

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 622
Appropriations/Base Budget 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
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EDUCATION

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

HEALTH AND HUMAN SERVICES

36			
37			
38			
39	Department of Health and Human Services		
40	Office of the Secretary	114,180,919	130,744,045
41	Division of Aging	29,495,139	29,495,139
42	Division of Blind Services/Deaf/HH	9,636,797	9,681,220
43	Division of Child Development	264,750,017	267,356,799
44	Division of Education Services	33,852,267	34,281,895
45	Division of Facility Services	16,045,403	17,795,105
46	Division of Medical Assistance	2,461,281,279	2,606,201,525
47	Division of Mental Health	600,373,655	602,298,655
48	NC Health Choice	62,035,981	62,035,981
49	Division of Public Health	139,796,232	141,314,496
50	Division of Social Services	185,339,061	186,973,442
51	Division of Vocation Rehabilitation	41,755,526	42,142,193
52	Total Health and Human Services	\$ 3,958,542,276	\$ 4,130,320,495

NATURAL AND ECONOMIC RESOURCES

55

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

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

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

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

3
 4 Requested by: Senators Garrou, Dalton, Hagan
 5 **GENERAL FUND AVAILABILITY STATEMENT**

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

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

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

18
19 **SECTION 2.2.(b)** Notwithstanding G.S. 143-16.4(a2), of the funds credited
20 to the Tobacco Trust Account from the Master Settlement Agreement pursuant to
21 Section 6(2) of S.L. 1999-2 during the 2005-2007 fiscal biennium, the sum of
22 thirty-four million dollars (\$34,000,000) for the 2005-2006 fiscal year and the sum of
23 thirty million dollars (\$30,000,000) for the 2006-2007 fiscal year shall be transferred
24 from the Department of Agriculture and Consumer Services, Budget Code 23703
25 (Tobacco Trust Fund) to the State Controller to be deposited in Nontax Budget Code
26 19978 (Intrastate Transfers) to support General Fund appropriations for the 2005-2006
27 and 2006-2007 fiscal years.

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

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

33 This subsection becomes effective June 30, 2005.

34 **SECTION 2.2.(d)** Notwithstanding G.S. 143-15.2 and G.S. 143-15.3A, the
35 State Controller shall transfer one hundred million dollars (\$100,000,000) from the
36 unreserved credit balance to the Repairs and Renovations Reserve Account on June 30,
37 2005. Funds transferred under this section to the Repairs and Renovations Reserve
38 Account are appropriated for the 2005-2006 fiscal year to be used in accordance with
39 G.S. 143-15.3A. This subsection becomes effective June 30, 2005.

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

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

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

35 **SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING**

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

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

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.** 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
19 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

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

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

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

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

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

42 **LEA ASSISTANCE PROGRAM**

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

1 other information the State Board deems necessary. These funds shall not revert at the
2 end of each fiscal year but shall remain available until expended for this purpose.

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

5 **FUNDS FOR THE TESTING AND IMPLEMENTATION OF THE NEW**
6 **STUDENT INFORMATION SYSTEM**

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

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

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

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

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

16 "Article 38A.

17 Public School Building Capital and Technology Fund."

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

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

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

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

39 **LEA SALES TAX REFUND REPORTING**

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

41 "(c) Certain Governmental Entities. – A governmental entity listed in this
42 subsection is allowed an annual refund of sales and use taxes paid by it under this
43 Article on direct purchases of tangible personal property and services, other than
44 electricity and telecommunications service. Sales and use tax liability indirectly
45 incurred by a governmental entity on building materials, supplies, fixtures, and
46 equipment that become a part of or annexed to any building or structure that is owned or
47 leased by the governmental entity and is being erected, altered, or repaired for use by
48 the governmental entity is considered a sales or use tax liability incurred on direct
49 purchases by the governmental entity for the purpose of this subsection. A request for a
50 refund must be in writing and must include any information and documentation required
51 by the Secretary. A request for a refund is due within six months after the end of the
52 governmental entity's fiscal year. The Secretary shall make an annual report to the
53 Department of Public Instruction and the Fiscal Research Division of the General
54 Assembly by January 1 of the amount of refunds, identified by taxpayer, claimed under
55 subdivisions (2b) and (2c) of this subsection over the preceding year.

1 This subsection applies only to the following governmental entities:

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

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

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

5
6 (32) To provide the report required under G.S. 105-164.14(c) to the
7 Department of Public Instruction and the Fiscal Research Division of
8 the General Assembly."

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

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

17 **REVIEW OF STANDARDS FOR MASTERS IN SCHOOL ADMINISTRATION**
18 **PROGRAMS**

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

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

26 **EVALUATION OF SCHOOL PRINCIPALS**

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

29 **"§ 115C-286.1. Evaluations of principals.**

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

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

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

42 **PLANNING TIME FOR TEACHERS**

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

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

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

53 **ONLINE PROFESSIONAL DEVELOPMENT RESOURCE CENTER FOR**
54 **TEACHERS AND PRINCIPALS**

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

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

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

8 **LEARN AND EARN HIGH SCHOOLS**

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

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

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

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

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

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

38 **FLEXIBILITY FOR HIGH SCHOOL INNOVATION**

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

41 "Part 9. Cooperative Innovative High School Programs.

42 **"§ 115C-238.50. Purpose.**

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

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

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

- 1 (1) Prepare students adequately for future learning in the workforce or in
- 2 an institution of higher education.
- 3 (2) Expand students' educational opportunities within the public school
- 4 system.
- 5 (3) Be centered on the core academic standards represented by the college
- 6 preparatory or tech prep program of study as defined by the State
- 7 Board of Education.
- 8 (4) Encourage the cooperative or shared use of resources, personnel, and
- 9 facilities between public schools and ~~community colleges.~~ colleges or
- 10 universities, or both.
- 11 (5) Integrate and emphasize both academic and technical skills necessary
- 12 for students to be successful in a more demanding and changing
- 13 workplace.
- 14 (6) Emphasize parental involvement and provide consistent counseling,
- 15 advising, and parent conferencing so that parents and students can
- 16 make responsible decisions regarding course taking and can track the
- 17 students' academic progress and success.
- 18 (7) Be held accountable for meeting measurable student achievement
- 19 results.
- 20 (8) Encourage the use of different and innovative teaching methods.
- 21 (9) Establish joint institutional responsibility and accountability for
- 22 support of students and their success.
- 23 (10) Effectively utilize existing funding sources for high school,
- 24 ~~community college,~~ university, and vocational programs and actively
- 25 pursue new funding from other sources.
- 26 (11) Develop methods for early identification of potential participating
- 27 students in the middle grades and through high school.
- 28 (12) Reduce the percentage of students needing remedial courses upon their
- 29 initial entry from high school into a college or university.
- 30 (c) Programs developed under this Part that target students who are at risk of
- 31 dropping out of high school before attaining a high school diploma shall:
- 32 (1) Provide these students with the opportunity to graduate from high
- 33 school possessing the core academic skills needed for postsecondary
- 34 education and high-skilled employment.
- 35 (2) Enable students to complete a technical or academic program in a field
- 36 that is in high demand and has high wages.
- 37 (3) Set and achieve goals that significantly reduce dropout rates and raise
- 38 high school and ~~community~~ college retention, certification, and degree
- 39 completion rates.
- 40 (4) Enable students who complete these programs to pass employer
- 41 exams, if applicable.
- 42 (d) Cooperative innovative high school programs that offer accelerated learning
- 43 programs shall:
- 44 (1) Provide a flexible, customized program of instruction for students who
- 45 would benefit from accelerated, higher level coursework or early
- 46 graduation from high school.
- 47 (2) Enable students to obtain a high school diploma in less than four ~~years~~
- 48 ~~and years,~~ to begin or complete an associate degree program or
- 49 program, to master a certificate or vocational program-program, or to
- 50 earn up to two years of college credit.
- 51 (3) Offer a college preparatory academic core and in-depth studies in a
- 52 career or technical field that will lead to advanced programs or
- 53 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 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 **TEACHER PAY DATE**

49 **SECTION 7.34.** G.S. 115C-302.1(b) reads as rewritten:

50 "(b) Salary Payments. – State-allotted teachers shall be paid for a term of 10
51 months. State-allotted months of employment for vocational education to local boards
52 shall be used for the employment of teachers of vocational and technical education for a
53 term of employment to be determined by the local boards of education. However, local
54 boards shall not reduce the term of employment for any vocational agriculture teacher
55 personnel position that was 12 calendar months for the 1982-83 school year for any

1 school year thereafter. In addition, local boards shall not reduce the term of employment
 2 for any vocational agriculture teacher personnel position that was 12 calendar months
 3 for the 2003-2004 school year for any school year thereafter.

4 Each local board of education shall establish a set date on which monthly salary
 5 payments to State-allotted teachers shall be made. This set pay date may differ from the
 6 end of the month of service. The daily rate of pay for teachers shall equal midway
 7 between one twenty-first and one twenty-second of the monthly rate of pay. ~~Except for~~
 8 ~~teachers employed in a year-round school or paid in accordance with a year-round~~
 9 ~~calendar, or both, the~~ The initial pay date for teachers, except for teachers employed in a
 10 year-round school and other teachers paid on a year-round calendar, shall be no later
 11 than August 31 and the end of the first month of employment. The initial payment shall
 12 include a full monthly payment. Subsequent pay dates shall be spaced no more than
 13 one month apart and shall include a full monthly payment.

14 Teachers may be prepaid on the monthly pay date for days not yet worked. A teacher
 15 who fails to attend scheduled workdays or who has not worked the number of days for
 16 which the teacher has been paid and who resigns, is dismissed, or whose contract is not
 17 renewed shall repay to the local board any salary payments received for days not yet
 18 worked. A teacher who has been prepaid and continues to be employed by a local board
 19 but fails to attend scheduled workdays may be subject to dismissal under G.S. 115C-325
 20 or other appropriate discipline.

