed a credit under this section must maintain
54 and make available for inspection any information or records required by the Secretary

1 of Revenue or the regional film commissions. The taxpayer has the burden of proving
 2 eligibility for a credit and the amount of the credit.

3 (i) Report. – The Department of Revenue must publish by May 1 of each year
 4 the following information, itemized by taxpayer for the 12-month period ending the
 5 preceding April 1:

6 (1) The location of sites used in a production for which a credit was
 7 claimed.

8 (2) The qualifying expenses for which a credit was claimed, classified by
 9 whether the expenses were for goods, services, or compensation paid
 10 by the production company.

11 (3) The number of people employed in the State with respect to credits
 12 claimed.

13 (4) The total cost to the General Fund of the credits claimed.

14 (j) Sunset. – This section is repealed for qualifying expenses occurring on or
 15 after January 1, 2010."

16 **SECTION 39.1.(c)** G.S. 105-259(b), as amended by Section 30.1 of this act,
 17 is amended by adding a new subdivision to read:

18 "(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State
 19 who has access to tax information in the course of service to or employment by the State
 20 may not disclose the information to any other person unless the disclosure is made for
 21 one of the following purposes:

22 ..
 23 (33) To exchange information concerning a tax credit claimed under
 24 G.S. 105-130.47 or G.S. 105-151.29 with the North Carolina Film
 25 Office of the Department of Commerce and with the regional film
 26 commissions."

27 **SECTION 39.1.(d)** G.S. 143B-434.4 is repealed.

28 **SECTION 39.1.(e)** This section is effective for taxable years beginning on
 29 or after January 1, 2005.

30 **PART XL. SET RATES FOR INSURANCE REGULATORY CHARGE AND** 31 **PUBLIC UTILITIES FEES**

32 Requested by: Senators Hoyle, Kerr
 33 **INSURANCE REGULATORY CHARGE**

34 **SECTION 40.1.(a)** The percentage rate to be used in calculating the
 35 insurance regulatory charge under G.S. 58-6-25 is five and one-half percent (5.5%) for
 36 the 2005 calendar year.

37 **SECTION 40.1.(b)** This section is effective when it becomes law.

38 Requested by: Senators Hoyle, Kerr
 39 **REGULATORY FEE FOR UTILITIES COMMISSION**

40 **SECTION 40.2.(a)** The percentage rate to be used in calculating the public
 41 utility regulatory fee under G.S. 62-302(b)(2) is twelve-hundredths of one percent
 42 (0.12%) for each public utility's North Carolina jurisdictional revenues earned during
 43 each quarter that begins on or after July 1, 2005.

44 **SECTION 40.2.(b)** The electric membership corporation regulatory fee
 45 imposed under G.S. 62-302(b1) for the 2005-2006 fiscal year is two hundred thousand
 46 dollars (\$200,000).

47 **SECTION 40.2.(c)** This section becomes effective July 1, 2005.

48 **PART XLI. HEALTH AND HUMAN SERVICES FEES**

49 Requested by: Senators Hoyle, Kerr
 50 **NEWBORN SCREENING FEE**

SECTION 41.1. G.S. 130A-125(c) reads as rewritten:

"(c) ~~The Department may impose a fee for a laboratory test performed pursuant to this section by the State Public Health Laboratory. A fee for a test must be based on the actual cost of performing the test. A fee of fourteen dollars (\$14.00) applies to a laboratory test performed by the State Public Health Laboratory performed pursuant to this section.~~ Fees collected shall remain in the Department to be used to offset the cost of the Newborn Screening Program."

PART XLII. NATURAL AND ECONOMIC RESOURCES FEES

Requested by: Senators Weinstein, Hoyle, Kerr

INCREASE VARIOUS FEES

SECTION 42.1.(a) G.S. 106-284.34(c) reads as rewritten:

"(c) No person shall distribute in this State a commercial feed, except a customer-formula feed, which has not been registered pursuant to the provisions of this section. The application for registration shall be submitted in the manner prescribed by the Commissioner. Upon approval by the Commissioner or his duly designated agent the registration shall be issued to the applicant. All registrations expire on the thirty-first day of December of each year. An annual registration fee of ~~three dollars (\$3.00)~~five dollars (\$5.00) for each commercial feed other than canned pet food shall accompany each request for registration. An annual registration fee of ~~ten dollars (\$10.00)~~twelve dollars (\$12.00) for each canned pet food shall accompany each request for registration."

SECTION 42.1.(b) G.S. 106-284.40(b)(4) reads as rewritten:

"(4) In the case of a commercial feed other than canned pet food which is distributed in the State only in packages of five pounds or less, an annual registration fee of ~~thirty dollars (\$30.00)~~forty dollars (\$40.00) shall be paid in lieu of the inspection fee specified above."

SECTION 42.1.(c) G.S. 106-277.28(3) reads as rewritten:

"(3) Each seed dealer or grower who has seed, whether originated or labeled by the dealer or grower, that is offered for sale in this State shall report the quantity of seed offered for sale and pay an inspection fee of ~~two cents (2¢)~~four cents (4¢) for each container of seeds weighing 10 pounds or more. Seed shall be subject to the inspection fee and reporting requirements only once in any 12-month period. This fee does not apply to seed grown by a farmer and offered for sale by the farmer at the farm where the seed was grown."

SECTION 42.1.(d) The Board of Agriculture shall charge the following fees for agronomic services:

Test/Service	Fee
(1) Routine nematode samples	\$ 3.00
(2) Routine waste samples	\$ 5.00
(3) Research soil and nematode samples	\$12.00
(4) Research plant, waste, and solution samples	\$12.00
(5) Nonresident nematode samples	\$14.00
(6) Nonresident plant, waste, and solution samples	\$26.00
(7) Special services for plant, waste, and solution samples:	
a. Heavy metals-soils	\$25.00
b. Nitrates-soils	\$ 5.00
c. Waste-heavy metals	\$10.00
d. Waste-N breakout	\$10.00
e. Waste-liming equivalent	\$10.00
f. Plant-chloride	\$ 5.00
g. Plant-molybdenum	\$ 5.00
h. Plant-petiole nitrates	\$ 5.00

1 **SECTION 42.1.(e)** The Board of Agriculture shall charge the following fees
 2 for animal disease diagnostic tests and services:

<u>Test/Service</u>	<u>Fee</u>
3 (1) Histopath	\$30.00
4 (2) Professional services-EIA	\$ 6.00
5 (3) Professional services-blood pour-off fees	\$ 1.00
6 (4) Vacuum tube handling fee	\$ 0.04

7 **SECTION 42.1.(f)** G.S. 81A-52 reads as rewritten:

8 **"§ 81A-52. License.**

9 All public weighmasters shall be licensed. Any person not less than 18 years of age
 10 who wishes to be a public weighmaster shall apply to the Department on a form
 11 provided by the Department. The Board may adopt rules for determining the
 12 qualifications of the applicant for a license. Public weighmasters shall be licensed for a
 13 period of one year beginning the first day of July and ending on the thirtieth day of
 14 June, and a fee of ~~twelve dollars (\$12.00)~~ nineteen dollars (\$19.00) shall be paid for each
 15 person licensed at the time of the filing of the application."
 16

17 **SECTION 42.1.(g)** G.S. 81A-72 reads as rewritten:

18 **"§ 81A-72. Registration; certificate of registration; annual renewal.**

19 The Commissioner or his authorized agent shall register any person who has
 20 complied with the requirements of this Article by making a record of receipt of
 21 application, and the issuing of a certificate or card of registration to applicant,
 22 whereupon the applicant becomes a registered scale technician and shall be known
 23 thereafter as such. Such registration shall be in effect from date of registration until July
 24 1 next and shall be renewed on the first day of July of each year thereafter. A fee of
 25 twenty dollars (\$20.00) shall accompany each application for registration and each
 26 annual registration renewal."