21 Any individual teacher who is not employed in a year-round school may be paid in
 22 12 monthly installments if the teacher so requests on or before the first day of the school
 23 year. The request shall be filed in the local school administrative unit which employs
 24 the teacher. The payment of the annual salary in 12 installments instead of 10 shall not
 25 increase or decrease the teacher's annual salary nor in any other way alter the contract
 26 made between the teacher and the local school administrative unit. Teachers employed
 27 for a period of less than 10 months shall not receive their salaries in 12 installments.

28 Notwithstanding this subsection, the term "daily rate of pay" for the purpose of
 29 G.S. 115C-12(8) or for any other law or policy governing pay or benefits based on the
 30 teacher salary schedule shall not exceed one twenty-second of a teacher's monthly rate
 31 of pay."
 32

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

34 **FUNDS FOR EDUCATION OF STUDENTS AT ECKERD YOUTH**
 35 **ALTERNATIVES THERAPEUTIC CAMP**

36 **SECTION 7.35.** If a student is placed in an Eckerd Youth Alternatives
 37 therapeutic camp on the recommendation of a local school administrative unit, the unit
 38 shall transfer to the camp the State funds allocated to the unit for the education of the
 39 child. For each day that the child receives educational services at the camp, that unit
 40 shall pay 1/180 of the annual amount a charter school located in that unit would receive
 41 in State funds for that child, for a maximum of 180 days in a fiscal year. If the child is a
 42 child with special needs, the unit shall also be responsible for the State per pupil
 43 allocation for children with special needs.
 44

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

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

47 **SECTION 7.36.(a)** Notwithstanding any other provision of law, the State
 48 Board of Education shall allot State funds on the basis of only one local school
 49 administrative unit per county. To implement this change, the State Board shall change
 50 formulas that allot funds on a per local school administrative unit basis to formulas that
 51 allot funds on a per county basis. If the amount previously allotted per local school
 52 administrative unit was graduated on the basis of average daily membership, the amount
 53 allotted per county shall be graduated on the basis of the total average daily membership
 54 of all units located in the county.

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

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

7 **SECTION 7.36.(b)** This section does not apply to allotments to the
8 Nash-Rocky Mount School Administrative Unit, the Edgecombe County School
9 Administrative Unit, the Cleveland County School Administrative Unit, or the Gaston
10 County School Administrative Unit.

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

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

14 **MINIMIZE TIME DEVOTED TO STANDARDIZED TESTS**

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

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

21 (1) Schools shall devote no more than two days of instructional time per
22 year to the taking of practice tests that do not have the primary purpose
23 of assessing current student learning;

24 (2) Students in a school shall not be subject to field tests or national tests
25 during the two-week period preceding the administration of
26 end-of-grade tests, end-of-course tests, or the school's regularly
27 scheduled final exams; and

28 (3) No school shall participate in more than two field tests at any one
29 grade level during a school year unless that school volunteers, through
30 a vote of its school improvement team, to participate in an expanded
31 number of field tests.

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

42 The State Board of Education may appoint an Advisory Council on Testing to assist
43 in carrying out its responsibilities under this Article."
44

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

46 **EDUCATION CABINET**

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

48 "(b) The Education Cabinet shall consist of the Governor, who shall serve as
49 chair, the President of The University of North Carolina, the State Superintendent of
50 Public Instruction, the Chairman of the State Board of Education, the President of the
51 North Carolina Community Colleges System, the Secretary of Health and Human
52 Services, and the President of the North Carolina Independent Colleges and
53 Universities. The Education Cabinet may invite other representatives of education to
54 participate in its deliberations as adjunct members."
55

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

- 1 (1) The extent to which school nurses, school social workers, and other
2 instructional support personnel collaborate with each other and with
3 local health, mental health, and social services providers to meet the
4 needs of at-risk children and their families and to support the
5 educational achievement of at-risk children; and
6 (2) The need for additional training for school nurses, school social
7 workers, and other instructional support personnel on multidisciplinary
8 assessments and on referral and care coordination for at-risk students
9 and their families.

10 The Education Cabinet shall report the results of its study and its
11 recommendations to the Joint Legislative Education Oversight Committee prior to April
12 15, 2006.
13

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

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

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

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

26 **SECTION 7.39.(c)** The North Carolina Business Committee for Education,
27 Inc., and the Center for 21st Century Skills shall work with the North Carolina Science,
28 Mathematics and Technology Education Center, the North Carolina School of Science
29 and Mathematics, the North Carolina Board of Science and Technology, and the
30 governing boards of education to research and propose options to create new or expand
31 existing mathematics and science summer enrichment programs across the State and to
32 establish nonresidential high schools focused on mathematics, science, and technology.
33 The Center shall also support efforts of the Futures for Kids Program to connect
34 students with the workforce needs of their home communities.
35

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

37 **TEACHER WORKING CONDITIONS INITIATIVE**

38 **SECTION 7.40.(a)** Funds are appropriated in this act to continue the
39 Governor's Teacher Working Conditions Survey. The State Board of Education shall
40 use these funds: (i) for the administration of the survey by the Professional Teaching
41 Standards Commission on a biennial basis, and (ii) to establish an advisory board to
42 oversee implementation of recommendations from the survey.

43 **SECTION 7.40.(b)** The State Board of Education may supplement these
44 funds with gifts or other private funds donated for this purpose.
45

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

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

48 **SECTION 7.41.(a)** The State Board of Education, the Board of Governors
49 of The University of North Carolina, the Independent Colleges and Universities, and the
50 State Board of Community Colleges shall develop E-learning standards and plans for
51 infrastructures that provide virtual learning opportunities accessible to students and
52 other citizens through all North Carolina schools, universities, and community colleges.
53 In developing the plan for the public schools, the State Board of Education shall focus
54 initially on high schools while also researching and developing, where appropriate,

1 E-learning for middle schools, junior high schools, and elementary schools. E-learning
2 programs shall support both teachers and students.

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

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

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

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

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

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

24 **FEASIBILITY STUDY FOR DEVELOPING REGIONAL EDUCATION**
25 **NETWORKS**

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

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

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

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

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

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

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

47
48 (17) A baseline template for:

- 49 a. Technology infrastructure, including broadband connectivity,
50 personnel recommendations, and other resources needed to
51 operate effectively from the classroom desktop to local,
52 regional, and State networks, and
53 b. An evaluation component that provides for local school
54 administrative unit accountability for maintaining quality
55 upgradeable systems."

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

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

9 "(c) The Department of Public Instruction shall randomly check local school
10 system technology plans to ensure that local school administrative units are
11 implementing their plans as approved. The Department shall report to the State Board of
12 Education and the State Chief Information Officer on which local school administrative
13 units are not complying with their plans. The report shall include the reasons these local
14 school administrative units are out of compliance and a recommended plan of action to
15 support each of these local school administrative units in carrying out their plans."

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

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

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

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

29 **ANNUAL REPORT THAT HIGHLIGHTS THE IMPACT OF EDUCATION**
30 **PREPARATION ON ECONOMIC GROWTH**

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

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

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

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

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

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

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

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

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

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

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

10
11 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

12 **SCHOOL EMPLOYEE SALARY STUDY**

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

- 16 (1) Develop a plan to get the State moving toward the national average in
17 teacher salaries by 2008 and toward the top 10 states in the nation by
18 2010.
- 19 (2) Consider strategies for maintaining the lead in teacher salaries in the
20 Southeastern United States.
- 21 (3) Consider the need to reduce the number of steps on the teacher salary
22 schedule, increase the beginning teacher salary, and enable an
23 individual to reach the maximum salary sooner.
- 24 (4) Perform a market-sensitive analysis of the skills and knowledge
25 needed to be a successful teacher to determine what it takes to make
26 the schedule attractive and competitive.
- 27 (4) Consider the placement of appropriate extraordinary increases on
28 schedule for achievement of career status, teacher retention, and other
29 purposes.
- 30 (5) Determine the need to modify the masters schedule differential.
- 31 (6) Determine the need to modify the alternative salary schedules to
32 reward different levels of academic preparation and career
33 accomplishments such as attainment of national certification.
- 34 (7) Consider the appropriate relationship of the school counselor's
35 schedule to the schedules for other members of the school-based staff.
- 36 (8) Determine the need to modify the administrator salary schedule.
- 37 (9) Consider other matters the Committee deems appropriate.

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

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

42 **COMMISSION FOR A SOUND BASIC EDUCATION**

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

49 **SECTION 7.48.(b)** The Commission shall consist of six members appointed
50 by the President Pro Tempore of the Senate and six members appointed by the Speaker
51 of the House of Representatives. The President Pro Tempore of the Senate and the
52 Speaker of the House of Representatives shall each designate a cochair of the
53 Commission from their appointees.

54 **SECTION 7.48.(c)** The Commission shall appoint advisory members to
55 assist it in its work. The advisory members shall include at least two parents of children

1 in the public schools and representatives of State agencies, the Community College
2 System, The University of North Carolina, education organizations, child health
3 organizations, and child advocacy organizations.

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

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

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

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

18 The Legislative Services Commission, through the Legislative Services
19 Officer, shall assign professional staff to assist the Commission in its work. The House
20 of Representatives' and the Senate's Supervisors of Clerks shall assign clerical staff to
21 the Commission, and the expenses relating to the clerical employees shall be borne by
22 the Commission. The Commission may contract for professional, clerical, or consultant
23 services as provided by G.S. 120-32.02. If the Commission hires a consultant, the
24 consultant shall not be a State employee or a person currently under contract with the
25 State to provide services.

26 All State departments and agencies and local governments and their
27 subdivisions shall furnish the Commission with any information in their possession or
28 available to them.

29 The Legislative Services Commission, through the Legislative Services
30 Officer, shall assign professional staff to assist the Commission in its work. The House
31 of Representatives' and the Senate's Supervisors of Clerks shall assign clerical staff to
32 the Commission, and the expenses relating to the clerical employees shall be borne by
33 the Commission.

34 **SECTION 7.48.(h)** The Commission shall provide opportunities for
35 substantive and meaningful input into and development and review of the
36 comprehensive plan by all stakeholders in the public education system. These
37 stakeholders include, but are not limited to, students, parents, guardians, educators,
38 school board members, education advocates, and child health professionals.
39 Opportunities for input and review shall include (i) regional public forums, (ii) regular
40 distribution to local newspapers statewide of details of its work and posting of the
41 information on the Internet, (iii) providing stakeholders with the opportunity to identify
42 representative members of stakeholder groups to be included as full participants in the
43 Commission's deliberations, and (iv) open meetings of the Commission and any
44 committees it may create.

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

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

52 **SECTION 7.48.(k)** Funds in the amount of two hundred thousand dollars
53 (\$200,000) are appropriated in this act to the General Assembly to carry out its work of
54 the North Carolina Commission for a Sound Basic Education.
55

PART VIII. COMMUNITY COLLEGES

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

USE OF FUNDS FOR THE COLLEGE INFORMATION SYSTEM PROJECT

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

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

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

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

CARRYFORWARD FOR EQUIPMENT

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

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

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

SALARIES OF COMMUNITY COLLEGE FACULTY AND PROFESSIONAL STAFF

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

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

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

Education Level	Minimum Salary	
	2005-2006	2006-2007
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:

- 1 a. If the average faculty salary at a community college is one
2 hundred percent (100%) or more of the national average
3 community college faculty salary, the college may transfer up
4 to eight percent (8%) of the State funds allocated to it for
5 faculty salaries.
- 6 b. If the average faculty salary at a community college is at least
7 ninety-five percent (95%) but less than one hundred percent
8 (100%) of the national average community college faculty
9 salary, the college may transfer up to six percent (6%) of the
10 State funds allocated to it for faculty salaries.
- 11 c. If the average faculty salary at a community college is at least
12 ninety percent (90%) but less than ninety-five percent (95%) of
13 the national average community college faculty salary, the
14 college may transfer up to five percent (5%) of the State funds
15 allocated to it for faculty salaries.
- 16 d. If the average faculty salary at a community college is at least
17 eighty-five percent (85%) but less than ninety percent (90%) of
18 the national average community college faculty salary, the
19 college may transfer up to three percent (3%) of the State funds
20 allocated to it for faculty salaries.
- 21 e. If the average faculty salary at a community college is
22 eighty-five percent (85%) or less of the national average
23 community college faculty salary, the college may transfer up
24 to two percent (2%) of the State funds allocated to it for faculty
25 salaries.

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

- 30 (2) With the approval of the State Board of Community Colleges, a
31 community college at which the average faculty salary is eighty-five
32 percent (85%) or less of the national average may transfer a greater
33 percentage of the State funds allocated to it for faculty salaries than is
34 authorized by sub-subdivision e. of subdivision (1) of this subsection.
35 The State Board shall approve the transfer only for purposes that
36 directly affect student services.
- 37 (3) A local community college may use all State funds allocated to it
38 except for Literacy Funds and Funds for New and Expanding Industry
39 Training to increase faculty salaries.

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

- 41 (1) "Average faculty salary at a community college" means the total
42 nine-month salary from all sources of all nine-month, full-time,
43 curriculum faculty at the college, as determined by the North Carolina
44 Community College System on October 1 of each year.
- 45 (2) "National average community college faculty salary" means the
46 nine-month, full-time, curriculum salary average, as published by the
47 Integrated Postsecondary Education Data System (IPEDS), for the
48 most recent year for which data are available.

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

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

1 **SECTION 8.3.(g)** Funds appropriated in this act for salary increases shall be
2 used to increase faculty and professional staff salaries by an average of two percent
3 (2%). These increases are in addition to other salary increases provided for in this act
4 and shall be calculated on the average salaries prior to the issuance of the compensation
5 increase. Colleges may provide additional increases from funds available.

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

10
11 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

12 **WORKFORCE DEVELOPMENT PROGRAMS**

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

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

19 **"§ 115D-5.1. Workforce Development Programs.**

20 (a) Community colleges shall assist in the preemployment and in-service training
21 of employees in industry, business, agriculture, health occupation and governmental
22 agencies. Such training shall include instruction on worker safety and health standards
23 and practices applicable to the field of employment. The State Board of Community
24 Colleges shall make appropriate regulations including the establishment of maximum
25 hours of instruction which may be offered at State expense in each in-plant training
26 program. No instructor or other employee of a community college shall engage in the
27 normal management, supervisory and operational functions of the establishment in
28 which the instruction is offered during the hours in which the instructor or other
29 employee is employed for instructional or educational purposes.

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

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

- 41 (1) The total amount of funds received by the company or individual;
- 42 (2) The amount of funds per trainee received by the company or
43 individual;
- 44 (3) The amount of funds received per trainee by the community college
45 training the trainee;
- 46 (4) The number of trainees trained by company and by community
47 college; and
- 48 (5) The number of years the companies or individuals have been funded.

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

51 (e) There is created within the North Carolina Community College System the
52 Customized Industry Training (CIT) Program. The CIT Program shall offer programs
53 and training services as new options for assisting existing business and industry to
54 remain productive, profitable, and within the State. Before a business or industry

1 qualifies to receive assistance under the CIT Program, the President of the North
 2 Carolina Community College System shall determine that:

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

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

- 8 (1) The total amount of funds received by a company under the CIT
 9 Program;
 10 (2) The amount of funds per trainee received by that company;
 11 (3) The amount of funds received per trainee by the community college
 12 delivering the training;
 13 (4) The number of trainees trained by the company and community
 14 college; and
 15 (5) The number of years that company has been funded.

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

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

21 **SECTION 8.4.(d)** G.S. 115D-5.1(d), as enacted by this section, becomes
 22 effective June 30, 2005.
 23

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

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

26 **SECTION 8.5.** The General Assembly finds that additional data are needed
 27 to determine the adequacy of multicampus and off-campus center funds; therefore,
 28 multicampus colleges and colleges with off-campus centers shall report annually,
 29 beginning September 1, 2005, to the Community Colleges System Office on all
 30 expenditures by line item of funds used to support their multicampuses and off-campus
 31 centers. The Community Colleges System Office shall report on these expenditures to
 32 the Education Appropriation Subcommittees of the House of Representatives and the
 33 Senate, the Office of State Budget and Management, and the Fiscal Research Division
 34 by October 1 of each year.

35 Notwithstanding any other provision of law, funds appropriated to the
 36 Community Colleges System Office for multicampus colleges or off-campus centers
 37 shall be used only for the administration of the multicampus college or off-campus
 38 center for which the funds were allotted. These funds shall not be transferred to any
 39 other campus or center, or used for any other purpose.
 40

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

42 **EDUCATION PROGRAM AUDITING FUNCTION**

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

44 "(m) The State Board of Community Colleges shall require auditors of community
 45 college programs to use a statistically valid sample size in performing program audits of
 46 community colleges. The State Board of Community Colleges shall maintain an
 47 education program auditing function that conducts an annual audit of each community
 48 college operating under the provisions of this Chapter. The purpose of the annual audit
 49 shall be to ensure that college programs and related fiscal operations comply with State
 50 law, State regulations, State Board policies, and System Office guidance. The State
 51 Board of Community Colleges shall require auditors of community college programs to
 52 use a statistically valid sample size in performing program audits of community
 53 colleges. All education program audit findings shall be forwarded to the college
 54 president, local college board of trustees, the State Board of Community Colleges, and
 55 the State Auditor. The State Board shall assess a twenty-five percent (25%) fiscal

1 penalty in addition to the audit exception on all audits of both dollars and student
2 membership hours excepted when the audit exceptions result from nonprocessing
3 errors."
4

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

6 **FERRY BOAT OPERATOR TRAINING FEASIBILITY STUDY**

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

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

17 **SECTION 8.7.(b)** The State Board shall report to the Joint Legislative
18 Education Oversight Committee and the Joint Legislative Transportation Oversight
19 Committee on its findings and recommendations no later than December 1, 2005.
20

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

22 **EXTEND THE SUNSET ON TRAINING AND REEMPLOYMENT**
23 **CONTRIBUTIONS MADE BY EMPLOYERS**

24 **SECTION 8.8.(a)** Section 8 of S.L. 1999-321, as amended by Section
25 30.5(f) of S.L. 2001-424, reads as rewritten:

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

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

33 "(c) Sunset. – This section is repealed effective with respect to calendar quarters
34 beginning on or after January 1, 2011."
35

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

37 **COMMUNITY COLLEGE INNOVATIVE LEARNING FUND**

38 **SECTION 8.9.** There is created within the North Carolina Community
39 College System (NCCCS) The Innovative Learning Fund. The purpose of the Fund is to
40 assist colleges with infrastructure needs as they evolve to meet the needs of the
41 changing economy. The President of the NCCCS, in consultation with the State Board
42 of Community Colleges, may make grants to qualified colleges of up to one million
43 dollars (\$1,000,000), for planning, equipment, or technology for innovative or lifelong
44 learning centers. The NCCCS shall consult with the seven Economic Development
45 Partnerships, the local boards of trustees, the constituent institutions of The University
46 System when appropriate, and any other entity it deems necessary to prioritize and
47 determine which projects should receive grants from the Fund. In awarding the grants,
48 the President and the State Board shall consider the following:

- 49 (1) The Vision Plan of the Economic Development Partnership where the
50 project will be located;
- 51 (2) The ability of the county to provide funding for the project;
- 52 (3) The maintenance of effort by the county to support the existing
53 mission of the college;
- 54 (4) The impact the innovative learning center will have on economic
55 development in the county and region; and

1 (5) The existence of any other innovative learning centers in the region.
2 Priority shall be given to projects that directly impact teacher education, allied health,
3 economic development, or public safety.