27 **SECTION 42.1.(h)** G.S. 81A-11 is repealed.

28 **SECTION 42.1.(i)** Chapter 81A of the General Statutes is amended by
 29 adding the following new section to read:

30 **"§ 81A-12. Fee schedule.**

31 (a) The following fees apply to all weights that are tested and certified to meet
 32 tolerances less stringent than the American Society for Testing and Materials (ASTM)
 33 Standard E617 Class 4. This includes the National Institutes of Standards and
 34 Technology (NIST) Class F tolerance. If the weight error exceeds three-fourths of the
 35 applicable tolerance, adjustment may be required at an additional fee equal to the
 36 normal fee. No extra fee shall be charged for the normal adjustment of a weight cart.
 37 Even if weights are rejected or condemned, fees shall be assessed for the test performed.

<u>Customary</u>	<u>Fee/Unit</u>	<u>Metric</u>	<u>Fee/Unit</u>
38 0-10 lb	\$ 5.00	38 0-5 kg	\$ 5.00
39 11-100 lb	\$ 10.00	39 6-50 kg	\$ 10.00
40 101-1000 lb	\$ 20.00	40 51-500 kg	\$ 20.00
41 1001-2500 lb	\$ 30.00	41 501-1000 kg	\$ 30.00
42 2501-6000 lb	\$ 50.00	42 1001-2500 kg	\$ 50.00
43 Weight Carts	\$125.00		
44 up to 6000 lb	(includes adjustment)		

45 (b) The following fees apply to all weights that are tested and certified to meet
 46 ASTM Standard E617 Class 4 or the International Organization of Legal Metrology
 47 (IOLM) R111 Class F2 tolerances. If the weight error exceeds three-fourths of the
 48 applicable tolerance, adjustment may be required at an additional fee equal to the
 49 normal fee. Even if weights are rejected or condemned, fees shall be assessed for the
 50 test performed.

<u>Customary</u>	<u>Fee/Unit</u>	<u>Metric</u>	<u>Fee/Unit</u>
52 0-10 lb	\$ 10.00	52 0-5 kg	\$ 10.00
53 11-100 lb	\$ 20.00	53 6-50 kg	\$ 20.00
54 101-1000 lb	\$ 40.00	54 51-500 kg	\$ 40.00

1	<u>1001-2500 lb</u>	<u>\$ 60.00</u>	<u>501-1000 kg</u>	<u>\$ 60.00</u>
2	<u>2501-6000 lb</u>	<u>\$100.00</u>	<u>1001-2500 kg</u>	<u>\$100.00</u>

3 (c) The following fees apply to all weights that are calibrated. Calibration means
 4 determining actual mass and conventional mass values with an assigned uncertainty
 5 specific to the test. If necessary and considered feasible by the metrologist, adjustments
 6 to ASTM Class 1, 2, or 3 tolerances or IOLM Class E2, F1, or F2 tolerances may be
 7 made for an additional fee of two times the normal fee. Adjustments to weights of this
 8 group shall require a minimum of 10 days for weights to return to environmental
 9 equilibrium before a final calibration value can be assigned. Even if weights are rejected
 10 or condemned, fees shall be assessed for the test performed.

11	<u>Customary</u>	<u>Fee/Unit</u>	<u>Metric</u>	<u>Fee/Unit</u>
12	<u>0-20 lb</u>	<u>\$ 20.00</u>	<u>0-10 kg</u>	<u>\$ 20.00</u>
13	<u>21-50 lb</u>	<u>\$ 40.00</u>	<u>11-30 kg</u>	<u>\$ 40.00</u>
14	<u>51-1000 lb</u>	<u>\$ 70.00</u>	<u>31-500 kg</u>	<u>\$ 70.00</u>
15	<u>1001-2500 lb</u>	<u>\$130.00</u>	<u>501-1000 kg</u>	<u>\$130.00</u>
16	<u>2501-6000 lb</u>	<u>\$200.00</u>	<u>1001-2500 kg</u>	<u>\$200.00</u>

17 (d) The following fees apply to all weights that are calibrated using NIST
 18 weighing designs. These weights are tested in groups (typically either a 1, 2, 3, 5 series
 19 or a 1, 2, 2, 5 series) and are subject to the minimum per series fee shown. The best
 20 uncertainty possible from the North Carolina Standards Laboratory shall be assigned to
 21 the mass values of the weights. If necessary and considered feasible by the metrologist,
 22 adjustments to ASTM Class 0, 1, 2, or 3 tolerances or IOLM Class E1, E2, F1, or F2
 23 tolerances may be made for an additional fee of two times the normal fee. Adjustments
 24 to weights of this group shall require a minimum of 10 days for weights to return to
 25 environmental equilibrium before a final calibration value can be assigned.

26	<u>Weight Range</u>	<u>Fee/Unit or Series</u>
27	<u>0-1 kg</u>	<u>\$30.00 each, with a minimum charge of \$90 (3 weights) per series</u>
28	<u>2-30 kg</u>	<u>\$50.00 each, with a minimum charge of \$150 (3 weights) per series</u>
29	<u>0-2 lb</u>	<u>\$30.00 each, with a minimum charge of \$90 (3 weights) per series</u>
30	<u>3-50 lb</u>	<u>\$50.00 each, with a minimum charge of \$150 (3 weights) per series</u>

31 (e) The following fees apply to volumetric standard calibration.

32 Provers or Test Measures Tested By The Volume Transfer Method

33	<u>Customary</u>	<u>Fee/Test Point</u>	<u>Metric</u>	<u>Fee/Test Point</u>
34	<u>0-5 gal</u>	<u>\$30.00</u>	<u>0-20 liters</u>	<u>\$30.00</u>
35	<u>Over 5 gal</u>	<u>Add \$0.40 per each</u>	<u>Over 20 liters</u>	<u>Add \$0.10 per each</u>
36		<u>additional gallon</u>		<u>additional liter</u>

37 Volumetric Flasks, Graduates, Provers, Slicker Plate Standards, or Test Measures

38 Tested By the Gravimetric Calibration Method

39	<u>Customary</u>	<u>Fee/Test Point</u>	<u>Metric</u>	<u>Fee/Test Point</u>
40	<u>0-100 gal set-up fee</u>	<u>\$50.00</u>	<u>0-500 liters set-up fee</u>	<u>\$50.00</u>
41	<u>Calibration Fee</u>	<u>Add \$2.00</u>	<u>Calibration Fee</u>	<u>Add \$0.50</u>
42		<u>per gallon</u>		<u>per liter</u>

43 Small Volume Provers (SVPs) Tested By The Gravimetric Calibration Method

44	<u>Customary</u>	<u>Fee/Test Point</u>	<u>Metric</u>	<u>Fee/Test Point</u>
45	<u>0-100 gal set-up fee</u>	<u>\$ 100.00</u>	<u>0-500 liters set-up fee</u>	<u>\$100.00</u>
46	<u>Calibration Fee</u>	<u>Add \$2.00</u>	<u>Calibration Fee</u>	<u>Add \$0.50</u>
47		<u>per gallon</u>		<u>per liter</u>

48 (f) The following fees apply to tape measures and rigid rules.

49	<u>Set-Up Fee</u>	<u>\$ 40.00 per instrument</u>
50	<u>Calibration Fee</u>	<u>\$ 10.00 calibration interval</u>

51 (g) The following fees apply to liquid-in-glass and electronic thermometers.

52	<u>Set-Up Fee</u>	<u>\$ 40.00/instrument</u>
53	<u>Calibration Fee</u>	<u>\$ 20.00/calibration point</u>

54 Resistance Thermometry Coefficient

55	<u>Calculation and Report</u>	<u>\$ 100.00/ instrument</u>
----	-------------------------------	------------------------------

1 (h) Any special tests or weight cleaning shall be billed at the rate of seventy
 2 dollars (\$70.00) per hour prorated to the nearest tenth of an hour, with a minimum
 3 charge of thirty-five dollars (\$35.00).

4 (i) A minimum charge of twenty-five dollars (\$25.00) per invoice shall apply.

5 (j) If travel is required in connection with the performance of any of these
 6 services, the Department shall be reimbursed at the rates provided in G.S. 138-6.

7 (k) The Department may refuse to accept for testing any weight or measure the
 8 Department deems unsuited for its intended use.

9 (l) The fee for tests performed on weights or measures that will be used
 10 primarily outside of the State of North Carolina shall be twice the amounts set forth in
 11 this section."

12
 13 Requested by: Senators Hoyle, Kerr

14 **LABOR COMMISSIONER FEE AUTHORITY FOR MINE INSPECTIONS**

15 **SECTION 42.2.** G.S. 74-24.7 is amended by adding a new subsection to
 16 read:

17 "(h) An annual inspection and investigation fee of one thousand two hundred
 18 thirty dollars (\$1,230) is imposed on an operator of a mine subject to an inspection or
 19 investigation under this section. The fee may be collected at the time of inspection or
 20 investigation. If the fee is not collected at the time of inspection or investigation, the
 21 Director must bill the operator of the mine for the amount of the fee and the amount of
 22 the fee is payable by the operator upon receipt of the bill. Fees collected under this
 23 subsection shall be credited to the Department of Labor and applied to the cost of
 24 administering this Article."

25
 26 **PART XLIII. JUSTICE AND PUBLIC SAFETY FEES**

27
 28 Requested by: Senators Thomas, Hoyle, Kerr

29 **GENERAL COURT OF JUSTICE FEE INCREASES**

30 **SECTION 43.1.(a)** G.S. 7A-304(a)(4) reads as rewritten:

31 "(a) In every criminal case in the superior or district court, wherein the defendant
 32 is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed
 33 against the prosecuting witness, the following costs shall be assessed and collected,
 34 except that when the judgment imposes an active prison sentence, costs shall be
 35 assessed and collected only when the judgment specifically so provides, and that no
 36 costs may be assessed when a case is dismissed.

37
 38 ... (4) For support of the General Court of Justice, the sum of ~~seventy-six~~
 39 ~~dollars (\$76.00) eighty-six dollars (\$86.00) in the district court,~~
 40 including cases before a magistrate, and the sum of ~~eighty-three dollars~~
 41 ~~(\$83.00) ninety-three dollars (\$93.00) in the superior court, to be~~
 42 remitted to the State Treasurer. For a person convicted of a felony in
 43 superior court who has made a first appearance in district court, both
 44 the district court and superior court fees shall be assessed. The State
 45 Treasurer shall remit the sum of one dollar and five cents (\$1.05) of
 46 each fee collected under this subdivision to the North Carolina State
 47 Bar for the provision of services described in G.S. 7A-474.4, and
 48 ninety-five cents (\$.95) of each fee collected under this subdivision to
 49 the North Carolina State Bar for the provision of services described in
 50 G.S. 7A-474.19."

51 **SECTION 43.1.(b)** G.S. 7A-305(a)(2) reads as rewritten:

52 "(a) In every civil action in the superior or district court, except for actions
 53 brought under Chapter 50B of the General Statutes, the following costs shall be
 54 assessed:

55 ...

1 (2) For support of the General Court of Justice, the sum of ~~sixty-nine~~
2 ~~dollars (\$69.00)~~ seventy-nine dollars (\$79.00) in the superior court,
3 and the sum of ~~fifty-four dollars (\$54.00)~~ sixty-four dollars (\$64.00) in
4 the district court except that if the case is assigned to a magistrate the
5 sum shall be ~~forty-three dollars (\$43.00)~~ fifty-three dollars (\$53.00).
6 Sums collected under this subdivision shall be remitted to the State
7 Treasurer. The State Treasurer shall remit the sum of one dollar and
8 five cents (\$1.05) of each fee collected under this subdivision to the
9 North Carolina State Bar for the provision of services described in
10 G.S. 7A-474.4, and ninety-five cents (\$.95) of each fee collected under
11 this subdivision to the North Carolina State Bar for the provision of
12 services described in G.S. 7A-474.19."

13 **SECTION 43.1.(c)** G.S. 7A-306(a)(2) reads as rewritten:

14 "(a) In every special proceeding in the superior court, the following costs shall be
15 assessed:

16
17 (2) For support of the General Court of Justice the sum of ~~thirty dollars~~
18 ~~(\$30.00)~~ forty dollars (\$40.00). In addition, in proceedings involving
19 land, except boundary disputes, if the fair market value of the land
20 involved is over one hundred dollars (\$100.00), there shall be an
21 additional sum of thirty cents (30¢) per one hundred dollars (\$100.00)
22 of value, or major fraction thereof, not to exceed a maximum
23 additional sum of two hundred dollars (\$200.00). Fair market value is
24 determined by the sale price if there is a sale, the appraiser's valuation
25 if there is no sale, or the appraised value from the property tax records
26 if there is neither a sale nor an appraiser's valuation. Sums collected
27 under this subdivision shall be remitted to the State Treasurer. The
28 State Treasurer shall remit the sum of one dollar and five cents (\$1.05)
29 of each ~~thirty dollar (\$30.00)~~ forty-dollar (\$40.00) General Court of
30 Justice fee collected under this subdivision to the North Carolina State
31 Bar for the provision of services described in G.S. 7A-474.4."

32 **SECTION 43.1.(d)** G.S. 7A-307(a)(2) and (2a) read as rewritten:

33 "(a) In the administration of the estates of decedents, minors, incompetents, of
34 missing persons, and of trusts under wills and under powers of attorney, in trust
35 proceedings under G.S. 36A-23.1, and in collections of personal property by affidavit,
36 the following costs shall be assessed:

37
38 (2) For support of the General Court of Justice, the sum of ~~thirty dollars~~
39 ~~(\$30.00)~~ forty dollars (\$40.00), plus an additional forty cents (40¢)
40 per one hundred dollars (\$100.00), or major fraction thereof, of the
41 gross estate, not to exceed ~~three thousand dollars (\$3,000)~~ six
42 thousand dollars (\$6,000). Gross estate shall include the fair market
43 value of all personalty when received, and all proceeds from the sale of
44 realty coming into the hands of the fiduciary, but shall not include the
45 value of realty. In collections of personal property by affidavit, the fee
46 based on the gross estate shall be computed from the information in
47 the final affidavit of collection made pursuant to G.S. 28A-25-3 and
48 shall be paid when that affidavit is filed. In all other cases, this fee
49 shall be computed from the information reported in the inventory and
50 shall be paid when the inventory is filed with the clerk. If additional
51 gross estate, including income, comes into the hands of the fiduciary
52 after the filing of the inventory, the fee for such additional value shall
53 be assessed and paid upon the filing of any account or report
54 disclosing such additional value. For each filing the minimum fee shall
55 be fifteen dollars (\$15.00). Sums collected under this subdivision shall

1 be remitted to the State Treasurer. The State Treasurer shall remit the
2 sum of one dollar and five cents (\$1.05) of each ~~thirty dollar (\$30.00)~~
3 forty-dollar (\$40.00) General Court of Justice fee collected under this
4 subdivision to the North Carolina State Bar for the provision of
5 services described in G.S. 7A-474.4.