4 Funds appropriated in this act for the Innovative Learning Fund shall not
5 revert at the end of the 2005-2006 fiscal year but shall remain available until expended.
6

7 Requested by: Senators Rand, Lucas, Swindell, Garrou, Dalton, Hagan
8 **CARRYFORWARD FOR COLLEGES IN ECONOMICALLY**
9 **DISADVANTAGED COUNTIES**

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

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

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

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

30 **SECTION 8.10.(d)** This section becomes effective June 30, 2005.
31

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

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

- 37 (1) Site selection and acquisition, including the purchase or lease of real
38 property to house the Center; the construction of buildings or other site
39 structures; the improvement or refurbishment of existing structures to
40 provide appropriate laboratory and administrative space; and the
41 improvement of existing infrastructure at the facility, including
42 improvements to utility, telecommunications, and Internet
43 infrastructure.
- 44 (2) Equipment acquisition, including acquisition of laboratory equipment
45 and supplies and office furniture, equipment, and supplies.
- 46 (3) Employment of staff to support the mission of the Center and to
47 oversee day-to-day operations of the Center.
- 48 (4) Implementation of a comprehensive business and marketing plan for
49 the Center.
- 50 (5) Development of a tenant screening process and the recruitment of
51 appropriate tenants for the Center.
- 52 (6) Administration and operation of the Center and the development of a
53 sustainable business plan for the Center.
54

55 **PART IX. UNIVERSITIES**

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

3 **UNC FLEXIBILITY GUIDELINES**

4 **SECTION 9.1.** The Chancellor of each constituent institution shall report to
5 the Board of Governors of The University of North Carolina on the management
6 flexibility adjustments made to the General Fund budget codes in order to meet the
7 reserve amounts for that institution. The President of The University of North Carolina
8 shall report to the Board of Governors of The University of North Carolina on the
9 reductions made to the General Fund budget codes controlled by the Board in order to
10 meet the reduction reserve amounts for those entities. The Board of Governors shall
11 make a summary report to the Office of State Budget and Management and the Fiscal
12 Research Division by December 31, 2005, on all reductions made by these entities and
13 constituent institutions in order to reduce the budgets by the targeted amounts.
14

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

16 **ENROLLMENT GROWTH FUND/ENCOURAGE PARTNERSHIPS FOR NEW**
17 **2 + 2 PROGRAMS**

18 **SECTION 9.2.(a)** The University of North Carolina Board of Governors'
19 Task Force on Meeting Teacher Supply and Demand called for the President to develop
20 a plan for enrollment growth in the University System's teacher education programs to
21 respond to the State's shortage of teachers. In a presentation to the Joint Legislative
22 Education Oversight Committee and to the Board of Governors, a commitment was
23 made to increase the number of teacher education graduates in 2005-2006 and in
24 2006-2007. The Office of the President of The University of North Carolina shall
25 obtain plans from each campus as to how they will maintain their current enrollment in
26 the teacher education programs and achieve their growth targets to ensure such
27 increases in those programs occur. Plans may include using enrollment growth funds
28 for targeted admissions, enhanced student support, and advising, recruiting, increases in
29 faculty in necessary instructional areas that lead to certification, and other methods the
30 Office of the President believes will achieve those results. The Office of the President
31 shall report back to the Office of State Budget and Management and the Joint
32 Legislative Education Oversight Committee no later than December 30, 2005, on each
33 campus's plan. No later than March 31, 2006, the Office of the President shall submit a
34 report on progress towards meeting this priority for the 2006-2007 academic year, based
35 on each campus's current students in the education programs, and the students who have
36 been accepted for the 2006-2007 fiscal year who are enrolling in the education
37 programs. The report shall also explain the distribution of enrollment growth funds by
38 specific initiative.

39 **SECTION 9.2.(b)** The Board of Governors of The University of North
40 Carolina and the State Board of Community Colleges shall strongly encourage the
41 constituent institutions and the community colleges that do not currently have 2 + 2
42 programs that emphasize teacher education to design and enter into formal partnerships
43 to offer those 2 + 2 programs. The Board of Governors and the Board of Community
44 Colleges shall report to the Joint Legislative Education Oversight Committee by
45 February 1, 2006, regarding the status of existing 2 + 2 programs and any new
46 partnerships established.
47

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

49 **UNC-NCCCS JOINT INITIATIVE FOR TEACHER EDUCATION AND**
50 **RECRUITMENT**

51 **SECTION 9.3.(a)** Funds appropriated in this act to The University of North
52 Carolina for the UNC-NCCCS Joint Initiative for Teacher Education and Recruitment
53 shall be used to establish eight positions. These individuals shall have an office in and
54 work with staff in the Regional Alternative Licensure Centers of the Department of
55 Public Instruction. Their responsibilities are to assist in increasing the number of

1 certified teachers in the public schools of North Carolina. To accomplish this, their
2 specific tasks are as follows:

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

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

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

- 17 (1) Number of community college students articulated and working
18 toward teacher licensure, their "base" community college, and The
19 University of North Carolina institution to which they have moved;
- 20 (2) Number of lateral entry teachers worked with by these advisors who
21 are actively pursuing certification, and the number licensed;
- 22 (3) Head count of the number of students in the process of receiving
23 courses towards certification, their home county, where/at what
24 institution(s) they are taking the course(s), and whether they are taking
25 the course by regular attendance or via distance education (or the
26 respective percentages if both methods are being employed);
- 27 (4) Total full-time equivalencies (FTE's) and student credit hours that the
28 head count in subdivision (3) of this subsection represents;
- 29 (5) Articulation issues and curriculum changes effectively made as a result
30 of these advisors; and
- 31 (6) Articulation issues that are under discussion but have not been
32 satisfactorily resolved.

33 **SECTION 9.3.(c)** These results shall be reported by September 1, 2006, and
34 annually thereafter to the State Board of Education, the Board of Governors of The
35 University of North Carolina, the State Board of Community Colleges, the Education
36 Cabinet, the Joint Legislative Education Oversight Commission, and the Office of State
37 Budget and Management.

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

40 **ENROLLMENT GROWTH FUNDING MODEL**

41 **SECTION 9.4.** The Office of State Budget and Management, jointly with
42 The University of North Carolina and the Fiscal Research Division of the General
43 Assembly, shall conduct a comprehensive review of the enrollment funding model to
44 review the assumptions contained within each element of the formula, to obtain current
45 benchmark information related to specific elements within the formula, and to examine
46 the impact of alternative elements and assumptions. An alternative to the current model
47 shall be the result of this analysis. This alternative shall be used to prepare a request for
48 enrollment growth funding for the budget to be submitted for the 2006 Session of the
49 General Assembly and shall be shown in comparison to the use of the current formula.

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

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

53 **SECTION 9.5.** Funds appropriated in this act to The University of North
54 Carolina and the North Carolina Community College System for the UNC-NCCCS 2+2
55 E-Learning Initiative shall be used to fund further development of online courses for

1 2+2 programs. Based on a mutually agreed upon decision by the State Board of
2 Education Chairman, the President of the North Carolina Community College System,
3 and the President of The University of North Carolina as to the areas of greatest need,
4 funds are available to support joint technology development, systems to track student
5 progress and articulation between a North Carolina community college and a University
6 of North Carolina campus, and to develop technology to support online courses and 2+2
7 programs.
8

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

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

11 **SECTION 9.6.(a)** There is appropriated from the Escheat Fund income to
12 the Board of Governors of The University of North Carolina the sum of sixty-seven
13 million two hundred forty-eight thousand sixteen dollars (\$67,248,016) for fiscal year
14 2005-2006 and the sum of sixty-seven million six hundred thirty-eight thousand sixteen
15 dollars (\$67,638,016) for fiscal year 2006-2007; and to the State Board of Community
16 Colleges the sum of thirteen million nine hundred eighty-one thousand two hundred two
17 dollars (\$13,981,202) for fiscal year 2005-2006 and the sum of thirteen million nine
18 hundred eighty-one thousand two hundred two dollars (\$13,981,202) for fiscal year
19 2006-2007. These funds shall be allocated by the North Carolina State Educational
20 Assistance Authority (SEAA) for need-based student financial aid in accordance with
21 G.S. 116B-7.

22 The SEAA shall perform all of the administrative functions necessary to
23 implement this program of financial aid. The SEAA shall conduct periodic evaluations
24 of expenditures of the Scholarship Programs to determine if allocations are utilized to
25 ensure access to institutions of higher learning and to meet the goals of the respective
26 programs. The SEAA may make recommendations for redistribution of funds to The
27 University of North Carolina and the President of the Community College System
28 regarding their respective scholarship programs, who then may authorize redistribution
29 of unutilized funds for a particular fiscal year.

30 **SECTION 9.6.(b)** There is appropriated from the Escheat Fund to the Board
31 of Governors of The University of North Carolina the sum of seven hundred eighty
32 thousand dollars (\$780,000) for the 2005-2006 fiscal year and the sum of one million
33 one hundred seventy thousand dollars (\$1,170,000) for the 2006-2007 fiscal year to be
34 allocated to the SEAA for need-based student financial aid to be used in accordance
35 with G.S. 116B-7 and this act. The SEAA shall use these funds only to provide
36 scholarship loans (known as the Millennium Teaching Scholarship Loan Program) to
37 North Carolina high school seniors interested in preparing to teach in the State's public
38 schools who also enroll at any of the Historically Black Colleges and Universities that
39 do not have Teaching Fellows. An allocation of 20 grants of six thousand five hundred
40 dollars (\$6,500) each shall be given to the three universities without any Teaching
41 Fellows for the purposes specified in this subsection.