6 (2a) Notwithstanding subdivision (2) of this subsection, the fee of forty
7 cents (40¢) per one hundred dollars (\$100.00), or major fraction, of the
8 gross estate, not to exceed ~~three thousand dollars (\$3,000)~~, six
9 thousand dollars (\$6,000), shall not be assessed on personalty received
10 by a trust under a will when the estate of the decedent was
11 administered under Chapters 28 or 28A of the General Statutes.
12 Instead, a fee of twenty dollars (\$20.00) shall be assessed on the filing
13 of each annual and final account."

14 **SECTION 43.1.(e)** G.S. 15A-145(e) reads as rewritten:

15 "(e) A person who files a petition for expunction of a criminal record under this
16 section must pay the clerk of superior court a fee of ~~sixty five dollars (\$65.00)~~ one
17 hundred twenty-five dollars (\$125.00) at the time the petition is filed. Fees collected
18 under this subsection shall be deposited in the General Fund. This subsection does not
19 apply to petitions filed by an indigent."

20 **SECTION 43.1.(f)** G.S. 15A-1343(b1)(3c) reads as rewritten:

21 "(b1) Special Conditions. – In addition to the regular conditions of probation
22 specified in subsection (b), the court may, as a condition of probation, require that
23 during the probation the defendant comply with one or more of the following special
24 conditions:

25
26 (3c) Remain at his or her residence unless the court or the probation officer
27 authorizes the offender to leave for the purpose of employment,
28 counseling, a course of study, or vocational training. The offender
29 shall be required to wear a device which permits the supervising
30 agency to monitor the offender's compliance with the condition
31 electronically and to pay a fee for the device as specified
32 in subsection (c2) of this section."

33 **SECTION 43.1.(g)** G.S. 20-135.2A(e) reads as rewritten:

34 "(e) Any driver or passenger who fails to wear a seat belt as required by this
35 section shall have committed an infraction and shall pay a penalty of twenty-five dollars
36 (\$25.00) plus court costs in the sum of ~~fifty dollars (\$50.00)~~ seventy-five dollars
37 (\$75.00). Court costs assessed under this section are for the support of the General
38 Court of Justice and shall be remitted to the State Treasurer. Conviction of an infraction
39 under this section has no other consequence."

40
41 Requested by: Senators Thomas, Hoyle, Kerr

42 **DEVICE FEE FOR HOUSE ARREST WITH ELECTRONIC MONITORING**

43 **SECTION 43.2.** G.S. 15A-1343 is amended by adding a new section to
44 read:

45 "(c2) Electronic Monitoring Device Fee. – Any person placed on house arrest with
46 electronic monitoring under subsection (b1) of this section shall pay a fee of ninety
47 dollars (\$90.00) for the electronic monitoring device. The court may exempt a person
48 from paying the fee only for good cause and upon motion of the person placed on house
49 arrest with electronic monitoring. The court may require that the fee be paid in advance
50 or in a lump sum or sums, and a probation officer may require payment by those
51 methods if the officer is authorized by subsection (g) of this section to determine the
52 payment schedule. The fee must be paid to the clerk of court for the county in which the
53 judgment was entered or the deferred prosecution agreement was filed. Fees collected
54 under this subsection shall be transmitted to the State for deposit into the State's General
55 Fund."

1
2 Requested by: Senators Thomas, Hoyle, Kerr

3 **INCREASE BUTNER TAXES**

4 **SECTION 43.3.(a)** Section 1 of Chapter 830 of the 1983 Session Laws
5 reads as rewritten:

6 "Section 1. (a) The territorial jurisdiction of the Butner Police and Fire Protection
7 District shall include: (i) any property formerly a part of the original Camp Butner
8 reservation, including both those areas currently owned and occupied by the State and
9 its agencies and those which may have been leased or otherwise disposed of by the
10 State; (ii) the Lyons Station Sanitary District; and (iii) that part of Granville County
11 adjoining the Butner reservation and the Lyons Station Sanitary District situated north
12 and west of the intersection of Rural Paved Roads 1103 and 1106 and bounded by those
13 roads and the boundaries of said reservation and said sanitary district.

14 (b) The territorial jurisdiction set forth in subsection (a) of this section shall
15 constitute the Butner Fire and Police Protection District. The tax collectors of Durham
16 and Granville Counties shall annually collect ~~beginning with fiscal year 1983-84~~ a tax
17 of ~~twenty cents (20¢)~~ twenty-five cents (25¢) per one hundred dollars (\$100.00)
18 valuation of all real and personal property in the portions of said district in their
19 respective counties from year to year which tax shall be collected as county taxes are
20 collected and shall remit the same to the State Treasurer for deposit in the General
21 Fund."

22 **SECTION 43.3.(b)** This section is effective for taxes imposed for taxable
23 years beginning on or after July 1, 2005.

24
25 Requested by: Senators Thomas, Hoyle, Kerr

26 **FEE FOR POLICE INFORMATION NETWORK**

27 **SECTION 43.4.(a)** G.S. 114-10.1 reads as rewritten:

28 **"§ 114-10.1. Police Information Network.**

29 (a) The Division of Criminal Statistics is authorized to establish, devise, maintain
30 and operate, under the control and supervision of the Attorney General, a system for
31 receiving and disseminating to participating agencies information collected, maintained
32 and correlated under authority of G.S. 114-10 of this Article. The system shall be
33 known as the Police Information Network.

34 (b) The Attorney General is authorized to cooperate with the Division of Motor
35 Vehicles, Department of Administration, Department of Correction and other State,
36 local and federal agencies and organizations in carrying out the purpose and intent of
37 this section, and to utilize, in cooperation with other State agencies and to the extent as
38 may be practical, computers and related equipment as may be operated by other State
39 agencies.

40 (c) The Attorney General, after consultation with participating agencies, shall
41 adopt rules and regulations governing the organization and administration of the Police
42 Information Network, including rules and regulations governing the types of
43 information relating to the administration of criminal justice to be entered into the
44 system, and who shall have access to such information. The rules and regulations
45 governing access to the Police Information Network shall not prohibit an attorney who
46 has entered a criminal proceeding in accordance with G.S. 15A-141 from obtaining
47 information relevant to that criminal proceeding. The rules and regulations governing
48 access to the Police Information Network shall not prohibit an attorney who represents a
49 person in adjudicatory or dispositional proceedings for an infraction from obtaining the
50 person's driving record or criminal history.

51 (d) The Attorney General may impose an initial set up fee of two thousand six
52 hundred fifty dollars (\$2,650) for agencies to participate in the Police Information
53 Network. This one-time fee shall be used to offset the cost of the router and data circuit
54 needed to access the Network.

1 The Attorney General may also impose monthly fees on participating agencies. The
2 monthly fees collected under this subsection shall be used to offset the cost of operating
3 and maintaining the Police Information Network

4 (1) The Attorney General may impose a monthly circuit fee on agencies
5 that access the Police Information Network through a circuit
6 maintained and operated by the Department of Justice. The amount of
7 the monthly fee is three hundred dollars (\$300.00) plus an additional
8 fee amount for each device linked to the Network. The additional fee
9 amount varies depending upon the type of device. For every desktop
10 device after the first seven desktop devices, the additional monthly fee
11 is twenty-five dollars (\$25.00) per device. For a mobile device, the
12 additional monthly fee is six dollars (\$6.00) per device.

13 (2) The Attorney General may impose a monthly device fee on agencies
14 that access the Police Information Network through some other
15 approved means. The amount of the monthly device fee varies
16 depending upon the type of device. For a desktop device, the monthly
17 fee is twenty-five dollars (\$25.00) per device. For a mobile device, the
18 fee is six dollars (\$6.00) per device."

19 **SECTION 43.4.(b)** G.S. 114-10.1(d), as enacted by this section, reads as
20 rewritten:

21 "(d) The Attorney General may impose an initial set up fee of two thousand six
22 hundred fifty dollars (\$2,650) for agencies to participate in the Police Information
23 Network. This one-time fee shall be used to offset the cost of the router and data circuit
24 needed to access the Network.

25 The Attorney General may also impose monthly fees on participating agencies. The
26 monthly fees collected under this subsection shall be used to offset the cost of operating
27 and maintaining the Police Information Network

28 (1) The Attorney General may impose a monthly circuit fee on agencies
29 that access the Police Information Network through a circuit
30 maintained and operated by the Department of Justice. The amount of
31 the monthly fee is three hundred dollars (\$300.00) plus an additional
32 fee amount for each device linked to the Network. The additional fee
33 amount varies depending upon the type of device. For a desktop device
34 after the first seven desktop devices, the additional monthly fee is
35 twenty-five dollars (\$25.00) per device. For a mobile device, the
36 additional monthly fee is ~~six dollars (\$6.00)~~ twelve dollars (\$12.00)
37 per device.

38 (2) The Attorney General may impose a monthly device fee on agencies
39 that access the Police Information Network through some other
40 approved means. The amount of the monthly device fee varies
41 depending upon the type of device. For a desktop device, the monthly
42 fee is twenty-five dollars (\$25.00) per device. For a mobile device, the
43 fee is ~~six dollars (\$6.00)~~ twelve dollars (\$12.00) per device."

44 **SECTION 43.4.(c)** Subsection (b) of this section becomes effective January
45 1, 2006. The remainder of this section is effective when it becomes law.

47 **PART XLIV. DEPARTMENT OF TRANSPORTATION FEE CHANGES**

48
49 Requested by: Senators Hoyle, Kerr

50 **DOT FEE INCREASES**

51 **SECTION 44.1.(a)** G.S. 20-7 reads as rewritten:

52 "**§ 20-7. Issuance and renewal of drivers licenses.**

53 ...
54 (i) Fees. – The fee for a regular drivers license is the amount set in the following
55 table multiplied by the number of years in the period for which the license is issued:

Class of Regular License	Fee For Each Year
Class A	\$4.30 <u>\$4.00</u>
Class B	4.30 <u>4.00</u>
Class C	3.05 <u>4.00</u>

The fee for a motorcycle endorsement is one dollar and seventy-five cents (\$1.75) for each year of the period for which the endorsement is issued. The appropriate fee shall be paid before a person receives a regular drivers license or an endorsement.

(i) Restoration Fee. – Any person whose drivers license has been revoked pursuant to the provisions of this Chapter, other than G.S. 20-17(2), shall pay a restoration fee of ~~twenty five dollars (\$25.00)~~ fifty dollars (\$50.00). A person whose drivers license has been revoked under G.S. 20-17(2) shall pay a restoration fee of ~~fifty dollars (\$50.00)~~ seventy-five dollars (\$75.00) until the end of the fiscal year in which the cumulative total amount of fees deposited under this subsection in the General Fund exceeds ten million dollars (\$10,000,000), and shall pay a restoration fee of ~~twenty five dollars (\$25.00)~~ fifty dollars (\$50.00) thereafter. The fee shall be paid to the Division prior to the issuance to such person of a new drivers license or the restoration of the drivers license. The restoration fee shall be paid to the Division in addition to any and all fees which may be provided by law. This restoration fee shall not be required from any licensee whose license was revoked or voluntarily surrendered for medical or health reasons whether or not a medical evaluation was conducted pursuant to this Chapter. ~~The twenty five dollar (\$25.00) fee, and the first twenty five dollars (\$25.00) of the fifty dollar (\$50.00) fee, fifty-dollar (\$50.00) fee, and the first fifty dollars (\$50.00) of the seventy-five dollar (\$75.00) fee, shall be deposited in the Highway Fund. The remaining twenty-five dollars (\$25.00) of the fifty dollar (\$50.00) fee the seventy-five dollar (\$75.00) fee shall be deposited in the General Fund of the State. The Office of State Budget and Management shall certify to the Department of Transportation and the General Assembly when the cumulative total amount of fees deposited in the General Fund under this subsection exceeds ten million dollars (\$10,000,000), and shall annually report to the General Assembly the amount of fees deposited in the General Fund under this subsection.~~

It is the intent of the General Assembly to annually appropriate the funds deposited in the General Fund under this subsection to the Board of Governors of The University of North Carolina to be used for the Center for Alcohol Studies Endowment at The University of North Carolina at Chapel Hill, but not to exceed this cumulative total of ten million dollars (\$10,000,000).

...
 (i) Learner's Permit. – A person who is at least 18 years old may obtain a learner's permit. A learner's permit authorizes the permit holder to drive a specified type or class of motor vehicle while in possession of the permit. A learner's permit is valid for a period of 18 months after it is issued. The fee for a learner's permit is ~~ten dollars (\$10.00)~~ fifteen dollars (\$15.00). A learner's permit may be renewed, or a second learner's permit may be issued, for an additional period of 18 months. The permit holder must, while operating a motor vehicle over the highways, be accompanied by a person who is licensed to operate the motor vehicle being driven and is seated beside the permit holder."

SECTION 44.1.(b) G.S. 20-11(j) reads as rewritten:

"(j) Duration and Fee. – A limited learner's permit expires on the eighteenth birthday of the permit holder. A limited provisional license expires on the eighteenth birthday of the license holder. A limited learner's permit or limited provisional license issued under this section that expires on a weekend or State holiday shall remain valid through the fifth regular State business day following the date of expiration. A full provisional license expires on the date set under G.S. 20-7(f). The fee for a limited

1 learner's permit or a limited provisional license is ~~ten dollars (\$10.00)~~ fifteen dollars
2 (\$15.00). The fee for a full provisional license is the amount set under G.S. 20-7(i)."

3 **SECTION 44.1.(c)** G.S. 20-14 reads as rewritten:

4 "**§ 20-14. Duplicate licenses.**

5 A person may obtain a duplicate of a license issued by the Division by paying a fee
6 of ~~ten dollars and five cents (\$10.05)~~ (\$10.00) and giving the Division satisfactory proof
7 that any of the following has occurred:

- 8 (1) The person's license has been lost or destroyed.
- 9 (2) It is necessary to change the name or address on the license.
- 10 (3) Because of age, the person is entitled to a license with a different color
11 photographic background or a different color border.
- 12 (4) The Division revoked the person's license, the revocation period has
13 expired, and the period for which the license was issued has not
14 expired."

15 **SECTION 44.1.(d)** G.S. 20-16(e) reads as rewritten:

16 "(e) The Division may conduct driver improvement clinics for the benefit of those
17 who have been convicted of one or more violations of this Chapter. Each driver
18 attending a driver improvement clinic shall pay a fee of ~~twenty five dollars~~
19 (\$25.00) fifty dollars (\$50.00)."

20 **SECTION 44.1.(e)** G.S. 20-26(c) reads as rewritten:

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

- 24 (1) Limited extract copy of license record, for
25 period up to three years ~~\$5.00~~ \$8.00
- 26 (2) Complete extract copy of license record ~~5.00~~ 8.00
- 27 (3) Certified true copy of complete license record ~~7.00~~ 11.00.

28 All fees received by the Division under this subsection shall be credited to the Highway
29 Fund."

30 **SECTION 44.1.(f)** G.S. 20-37.15 (a1) reads as rewritten:

31 "(a1) The application must be accompanied by a nonrefundable application fee of
32 ~~twenty dollars (\$20.00)~~ thirty dollars (\$30.00). This fee does not apply in any of the
33 following circumstances:

- 34 (1) When an individual surrenders a commercial driver learner's permit
35 issued by the Division when submitting the application.
- 36 (2) When the application is to renew a commercial drivers license issued
37 by the Division.