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

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

50 **SECTION 9.6.(d)** All obligations to students for uses of the funds set out in
51 sections that were made before the date this act becomes law shall be fulfilled as to
52 students who remain eligible under the provisions of the respective programs.
53

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

55 **STUDY OF DISTANCE EDUCATION**

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

8
9 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

10 **INFORMATION TECHNOLOGY PROCUREMENT**

11 **SECTION 9.8.** For purposes of purchasing hardware, software licenses, and
12 multiyear maintenance agreements, The University of North Carolina and its constituent
13 institutions may participate in the aggregation of purchasing administered by the Office
14 of State Technology Services, as defined in G.S. 147-33.72F. The Office of State
15 Budget and Management shall conduct a cost comparison study of hardware, software
16 license, and multiyear maintenance agreement purchases made by The University of
17 North Carolina and its constituent institutions and by the Office of State Technology
18 Services, to determine if further aggregation is cost-justified. The Study shall also
19 include an analysis of aggregated purchases by the University System and the effect of
20 educational discounts available to the University System. The report of comparative
21 unit costs shall be completed by December 31, 2005.

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

24 **BOARD OF GOVERNORS' DENTAL SCHOLARSHIPS**

25 **SECTION 9.9.(a)** The current Board of Governors' Dental Scholarship
26 Program, under the purview of the Board of Governors of The University of North
27 Carolina, shall make any awards to students admitted after July 1, 2005, as scholarship
28 loan awards. The Board of Governors' Dental Scholarship Program is administered by
29 the Board of Governors of The University of North Carolina. The Board of Governors'
30 Dental Scholarship Program shall be used to provide a four-year scholarship loan of
31 relevant tuition and fees, mandatory medical insurance, required laptop computers for
32 first-year students, required dental equipment, and an annual payment of five thousand
33 dollars (\$5,000) per year to students who have been accepted for admission to the
34 School of Dentistry at the University of North Carolina at Chapel Hill. The Board may
35 adopt standards, including minimum grade point average and SAT scores, for awarding
36 these scholarship loans to ensure that only the most qualified students receive them.
37 The Board shall make an effort to identify and encourage minority and economically
38 disadvantaged youth to enter the program. All scholarship loans shall be evidenced by
39 notes made payable to the Board that shall bear interest at the rate of ten percent (10%)
40 per year beginning September 1 after completion of the program, or immediately after
41 termination of the scholarship loan, whichever is earlier. The scholarship loan may be
42 terminated by the recipient withdrawing from school or by the recipient not meeting the
43 standards set by the Board. The Board shall forgive the loan if, within seven years after
44 graduation, the recipient practices dentistry in North Carolina for four years. The Board
45 shall also forgive the loan if it finds that it is impossible for the recipient to practice
46 medicine in North Carolina for four years, within seven years after graduation, because
47 of the death or permanent disability of the recipient. All unused funds appropriated to
48 or otherwise received by the Board for scholarships, all funds received as repayment of
49 scholarship loans, and all interest earned on these funds shall revert to the General Fund
50 at the end of each fiscal year.

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

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

BOARD OF GOVERNORS' MEDICAL SCHOLARSHIPS

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

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

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

TEACHER SCHOLARSHIPS FUNDS

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

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

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

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

- (1)** The student is one who either: (i) maintained a "B" or better average in college and is enrolled as a junior or senior in a teacher preparation

1 program at any of the institutions described by subsection (a) of this
2 section; or (ii) completed a college transfer curriculum at a community
3 college in the State's community college system, maintained a "B" or
4 better average in the community college courses, and is accepted and
5 enrolled in a teacher preparation program at one of the institutions
6 described by subsection (a) of this section.

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

11 (3) Any additional criteria that the Board of Governors of The University
12 of North Carolina, in consultation with the State Board of Education
13 and the State Board of Community Colleges, considers necessary to
14 administer the Fund effectively.

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

20 (d) The Board of Governors of The University of North Carolina, the State Board
21 of Education, and the State Board of Community Colleges shall: (i) prepare a clear
22 written explanation of the Future Teachers of North Carolina Scholarship Fund and the
23 information regarding the availability and criteria for awarding the scholarship loans,
24 and (ii) shall provide that information to the appropriate counselors in each local school
25 system and the appropriate institutions of higher education and shall charge those
26 counselors to inform students about the scholarship loans and to encourage them to
27 apply for the scholarship loans.

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

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

33 **SECTION 9.11.(b)** Of the funds appropriated in this act to the State
34 Education Assistance Authority the sum of six hundred fifty thousand dollars
35 (\$650,000) for the 2005-2006 fiscal year and the sum of one million three hundred
36 thousand dollars (\$1,300,000) for the 2006-2007 fiscal year shall be used to implement
37 this act.

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

40 **UNC-ASHEVILLE RETAIN SALE PROCEEDS**

41 **SECTION 9.12.** Notwithstanding any other provision of law, the University
42 of North Carolina at Asheville may retain the proceeds from the sale of its existing
43 chancellor's residence and appurtenant land. The University of North Carolina at
44 Asheville may use the proceeds from the sale of its existing chancellor's residence and
45 the appurtenant land to construct or otherwise acquire a new chancellor's residence.
46 Proceeds from the sale not used for that purpose within two fiscal years of the sale shall
47 revert to the General Fund.

48
49 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

50 **UNC BOND PROJECT MODIFICATIONS**

51 **SECTION 9.13.(a)** Pursuant to Section 2(b) of S.L. 2000-3, the General
52 Assembly finds that it is in the best interest of the State to respond to current
53 educational and research program requirements at Elizabeth City State University by
54 changing the scope of "Mitchell-Lewis Residence Hall-Comprehensive Renovation" to
55 be a replacement project instead of a renovation. Section 2(a) of S.L. 2000-3 is therefore

1 amended in the portion under Elizabeth City State University by replacing "Mitchell
2 Lewis Residence Hall-Comprehensive Renovation" with "Mitchell Lewis Residence
3 Hall-Replacement."

4 **SECTION 9.13.(b)** Pursuant to Section 2(b) of S.L. 2000-3, the General
5 Assembly finds that it is in the best interest of the State to respond to current
6 educational and research program requirements at North Carolina Central University by
7 the cancellation of "Latham Residence Hall-Comprehensive Renovation". The unused
8 monies from "Latham Residence Hall-Comprehensive Renovation," should be
9 transferred to "Eagleson Residence Hall-Comprehensive Renovation". Section 2(a) of
10 S.L. 2000-3 is therefore amended in the portion under North Carolina Central
11 University by reducing the money allocated to "Latham Residence Hall-Comprehensive
12 Renovation" by reducing that amount by two million three hundred seventy-three
13 thousand four hundred fifty-seven dollars (\$2,373,457) to a total of one million
14 thirty-eight thousand one hundred forty-three dollars (\$1,038,143) and by increasing the
15 allocation to "Eagleson Residence Hall-Comprehensive Renovation" by two million
16 three hundred seventy-three thousand four hundred fifty-seven dollars (\$2,373,457) to
17 create a total allocation of nine million two hundred forty-two thousand nine hundred
18 fifty-seven dollars (\$9,242,957).

19 **SECTION 9.13.(c)** Pursuant to Section 2(b) of S.L. 2000-3, the General
20 Assembly finds that it is in the best interest of the State to respond to current
21 educational and research program requirements at the University of North Carolina at
22 Wilmington by the cancellation of "King Hall Classroom Building-Comprehensive
23 Renovation", and by transferring the unused funds to the following projects listed under
24 the portion entitled University of North Carolina at Wilmington: "Academic &
25 Classroom Facilities," "General Classroom Bldg," "Hinton James Hall Classroom Bldg.
26 – Comprehensive Renovation," "Friday Hall Laboratory Bldg. – Comprehensive
27 Renovation," "Kenan Auditorium – Comprehensive Renovation." Section 2(a) of S.L.
28 2000-3 is therefore amended in the portion under the University of North Carolina at
29 Wilmington by:

- 30 (1) Reducing the allocation to "King Hall Classroom Building –
31 Comprehensive Renovation" by three million one hundred sixty-eight
32 thousand six hundred eighty-nine dollars (\$3,168,689) to create a total
33 allocation of three hundred fifty-eight thousand seven hundred eleven
34 dollars (\$358,711).
- 35 (2) Increasing the allocation to "General Classroom Building" by six
36 hundred seventy-nine thousand seven hundred seventy-eight dollars
37 (\$679,778) to create a total allocation of thirteen million three hundred
38 twenty-six thousand seven hundred seventy-eight dollars
39 (\$13,326,778).
- 40 (3) Increasing the allocation to "Academic & Classroom Facilities" by
41 nine hundred ninety-one thousand one hundred twenty-three dollars
42 (\$991,123) to create a total allocation of thirty-four million
43 twenty-three thousand two hundred twenty-three dollars
44 (\$34,023,223).
- 45 (4) Increasing the allocation to "Hinton James Hall Classroom Building –
46 Comprehensive Renovation" by one hundred seventy-six thousand six
47 hundred nine dollars (\$176,609) to create a total allocation of two
48 million eight hundred six thousand five hundred sixty-one dollars
49 (\$2,806,561).
- 50 (5) Increasing the allocation to "Kenan Auditorium – Comprehensive
51 Renovation" by one hundred fifty-one thousand seven hundred
52 forty-nine dollars (\$151,749) to create a total allocation of two million
53 seventy-three thousand seven hundred twenty-four dollars
54 (\$2,073,724).