38 This fee shall entitle the applicant to three attempts to pass the written knowledge test
39 without payment of a new fee. No application fee shall be charged to an applicant
40 eligible for a waiver under G.S. 20-37.13(c)."

41 **SECTION 44.1.(g)** G.S. 20-37.16(d) reads as rewritten:

42 "(d) The fee for a Class A, B, or C commercial drivers license is ~~ten dollars~~
43 (\$10.00) fifteen dollars (\$15.00) for each year of the period for which the license is
44 issued. The fee for each endorsement is ~~one dollar and twenty five cents (\$1.25)~~ three
45 dollars (\$3.00) for each year of the period for which the endorsement is issued. The fees
46 required under this section do not apply to employees of the Driver License Section of
47 the Division who are designated by the Commissioner."

48 **SECTION 44.1.(h)** G.S. 20-42(b) reads as rewritten:

49 "(b) The Commissioner and officers of the Division designated by the
50 Commissioner may prepare under the seal of the Division and deliver upon request a
51 certified copy of any document of the Division for a fee. The fee for a document, other
52 than an accident report under G.S. 20-166.1, is ~~five dollars (\$5.00)~~ ten dollars (\$10.00).
53 The fee for an accident report is ~~four dollars (\$4.00)~~ five dollars (\$5.00). A certified
54 copy shall be admissible in any proceeding in any court in like manner as the original
55 thereof, without further certification. The certification fee does not apply to a document

furnished for official use to a judicial official or to an official of the federal government, a state government, or a local government."

SECTION 44.1.(i) G.S. 20-50(b) reads as rewritten:

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

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

The fee for a temporary license plate that is valid for 10 days is ~~three dollars (\$3.00)~~ five dollars (\$5.00). The fee for a temporary license plate that is valid for more than 10 days is the amount that would be required with an application for a license plate for the vehicle. If a person obtains for a vehicle a temporary license plate that is valid for more than 10 days and files an application for a license plate for that vehicle before the temporary license plate expires, the person is not required to pay the fee that would otherwise be required for the license plate.

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

- (1) It may be issued only upon proper proof that the applicant has met the applicable financial responsibility requirements.
(2) It expires on midnight of the day set for expiration.
(3) It may be used only on the vehicle for which issued and may not be transferred, loaned, or assigned to another.
(4) If it is lost or stolen, the person who applied for it must notify the Division.
(5) It may not be issued by a dealer.
(6) The provisions of G.S. 20-63, 20-71, 20-110 and 20-111 that apply to license plates apply to temporary license plates insofar as possible."

SECTION 44.1.(j) G.S. 20-73(c) reads as rewritten:

"(c) Penalties. - A person to whom a vehicle is transferred who fails to apply for a certificate of title within the required time is subject to a civil penalty of ~~ten dollars (\$10.00)~~ fifteen dollars (\$15.00) and is guilty of a Class 2 misdemeanor. A person who undertakes to apply for a certificate of title on behalf of another person and who fails to apply for a title within the required time is subject to a civil penalty of ~~ten dollars (\$10.00)~~ fifteen dollars (\$15.00). When a person to whom a vehicle is transferred fails to obtain a title within the required time because a person who undertook to apply for the certificate of title did not do so within the required time, the Division may impose a civil penalty only on the person who undertook to apply for the title. Civil penalties collected under this subsection shall be credited to the Highway Fund."

SECTION 44.1.(k) G.S. 20-85(a) reads as rewritten:

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

- (1) Each application for certificate of title ~~\$35.00~~ \$39.00
(2) Each application for duplicate or corrected certificate of title ~~10.00~~ 14.00
(3) Each application of reposessor for certificate of title ~~10.00~~ 14.00
(4) Each transfer of registration ~~10.00~~ 15.00
(5) Each set of replacement registration plates ~~10.00~~ 15.00
(6) Each application for duplicate registration card..... ~~10.00~~ 15.00
(7) Each application for recording supplementary lien..... ~~10.00~~ 14.00
(8) Each application for removing a lien from a certificate of title ~~10.00~~ 14.00

- 1 (9) Each application for certificate of title for a motor vehicle transferred
2 to a manufacturer, as defined in G.S. 20-286, or a motor vehicle
3 retailer for the purpose of resale.....~~10.00~~14.00
- 4 (10) Each application for a salvage certificate of title made by an insurer
5~~10.00~~15.00
- 6 (11) Each set of replacement Stock Car Racing Theme plates issued under
7 G.S. 20-79.425.00."

8 **SECTION 44.1.(l)** G.S. 20-85.1 reads as rewritten:

9 **"§ 20-85.1. Registration by mail; one-day title service; fees.**

10 (a) The owner of a vehicle registered in North Carolina may renew that vehicle
11 registration by mail. A postage and handling fee of one dollar (\$1.00) per vehicle to be
12 registered shall be charged for this service.

13 (b) The Commissioner and the employees of the Division designated by the
14 Commissioner may prepare and deliver upon request a certificate of title, charging a fee
15 of ~~fifty dollars (\$50.00)~~ seventy-five dollars (\$75.00) for one-day title service, in lieu of
16 the title fee required by G.S. 20-85(a). The fee for one-day title service must be paid by
17 cash or by certified check.

18 (c) The fee collected under subsection (a) shall be credited to the Highway Fund.
19 The fee collected under subsection (b) shall be credited to the Highway Trust Fund."

20 **SECTION 44.1.(m)** G.S. 20-87 reads as rewritten:

21 **"§ 20-87. Passenger vehicle registration fees.**

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

- 25 (1) For-Hire Passenger Vehicles. – The fee for a passenger vehicle that is
26 operated for compensation and has a capacity of 15 passengers or less
27 is seventy-eight dollars (\$78.00). The fee for a passenger vehicle that
28 is operated for compensation and has a capacity of more than 15
29 passengers is one dollar and forty cents (\$1.40) per hundred pounds of
30 empty weight of the vehicle.
- 31 (2) U-Drive-It Vehicles. – U-drive-it vehicles shall pay the following tax:
32 Motorcycles: 1-passenger capacity \$18.00
33 2-passenger capacity 22.00
34 3-passenger capacity 26.00
35 Automobiles: 15 or fewer passengers ~~\$41.00~~\$51.00
36 Buses: 16 or more passengers ~~\$1.40~~ \$2.00 per
37 hundred
38 pounds of
39 empty weight
- 40 Trucks under
41 7,000 pounds
42 that do not
43 haul products
44 for hire: 4,000 pounds.....\$41.50
45 5,000 pounds.....\$51.00
46 6,000 pounds.....\$61.00.
- 47 (3) Repealed by Session Laws 1981, c. 976, s. 3.
- 48 (4) Limousine Vehicles. – For-hire passenger vehicles on call or demand
49 which do not solicit passengers indiscriminately for hire between
50 points along streets or highways, shall be taxed at the same rate as
51 for-hire passenger vehicles under G.S. 20-87(1) but shall be issued
52 appropriate registration plates to distinguish such vehicles from
53 taxicabs.
- 54 (5) Private Passenger Vehicles. – There shall be paid to the Division
55 annually, as of the first day of January, for the registration and

licensing of private passenger vehicles, fees according to the following classifications and schedules:

Private passenger vehicles of not more than fifteen passengers ~~\$20.00~~\$28.00

Private passenger vehicles over fifteen passengers ~~23.00~~31.00

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

(6) Private Motorcycles. – The base fee on private passenger motorcycles shall be ~~nine dollars (\$9.00); fifteen dollars (\$15.00);~~ except that when a motorcycle is equipped with an additional form of device designed to transport persons or property, the base fee shall be ~~sixteen dollars (\$16.00); twenty-two dollars (\$22.00).~~ An additional fee of three dollars (\$3.00) is imposed on each private motorcycle registered under this subdivision in addition to the base fee. The revenue from the additional fee, in addition to any other funds appropriated for this purpose, shall be used to fund the Motorcycle Safety Instruction Program created in G.S. 115D-72.

(7) Dealer License Plates. – The fee for a dealer license plate is the regular fee for each of the first five plates issued to the same dealer and is one-half the regular fee for each additional dealer license plate issued to the same dealer. The "regular fee" is the fee set in subdivision (5) of this section for a private passenger motor vehicle of not more than 15 passengers.

(8) Driveaway Companies. – Any person engaged in the business of driving new motor vehicles from the place of manufacture to the place of sale in this State for compensation shall pay a fee of one-half of the amount that would otherwise be payable under this section for each set of plates.

(9) House Trailers. – In lieu of other registration and license fees levied on house trailers under this section or G.S. 20-88, the registration and license fee on house trailers shall be ~~seven dollars (\$7.00) eleven dollars (\$11.00)~~ for the license year or any portion thereof.

(10) Special Mobile Equipment. – The fee for special mobile equipment for the license year or any part of the license year is two times the fee in subdivision (5) for a private passenger motor vehicle of not more than 15 passengers.

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

(12) Low-Speed Vehicles. – The fee for a low-speed vehicle is the same as the fee for private passengers vehicles of not more than 15 passengers."

SECTION 44.1.(n) G.S. 20-88 reads as rewritten:

"§ 20-88. Property-hauling vehicles.

(a) Determination of Weight. – For the purpose of licensing, the weight of self-propelled property-carrying vehicles shall be the empty weight and heaviest load to be transported, as declared by the owner or operator; provided, that any determination of weight shall be made only in units of 1,000 pounds or major fraction thereof, weights of over 500 pounds counted as 1,000 and weights of 500 pounds or less disregarded. The declared gross weight of self-propelled property-carrying vehicles operated in conjunction with trailers or semitrailers shall include the empty weight of the vehicles to be operated in the combination and the heaviest load to be transported by such

1 combination at any time during the registration period, except that the gross weight of a
 2 trailer or semitrailer is not required to be included when the operation is to be in
 3 conjunction with a self-propelled property-carrying vehicle which is licensed for 6,000
 4 pounds or less gross weight and the gross weight of such combination does not exceed
 5 9,000 pounds, except wreckers as defined under G.S. 20-4.01(50). Those
 6 property-hauling vehicles registered for 4,000 pounds shall be permitted a tolerance of
 7 500 pounds above the weight permitted under the table of weights and rates appearing
 8 in subsection (b) of this section.

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

11 **SCHEDULE OF WEIGHTS AND RATES**

12

13 Rates Per Hundred Pound Gross Weight

14		Farmer Rate
15		
16	Not over 4,000 pounds	\$0.23 \$0.29
17	4,001 to 9,000 pounds inclusive	.29 .40
18	9,001 to 13,000 pounds inclusive	.37 .50
19	13,001 to 17,000 pounds inclusive	.51 .68
20	Over 17,000 pounds	.58 .77

21

22 Rates Per Hundred Pound Gross Weight

23		General Rate
24		
25	Not over 4,000 pounds	\$0.46 \$0.59
26	4,001 to 9,000 pounds inclusive	.63 .81
27	9,001 to 13,000 pounds inclusive	.78 1.00
28	13,001 to 17,000 pounds inclusive	1.06 1.36
29	Over 17,000 pounds	1.20 1.54

- 30 (1) The minimum fee for a vehicle licensed under this subsection is
 31 ~~seventeen dollars and fifty cents (\$17.50)~~ twenty-four dollars (\$24.00)
 32 at the farmer rate and ~~twenty one dollars and fifty cents (\$21.50)~~
 33 twenty-eight dollars (\$28.00) at the general rate.
- 34 (2) The term "farmer" as used in this subsection means any person
 35 engaged in the raising and growing of farm products on a farm in
 36 North Carolina not less than 10 acres in area, and who does not engage
 37 in the business of buying products for resale.
- 38 (3) License plates issued at the farmer rate shall be placed upon trucks and
 39 truck-tractors that are operated exclusively in the carrying or
 40 transportation of applicant's farm products, raised or produced on his
 41 farm, and farm supplies and not operated in hauling for hire.
- 42 (4) "Farm products" means any food crop, livestock, poultry, dairy
 43 products, flower bulbs, or other nursery products and other agricultural
 44 products designed to be used for food purposes, including in the term
 45 "farm products" also cotton, tobacco, logs, bark, pulpwood, tannic acid
 46 wood and other forest products grown, produced, or processed by the
 47 farmer.
- 48 (5) The Division shall issue necessary rules and regulations providing for
 49 the recall, transfer, exchange or cancellation of "farmer" plates, when
 50 vehicle bearing such plates shall be sold or transferred.
- 51 (5a) Notwithstanding any other provision of this Chapter, license plates
 52 issued pursuant to this subsection at the farmer rate may be purchased
 53 for any three-month period at one fourth of the annual fee.
- 54 (6) There shall be paid to the Division annually as of the first of January,
 55 the following fees for "wreckers" as defined under G.S. 20-4.01(50): a

1 wrecker fully equipped weighing 7,000 pounds or less, seventy-five
2 dollars (\$75.00); wreckers weighing in excess of 7,000 pounds shall
3 pay one hundred forty-eight dollars (\$148.00). Fees to be prorated
4 quarterly. Provided, further, that nothing herein shall prohibit a
5 licensed dealer from using a dealer's license plate to tow a vehicle for a
6 customer.

7 (c) The fee for a semitrailer or trailer is ~~ten dollars (\$10.00)~~ nineteen dollars
8 (\$19.00) for each year or part of a year. The fee is payable on or before January 1 of
9 each year. Upon the application of the owner of a semitrailer or trailer, the Division may
10 issue a multiyear plate and registration card for the semitrailer or trailer for a fee of
11 seventy-five dollars (\$75.00). A multiyear plate and registration card for a semitrailer or
12 trailer are valid until the owner transfers the semitrailer or trailer to another person or
13 surrenders the plate and registration card to the Division. A multiyear plate may not be
14 transferred to another vehicle.

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

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

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

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

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

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

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

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

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

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

41 **SECTION 44.1.(o)** G.S. 20-289 reads as rewritten:

42 **"§ 20-289. License fees.**

43 (a) The license fee for each fiscal year, or part thereof, shall be as follows:

44 (1) For motor vehicle dealers, distributors, distributor branches, and
45 wholesalers, ~~fifty dollars (\$50.00)~~ seventy dollars (\$70.00) for each
46 place of business.

47 (2) For manufacturers, ~~one hundred dollars (\$100.00)~~, one hundred fifty
48 dollars (\$150.00) and for each factory branch in this State, ~~seventy~~
49 ~~dollars (\$70.00)~~ one hundred dollars (\$100.00).

50 (3) For motor vehicle sales representatives, ~~ten dollars (\$10.00)~~ fifteen
51 dollars (\$15.00).

52 (4) For factory representatives, or distributor representatives, ~~ten dollars~~
53 ~~(\$10.00)~~ fifteen dollars (\$15.00).

54 (5) Repealed by Session Laws 1991, c. 662, s. 4.

1 (b) The fees collected under this section shall be credited to the Highway Fund.
 2 These fees are in addition to all other taxes and fees."