- 1 (6) Increasing the allocation to "Friday Hall Laboratory Building –
 2 Comprehensive Renovation" by one million one hundred sixty-nine
 3 thousand four hundred thirty dollars (\$1,169,430) to create a total
 4 allocation of eight million eight hundred sixty-two thousand eight
 5 hundred thirty dollars (\$8,862,830).

6 **SECTION 9.13.(d)** Pursuant to Section 2(b) of S.L. 2000-3, the General
 7 Assembly finds that it is in the best interest of the State to respond to current
 8 educational and research program requirements at the University of North Carolina at
 9 Pembroke by the cancellation of "West Residence Hall – Comprehensive Renovation"
 10 and by transferring the unused funds to a new project, "North and Belk Residence
 11 Halls–Fire Safety Improvements and Renovations" and by the cancellation of
 12 "Campuswide Infrastructure Improvements" and by transferring those unused funds to a
 13 new project, "Biotechnology Teaching Labs and Classroom Building". Section 2(a) of
 14 S.L. 2000-3 is therefore amended in the portion under University of North Carolina at
 15 Pembroke by:

- 16 (1) Reducing the allocation to "West Residence Hall – Comprehensive
 17 Renovation" by eight hundred seventy-nine thousand three hundred
 18 dollars (\$879,300) to a total allocation of ninety-eight thousand dollars
 19 (\$98,000).
 20 (2) Reducing the allocation to "Campuswide Infrastructure
 21 Improvements" by one million seven hundred thirty thousand three
 22 hundred eighty-two dollars (\$1,730,382) to a total allocation of two
 23 hundred sixty-six thousand two hundred eighteen dollars (\$266,218).
 24 (3) Adding a new project entitled "North and Belk Residence Halls – Fire
 25 Safety Improvements and Renovations \$879,300".
 26 (4) Adding a new project entitled "Biotechnology Teaching Labs and
 27 Classroom Building \$1,730,382".

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

31
 32 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan
 33 **AMEND NC SCHOOL OF SCIENCE AND MATH TUITION GRANT**

34 **SECTION 9.14.(a)** G.S. 116-238.1(f) reads as rewritten:

35 "(f) Notwithstanding any other provision of this section, no tuition grant awarded
 36 to a student under this section shall exceed the cost of ~~tuition of attendance~~ at the
 37 constituent institution at which the student is enrolled. If a student, who is eligible for a
 38 tuition grant under this subsection, also receives a scholarship or other grant covering
 39 the cost of ~~tuition-attendance~~ at the constituent institution for which the tuition grant is
 40 awarded, then the amount of the tuition grant shall be reduced by an appropriate amount
 41 determined by the State Education Assistance Authority. The State Education
 42 Assistance Authority shall reduce the amount of the tuition grant so that the sum of all
 43 grants and scholarship aid covering the cost of ~~tuition-attendance~~ received by the
 44 student, including the tuition grant under this section, shall not exceed the cost of ~~tuition~~
 45 attendance for the constituent institution at which the student is enrolled. The cost of
 46 attendance, as used in this subsection, shall be determined by the State Education
 47 Assistance Authority for each constituent institution."

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

50
 51 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan
 52 **UNC-CHAPEL HILL CONTINUE TO OPERATE HORACE WILLIAMS**
 53 **AIRPORT**

54 **SECTION 9.15.** The University of North Carolina at Chapel Hill shall
 55 operate the Horace Williams Airport and continue air transportation support for the

1 Area Health Education Centers (AHEC) and the public from that location until AHEC's
 2 Medical Air Operations have access to, or utilize, the Raleigh-Durham International
 3 Airport (RDU) on a basis sufficient to serve adequately the needs of patients,
 4 physicians, and passengers associated with AHEC's statewide programs and activities.
 5 At that time, the University of North Carolina at Chapel Hill may close the Horace
 6 Williams Airport.

7
 8 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

9 **NORTH CAROLINA AGRICULTURAL AND TECHNICAL STATE**
 10 **UNIVERSITY FUNDS**

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

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

19 **TRANSFER PROSPECTIVE TEACHER SCHOLARSHIP LOAN AND**
 20 **TEACHER ASSISTANT SCHOLARSHIP LOAN TO THE NC STATE**
 21 **EDUCATION ASSISTANCE AUTHORITY**

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

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

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

31 **"§ 116-209.33. ~~Establishment of fund.~~ Scholarship Loan Fund for Prospective**
 32 **Teachers.**

33 (a) There is established a revolving fund known as the "Scholarship Loan Fund
 34 for Prospective Teachers". The purpose of the Fund is to provide scholarship loans to
 35 qualified individuals who are pursuing college degrees to become teachers. The State
 36 Education Assistance Authority shall administer the Fund.

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

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

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

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

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

50 (5) Any additional criteria that the State Education Assistance Authority
 51 considers necessary to administer the Fund effectively, including the
 52 following:

53 a. Consideration of the appropriate numbers of minority applicants
 54 and applicants from diverse socioeconomic backgrounds to
 55 receive scholarships pursuant to this section.

1 b. Consideration of the commitment an individual applying to
 2 receive funds demonstrates to the profession of teaching.

3 ~~(c) The Superintendent of Public Instruction~~ State Education Assistance
 4 Authority may earmark each year up to twenty percent (20%) of the funds available for
 5 ~~scholarship loans each year~~ under this section for awards to applicants ~~who have been~~
 6 ~~employed for at least one year as teacher assistants and who are currently employed as~~
 7 ~~teacher assistants. Preference for these scholarship loans from funds earmarked for~~
 8 ~~teacher assistants shall be given first to applicants who worked as teacher assistants for~~
 9 ~~at least five years and whose positions as teacher assistants were abolished and then to~~
 10 ~~applicants who already hold a baccalaureate degree or who have already been formally~~
 11 ~~admitted to an approved teacher education program in North Carolina. The criteria for~~
 12 ~~awarding scholarship loans to applicants who worked as teacher assistants for at least~~
 13 ~~five years and whose positions as teacher assistants were abolished shall include~~
 14 ~~whether the teacher assistant has been admitted to an approved teacher education~~
 15 ~~program in North Carolina.~~ for the Teacher Assistant Scholarship Fund established in
 16 G.S. 116-209.35.

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

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

27 **"§ 116-209.34. Fund administered by State Superintendent of Public Instruction;**
 28 **rules and regulations, State Education Assistance Authority; rule-making**
 29 **authority.**

30 ~~(a) The Scholarship Loan Fund for Prospective Teachers shall be administered~~
 31 ~~by the State Superintendent of Public Instruction, under rules adopted by the State~~
 32 ~~Board of Education and subject to the following directions and limitations:~~ The State
 33 Education Assistance Authority shall establish the terms and conditions for the
 34 scholarship loans consistent with the following:

35 (1) ~~Any resident of North Carolina who is interested in preparing to teach~~
 36 ~~in the public schools of the State may apply in writing to the State~~
 37 ~~Superintendent of Public Instruction for a regular scholarship loan in~~
 38 ~~the amount of not more than two thousand five hundred dollars~~
 39 ~~(\$2,500) per academic school year. An applicant who has been~~
 40 ~~employed for at least one year as a teacher assistant and who is~~
 41 ~~currently employed as a teacher assistant may apply for a scholarship~~
 42 ~~loan from funds earmarked for teacher assistants in the amount of not~~
 43 ~~more than one thousand two hundred dollars (\$1,200) per academic~~
 44 ~~school year.~~ The loan amount shall be not more than four thousand
 45 dollars (\$4,000) per academic school year for a maximum of four
 46 years for applicants who are pursuing a college degree to become a
 47 teacher.

48 (2) ~~All scholarship loans shall be evidenced by notes made payable to the~~
 49 ~~State Board of Education Authority that bear interest at the rate of ten~~
 50 ~~percent (10%) per annum from and after September 1 following~~
 51 ~~fulfillment by a prospective teacher of the requirements for a~~
 52 ~~certificate based upon the entry level degree; or in the case of persons~~
 53 ~~already teaching in the public schools who obtain scholarship loans,~~
 54 ~~the notes shall bear interest at the prescribed rate from and after~~
 55 ~~September 1 of the school year beginning immediately after the use of~~

1 ~~the scholarship loans; or in the event any such scholarship is~~
2 ~~terminated under the provisions of subdivision (3) of this section, the~~
3 ~~notes shall bear interest from the date of termination. A minor~~
4 ~~recipient who signs a note shall also obtain the endorsement thereon by~~
5 ~~a parent, if there be a living parent, unless the endorsement is waived~~
6 ~~by the Superintendent of Public Instruction. The minor recipient shall~~
7 ~~be obligated upon the note as fully as if the recipient were of age and~~
8 ~~shall not be permitted to plead such minority as a defense in order to~~
9 ~~avoid the obligations undertaken upon the notes.~~
10 September 1 after graduation, or immediately after termination of the
11 scholarship loan, whichever is earlier.

12 (3) ~~Each recipient of a scholarship loan under the provisions of this~~
13 ~~program shall be eligible for scholarship loans each year until the~~
14 ~~recipient has qualified for a certificate based upon the entry level~~
15 ~~degree, but the recipient shall not be so eligible for more than the~~
16 ~~minimum number of years normally required for qualifying for the~~
17 ~~certificate. The permanent withdrawal of any recipient from college or~~
18 ~~failure of the recipient to do college work in a manner acceptable to~~
19 ~~the State Superintendent of Public Instruction shall immediately forfeit~~
20 ~~the recipient's right to retain the scholarship and subject the~~
21 ~~scholarship to termination by the State Superintendent of Public~~
22 ~~Instruction in the Superintendent's discretion.~~
23 A scholarship loan shall
24 be terminated upon the recipient's withdrawing from school or a
25 finding by the Authority that the recipient fails to meet the standards
26 set by the Authority. All terminated scholarships shall be regarded as
27 vacant and subject to being awarded to other eligible persons.

28 (4) ~~Except under emergency conditions applicable to the State~~
29 ~~Superintendent of Public Instruction, recipients of scholarship loans~~
30 ~~shall enter the public school system of North Carolina at the beginning~~
31 ~~of the next school term after qualifying for a certificate based upon the~~
32 ~~entry level degree or, in case of persons already teaching in the public~~
33 ~~schools, at the beginning of the next school term after the use of the~~
34 ~~loan. All teaching service for which the recipient of any scholarship~~
35 ~~loan is obligated shall be rendered by August 31 of the seventh school~~
36 ~~year following graduation.~~

37 (5)(4) ~~For each full school year taught in a North Carolina public school, the~~
38 ~~recipient of a scholarship loan shall receive credit upon the amount due~~
39 ~~by reason of the loan equal to the loan amount for a school year as~~
40 ~~provided in the note plus credit for the total interest accrued on that~~
41 ~~amount. Also, the recipient of the loan shall receive credit upon the~~
42 ~~total amount due by reason of all four years of the loan if the recipient~~
43 ~~teaches for three consecutive years.~~
44 The Authority shall forgive a
45 four-year loan if, within seven years after graduation, the recipient
46 teaches for four years at a North Carolina public school or at a school
47 operated by the United States government in North Carolina. The
48 Authority shall also forgive a four-year loan if, within seven years
49 after graduation, the recipient teaches for three consecutive years, or
50 for three years interrupted only by an approved leave of absence, at a
51 North Carolina public school that is in a low-performing school system
52 or a school system on warning status at the time the recipient accepts
53 employment with the local school administrative unit. In lieu of
54 teaching in the public school, a recipient may elect to pay in cash the
55 full amount of scholarship loans received plus interest then due
thereon or any part thereof that has not been canceled by the State
Board of Education by reason of teaching service rendered.For loans

1 of less than four years, the Authority shall forgive one year for each
 2 year the recipient teaches, within four years of graduation, at a North
 3 Carolina public school or a school operated by the United States
 4 government in North Carolina.

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

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

16 ~~(7)(6) The State Superintendent of Public Instruction shall award scholarship~~
 17 ~~loans with due consideration to factors and circumstances such as~~
 18 ~~aptitude, purposefulness, scholarship, character, financial need, and~~
 19 ~~geographic areas or subjects of instruction in which the demands for~~
 20 ~~teachers are greatest. Since the primary purpose of this Article is to~~
 21 ~~attract worthy young people to the teaching profession, preference for~~
 22 ~~scholarship loans, except for the scholarship loans from funds~~
 23 ~~earmarked for teacher assistants, shall be given to high school seniors~~
 24 ~~in the awarding of scholarships. In awarding scholarship loans from~~
 25 ~~funds earmarked for teacher assistants, preference shall be given to~~
 26 ~~applicants who have already earned a baccalaureate degree or who~~
 27 ~~have been formally admitted to an approved teacher education~~
 28 ~~program in North Carolina. The Authority shall ensure that all~~
 29 ~~repayments, including the accrued interest, are placed in the Fund.~~

30 (b) The State Education Assistance Authority, in consultation with the State
 31 Board of Education, shall adopt rules to implement G.S. 116-209.33, 116-209.34, and
 32 116-209.35."

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

35
 36 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan
 37 **UNIVERSITY SYSTEM AND COMMUNITY COLLEGE SYSTEM JOINT**
 38 **STUDY OF HIGHER EDUCATION STRATEGY/AMEND REPORTING**
 39 **REQUIREMENT**

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

41 "SECTION 6.2. These studies shall be designed to provide information and
 42 recommendations that will assist the General Assembly in setting priorities for funding
 43 to address the strategic higher education needs of the State. The Board of Governors, the
 44 State Board, and their consultant shall periodically report their findings to a higher
 45 education programming subcommittee of the Joint Legislative Education Oversight
 46 Committee. The two boards and their consultant shall report the preliminary results of
 47 the study to the General Assembly and to the Joint Legislative Education Oversight
 48 Committee by ~~April 15, 2005, June 15, 2005,~~ and shall file a final report and
 49 recommendations with the General Assembly and the Joint Legislative Education
 50 Oversight Committee no later than ~~December 31, 2005.~~ December 31, 2006."

51
 52 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan
 53 **UNC RESEARCH INSTITUTIONS MAY INCREASE TUITION**
 54 **SECTION 9.19.(a)** G.S. 116-143 reads as rewritten:

1 **"§ 116-143. State-supported institutions of higher education required to charge**
2 **tuition and fees.**

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

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

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

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

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

32 **"§ 116-143.6. Board of Trustees of a Research University I campus may increase**
33 **tuition without approval of the Board of Governors.**

34 (a) Notwithstanding G.S. 116-11(7) and G.S. 116-143, the Board of Trustees of a
35 constituent institution designated as a Research University I campus of The University
36 of North Carolina may set undergraduate tuition for an academic year. In considering
37 tuition, the Boards of Trustees shall take into account that undergraduate tuition for
38 North Carolina residents shall remain affordable to ensure accessibility, as required by
39 Section 9 of Article IX of the North Carolina Constitution, and shall take the
40 appropriate steps to increase financial aid accordingly and to ensure that the annual
41 undergraduate in-State tuition rate remains in the lowest quartile of that constituent
42 institution's national public peers.

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

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

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

53
54 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan
55 **NC SPACE GRANT CONSORTIUM FUNDS**

1 **SECTION 9.20.** Funds appropriated by this act to the North Carolina Space
2 Grant Consortium shall be allocated only to constituent institutions of The University of
3 North Carolina participating in the Consortium; no funds shall be allocated to any
4 private institution as defined by G.S. 116-15(a2) that participates in the Consortium.
5

6 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan
7 **DISTINGUISHED PROFESSORS ENDOWMENT TRUST FUND**

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

9 "**§ 116-41.15. Distinguished Professors Endowment Trust Fund; allocation;**
10 **administration.**

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

- 14 (1) On the basis of one three hundred thirty-four thousand dollar
15 (\$334,000) challenge grant for each six hundred sixty-six thousand
16 dollars (\$666,000) raised from private sources; or
- 17 (2) On the basis of one one hundred sixty-seven thousand dollar
18 (\$167,000) challenge grant for each three hundred thirty-three
19 thousand dollars (\$333,000) raised from private sources; or
- 20 (3) On the basis of one challenge grant of up to six hundred sixty-seven
21 thousand dollars (\$667,000) for funds raised from private sources in
22 twice the amount of the challenge grant.

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

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

- 30 (1) On the basis of one five hundred thousand dollar (\$500,000) challenge
31 grant for each five hundred thousand dollars (\$500,000) raised from
32 private sources; or
- 33 (2) On the basis of one two hundred fifty thousand dollar (\$250,000)
34 challenge grant for each two hundred fifty thousand dollars (\$250,000)
35 raised from private sources; or
- 36 (3) On the basis of one challenge grant of up to one million dollars
37 (\$1,000,000) for funds raised from private sources in the same amount
38 as the challenge grant.

39 If an institution chooses to pursue the use of the allocated challenge grant funds
40 described in either subdivision ~~(1) or (1)~~, subdivision ~~(2) (2)~~, or subdivision (3) of this
41 subsection, the challenge grant funds shall be matched by funds from private sources on
42 a one to one basis. the basis of one dollar of private funds for every dollar of State
43 funds.

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

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

1 **"§ 116-41.16. Distinguished Professors Endowment Trust Fund; contribution**
 2 **commitments.**

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

5 (1) A commitment to make a donation of at least six hundred sixty-six
 6 thousand dollars (\$666,000), as prescribed by G.S. 143-31.4, and an
 7 initial payment of one hundred eleven thousand dollars (\$111,000) to
 8 receive a grant described in G.S. 116-41.15(a)(1); or

9 (2) A commitment to make a donation of at least three hundred
 10 thirty-three thousand dollars (\$333,000), as prescribed by
 11 G.S. 143-31.4, and an initial payment of fifty-five thousand five
 12 hundred dollars (\$55,500) to receive a grant described in
 13 G.S. 116-41.15(a)~~(2);(2)~~; or

14 (3) A commitment to make a donation in excess of six hundred sixty-six
 15 thousand dollars (\$666,000), as prescribed by G.S. 143-31.4, and an
 16 initial payment of one-sixth of the committed amount to receive a
 17 grant described in G.S. 116-41.15(a)(3);

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

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

28 (1) A commitment to make a donation of at least five hundred thousand
 29 dollars (\$500,000), as prescribed by G.S. 143-31.4, and an initial
 30 payment of eighty-three thousand three hundred dollars (\$83,300) to
 31 receive a grant described in G.S. 116-41.5(b)(1); or

32 (2) A commitment to make a donation of at least two hundred fifty
 33 thousand dollars (\$250,000), as prescribed by G.S. 143-31.4, and an
 34 initial payment of forty-one thousand six hundred dollars (\$41,600) to
 35 receive a grant described in G.S. 116-41.15(b)~~(2);(2)~~; or

36 (3) A commitment to make a donation in excess of five hundred thousand
 37 dollars (\$500,000), as prescribed by G.S. 143-31.4, and an initial
 38 payment of one-sixth of the committed amount to receive a grant
 39 described in G.S. 116-41.15(b)(3);