3 **SECTION 44.1.(p)** G.S. 20-385 reads as rewritten:

4 "**§ 20-385. Fee schedule.**

5 (a) Amounts. –

- | | |
|---|-------------------------|
| 6 (1) Verification by a for-hire motor | |
| 7 carrier of insurance for each for-hire | |
| 8 motor vehicle operated in this State | \$ 1.00 |
| 9 (2) Application by an intrastate motor carrier | |
| 10 for a certificate of exemption | 25.00 45.00 |
| 11 (3) Certification by an interstate motor carrier | |
| 12 that it is not regulated by the United | |
| 13 States Department of Transportation | 25.00 45.00 |
| 14 (4) Application by an interstate motor carrier | |
| 15 for an emergency permit | 10.00 18.00. |

16 (b) Reciprocal Agreements. – The fee set in subdivision (a)(1) of this section
 17 does not apply to the verification of insurance by an interstate motor carrier regulated by
 18 the United States Department of Transportation if the Division had a reciprocal
 19 agreement on November 15, 1991, with another state by which no fee is imposed. The
 20 Division had reciprocal agreements as of that date with the following states: California,
 21 Delaware, Indiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri,
 22 Nebraska, New Jersey, Pennsylvania, Texas, and Vermont."

23 **SECTION 44.1.(q)** This section becomes effective October 1, 2005, and
 24 applies to fees collected on or after that date.

25 26 **PART XLV. INDUSTRIAL COMMISSION FEES**

27
28 Requested by: Senators Hoyle, Kerr

29 **INDUSTRIAL COMMISSION FEES**

30 **SECTION 45.1.(a)** G.S. 97-73 reads as rewritten:

31 "**§ 97-73. ~~Expenses of making examinations.~~ Fees.**

32 (a) The Industrial Commission ~~shall~~ may establish by rule a schedule of fees for
 33 examinations ~~conducted and conducted, reports made pursuant to G.S. 97-61.1 through~~
 34 ~~97-61.6 and 97-67 through 97-71. made, documents filed, and agreements reviewed~~
 35 under this Article. The fees shall be collected in accordance with rules adopted by the
 36 Industrial Commission.

37 (b), (c) Repealed by Session Laws 2003-284, s. 10.33(d), effective July 1, 2003."

38 **SECTION 45.1.(b)** This section is effective when it becomes law.

39 40 **PART XLVI. MISCELLANEOUS PROVISIONS**

41
42 Requested by: Senators Garrou, Dalton, Hagan

43 **EXECUTIVE BUDGET ACT APPLIES**

44 **SECTION 46.1.** The provisions of the Executive Budget Act, Chapter 143,
 45 Article 1 of the General Statutes, are reenacted and shall remain in full force and effect
 46 and are incorporated in this act by reference.

47
48 Requested by: Senators Garrou, Dalton, Hagan

49 **COMMITTEE REPORT**

50 **SECTION 46.2.(a)** The Senate Appropriations/Base Budget Committee
 51 Report on the Continuation, Expansion and Capital Budgets, dated May 3, 2005, which
 52 was distributed in the Senate and House of Representatives and used to explain this act,
 53 shall indicate action by the General Assembly on this act and shall therefore be used to
 54 construe this act, as provided in G.S. 143-15 of the Executive Budget Act, and for these

1 purposes shall be considered a part of this act and as such shall be printed as a part of
2 the Session Laws.

3 **SECTION 46.2.(b)** The budget enacted by the General Assembly for the
4 maintenance of the various departments, institutions, and other spending agencies of the
5 State for the 2005-2007 fiscal biennium is a line item budget, in accordance with the
6 Budget Code Structure and the State Accounting System Uniform Chart of Accounts set
7 out in the Administrative Policies and Procedures Manual of the Office of the State
8 Controller. This budget includes the appropriations made from all sources including the
9 General Fund, Highway Fund, special funds, cash balances, federal receipts, and
10 departmental receipts.

11 The Director of the Budget submitted the itemized budget requests to the
12 General Assembly on February 23, 2005, in the documents, "North Carolina State
13 Budget 2005-2007, Summary of Recommendations" and "State of North Carolina
14 2005-2007 Recommended Continuation Budget" volumes one through six. The
15 beginning appropriation for the 2005-2006 fiscal year and the 2006-2007 fiscal year for
16 the various departments, institutions, and other spending agencies of the State is
17 referenced in Tables 12 and 13 of the Summary of Recommendations document as the
18 recommended continuation budget.

19 The General Assembly adjusted the recommended continuation budget to
20 incorporate all nonrecurring adjustments enacted by the 2003 General Assembly as
21 required in S.L. 2004-124 and S.L. 2003-284. These adjustments affect the Division of
22 Medical Assistance, the Division of Mental Health, Developmental Disabilities, and
23 Substance Abuse Services, the Clean Water Management Trust Fund, the Department of
24 Crime Control and Public Safety, the Judicial Department, the General Assembly, the
25 Department of Revenue, the Office of State Budget and Management, the Community
26 Colleges System Office, the University of North Carolina – Board of Governors, the
27 Department of Transportation, and the Reserve for Death Benefit Trust, and the Reserve
28 for Disability Income Plan. These adjustments to the recommended continuation budget
29 are set out in the Senate Appropriations/Base Budget Committee Report on the
30 Continuation, Expansion, and Capital Budgets, dated May 3, 2005. The recommended
31 continuation budget submitted by the Director of the Budget, as adjusted by the General
32 Assembly, is referred to as the adjusted continuation budget and represents the starting
33 point for further legislative revisions.

34 The General Assembly revised the adjusted continuation budget for the
35 2005-2006 fiscal year and 2006-2007 fiscal year in accordance with the steps that
36 follow, and the line item detail in the budget enacted by the General Assembly may be
37 derived accordingly:

- 38 (1) The adjusted continuation budget was revised in accordance with
39 reductions and additions that were set out in the Senate
40 Appropriations/Base Budget Committee Report on the Continuation,
41 Expansion and Capital Budgets, dated May 3, 2005, together with any
42 accompanying correction sheets.
- 43 (2) Transfers of funds supporting programs were made in accordance with
44 the Senate Appropriations/Base Budget Committee Report on the
45 Continuation, Expansion and Capital Budgets, dated May 3, 2005,
46 together with any accompanying correction sheets.

47 **SECTION 46.2.(c)** The budget enacted by the General Assembly shall also
48 be interpreted in accordance with the special provisions in this act and in accordance
49 with other appropriate legislation.

50 In the event that there is a conflict between the line item budget certified by
51 the Director of the Budget and the budget enacted by the General Assembly, the budget
52 enacted by the General Assembly shall prevail.
53

54 Requested by: Senators Garrou, Dalton, Hagan

55 **MOST TEXT APPLIES ONLY TO THE 2005-2007 FISCAL BIENNIUM**

1 **SECTION 46.3.** Except for statutory changes or other provisions that clearly
2 indicate an intention to have effects beyond the 2005-2007 fiscal biennium, the textual
3 provisions of this act apply only to funds appropriated for, and activities occurring
4 during, the 2005-2007 fiscal biennium.

5
6 Requested by: Senators Garrou, Dalton, Hagan

7 **EFFECT OF HEADINGS**

8 **SECTION 46.4.** The headings to the parts and sections of this act are a
9 convenience to the reader and are for reference only. The headings do not expand,
10 limit, or define the text of this act, except for effective dates referring to a Part.

11
12 Requested by: Senators Garrou, Dalton, Hagan

13 **SEVERABILITY CLAUSE**

14 **SECTION 46.5.** If any section or provision of this act is declared
15 unconstitutional or invalid by the courts, it does not affect the validity of this act as a
16 whole or any part other than the part so declared to be unconstitutional or invalid.

17
18 Requested by: Senators Garrou, Dalton, Hagan

19 **EFFECTIVE DATE**

20 **SECTION 46.6.** Except as otherwise provided, this act becomes effective
21 July 1, 2005.