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

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

48 **"§ 116-41.17. Distinguished Professors Endowment Trust Fund; establishment of**
 49 **chairs.**

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

52 (1) One million dollars (\$1,000,000), if the sum of funds described in
 53 G.S. 116-41.15(1); or G.S. 116-41.15(a)(1) or G.S. 116-41.15(b)(1); or

1 (2) Five hundred thousand dollars (\$500,000), if the sum of funds
 2 described in G.S. 116-41.15(2); G.S. 116-41.15(a)(2) or
 3 G.S. 116-41.15(b)(2); or

4 (3) An amount up to two million dollars (\$2,000,000), if the sum of funds
 5 described in G.S. 116-41.15(a)(3) or G.S. 116-41.15(b)(3);

6 the board of trustees may recommend to the Board, for its approval, the establishment of
 7 an endowed chair or chairs. The Board, in considering whether to approve the
 8 recommendation, shall include in its consideration the programs already existing in The
 9 University of North Carolina. If the Board approves the recommendation, the chair or
 10 chairs shall be established. The chair or chairs, the property of the constituent
 11 institution, may be named in honor of a donor, benefactor, or honoree of the institution,
 12 at the option of the board of trustees."
 13

14 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan
 15 **UNC MAY ENCOURAGE THE ESTABLISHMENT OF PRIVATE,**
 16 **NONPROFIT CORPORATIONS TO SUPPORT THE UNIVERSITY**
 17 **SYSTEM AND ASSIGN UNC EMPLOYEES TO ASSIST WITH THOSE**
 18 **CORPORATIONS**

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

21 "**Part 2B. Private, Nonprofit Corporations.**

22 "**§ 116-30.20. Establishment of private, nonprofit corporations.**

23 The Board of Governors of The University of North Carolina shall encourage the
 24 establishment of private, nonprofit corporations to support the constituent institutions of
 25 The University of North Carolina and The University System. The President of The
 26 University of North Carolina and the chancellors of the constituent institutions may
 27 assign employees to assist with the establishment and operation of a nonprofit
 28 corporation and may make available to the corporation office space, equipment,
 29 supplies, and other related resources; provided, the sole purpose of the corporation is to
 30 support The University of North Carolina or one or more of its constituent institutions.

31 The board of directors of each such private, nonprofit corporation shall secure and
 32 pay for the services of The University System's internal auditors or employ a certified
 33 public accountant to conduct an audit of the financial accounts of the corporation. The
 34 board of directors shall transmit to the Board of Governors a copy of the annual
 35 financial audit report of the private, nonprofit corporation."
 36

37 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan
 38 **ELIMINATE REPORTING REQUIREMENT FOR SCHOOL**
 39 **ADMINISTRATOR TRAINING PROGRAMS**

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

41 "**§ 116-74.21. Establishment of a competitive proposal process for school**
 42 **administrator programs.**

43 (a) The Board of Governors shall develop and implement a competitive proposal
 44 process and criteria for assessing proposals to establish school administrator training
 45 programs within the constituent institutions of The University of North Carolina. To
 46 facilitate the development of the programs, program criteria, and the proposal process,
 47 the Board of Governors may convene a panel of national school administrator program
 48 experts and other professional training program experts to assist it in designing the
 49 program, the proposal process, and criteria for assessing the proposals.

50 (b) No more than 12 school administrator programs shall be established under the
 51 competitive proposal program. In selecting campus sites, the Board of Governors shall
 52 be sensitive to the racial, cultural, and geographic diversity of the State. Special priority
 53 shall be given to the following factors: (i) the historical background of the institutions in
 54 training educators; (ii) the ability of the sites to serve the geographic regions of the
 55 State, such as, the far west, the west, the triad, the piedmont, and the east; and, (iii)

1 whether the type of roads and terrain in a region make commuting difficult. A school
2 administrator program may provide for instruction at one or more campus sites.

3 (c) ~~The Board of Governors shall study the issue of supply and demand of school~~
4 ~~administrators to determine the number of school administrators to be trained in the~~
5 ~~programs in each year of each biennium. The Board of Governors shall report the~~
6 ~~results of this study to the Joint Legislative Education Oversight Committee no later~~
7 ~~than March 1, 1994, and annually thereafter the biennium and report the results of this~~
8 ~~study to the Joint Legislative Education Oversight Committee no later than March 1~~
9 ~~annually.~~

10 (d) The Board of Governors shall develop a budget for the programs established
11 under subsection (a) of this section that reflects the resources necessary to establish and
12 operate school administrator programs that meet the vision of the report submitted to the
13 1993 General Assembly by the Educational Leadership Task Force.

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

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

18 **CONTINUE ACADEMIC COMMON MARKET PROGRAM**

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

20 **"ACADEMIC COMMON MARKET PILOT PROGRAM**

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

30 **SECTION 31.2.(b)** The Board of Governors of The University of North
31 Carolina may ~~establish a pilot program for continue~~ participation in the Southern
32 Regional Education Board's Academic Common Market at the graduate program level.
33 The Board of Governors shall examine the graduate programs offered in The University
34 of North Carolina system and select for participation only those graduate programs that
35 are likely to be unique or are not commonly available in other Southern Regional
36 Education Board states. Out-of-state tuition shall be waived for students who are
37 residents of other Southern Regional Education Board states and who are participating
38 in the Academic Common Market program. If accepted into The University of North
39 Carolina graduate programs that are part of the Academic Common Market, these
40 students shall pay in-State tuition and shall be treated for all purposes of The University
41 of North Carolina as residents of North Carolina. ~~Prior to the beginning of this pilot, the~~
42 ~~Board of Governors shall submit its list of graduate programs selected to be a part of the~~
43 ~~pilot program to the Joint Legislative Education Oversight Committee.~~

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

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

55 **TUITION WAIVER PROGRAM EXPANSION**

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

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

9 **SECTION 9.25.(b)** The Board of Governors of The University of North
10 Carolina and the State Board of Community Colleges shall study the feasibility of a
11 tuition waiver exchange program under which full-time employees of The University of
12 North Carolina would be allowed to take a specified number of courses at a community
13 college without paying tuition, and full-time employees of a community college would
14 be allowed to take a specified number of courses at a constituent institution of The
15 University of North Carolina without paying tuition. The Boards shall report the results
16 of this study to the Joint Legislative Education Oversight Committee by April 1, 2006.

17
18 Requested by: Senators Lucas, Swindell, Kerr, Jenkins, Garrou, Dalton, Hagan
19 **BRODY SCHOOL OF MEDICINE AT ECU/MEDICARE RECEIPTS/FAMILY**
20 **MEDICINE CENTER**

21 **SECTION 9.26.(a)** G.S. 116-36.6 reads as rewritten:
22 "**§ 116-36.6. Brody School of Medicine at East Carolina University School of**
23 **Medicine; University; Medicare receipts.**

24 The Brody School of Medicine at East Carolina University School of Medicine shall
25 request, on a regular basis consistent with the State's cash management plan, funds
26 earned by the School from Medicare reimbursements for education costs. Upon receipt,
27 these funds shall be allocated as follows:

- 28 (1) The portion of the Medicare reimbursement generated through the
29 effort and expense of the Brody School of Medicine's Medical Faculty
30 Practice Plan shall be transferred to the appropriate Medical Faculty
31 Practice Plan account within the School of Medicine. The Medical
32 Faculty Practice Plan shall assume responsibility for any of these funds
33 that subsequently must be refunded due to final audit settlements.
34 (2) ~~The funds from this source budgeted by the General Assembly as part~~
35 ~~of the School of Medicine's General Fund budget code shall be~~
36 ~~credited to that code as a receipt.~~
37 (3) ~~The remainder of the funds shall be transferred to a special fund~~
38 ~~account on deposit with the State Treasurer. This special fund account~~
39 ~~shall be used for any necessary repayment of Medicare funds due to~~
40 ~~final audit settlements for funds allocated under subdivision (2) of this~~
41 ~~subsection. When the amount of these reimbursement funds has been~~
42 ~~finalized by audit for each year, those funds remaining in the special~~
43 ~~fund shall be available for specific capital improvement projects for~~
44 ~~the East Carolina University School of Medicine. Requests by East~~
45 ~~Carolina University for use of these funds shall be made to the Board~~
46 ~~of Governors of The University of North Carolina. Approval of~~
47 ~~projects by the Board of Governors shall be reported to the Joint~~
48 ~~Legislative Commission on Governmental Operations, and the reports~~
49 ~~shall include projected costs and sources of funds for operation of the~~
50 ~~approved projects.~~

- 51 (2a) Funds that were received pursuant to this section prior to July 1, 2005,
52 and that were transferred to a special fund account on deposit with the
53 State Treasurer are appropriated to the Brody School of Medicine at
54 East Carolina University and may be expended by the Brody School of

1 Medicine for the family medicine center and for purposes consistent
2 with its stated mission."

3 **SECTION 9.26.(b)** Subsections (b) and (c) of Section 87 of Chapter 321 of
4 the 1993 Session Laws are repealed.

5 **SECTION 9.26.(c)** Notwithstanding any other provisions of law, the Board
6 of Governors of The University of North Carolina may authorize the design and
7 construction of a new capital project, a family medicine center, on the Health Sciences
8 Campus of the Brody School of Medicine at East Carolina University, that would
9 replace the existing family medicine facility that has reached capacity. The family
10 medicine center is also used as a clinical teaching site for medical students, and the
11 existing facility is functionally outdated for this purpose. The cost of the facility is
12 estimated to be thirty million dollars (\$30,000,000). The Board of Governors of The
13 University of North Carolina may authorize the financing of the project with funds
14 available to the Brody School of Medicine at East Carolina University from Medicare
15 reimbursements for education costs, gifts, grants, receipts, self-liquidating indebtedness,
16 or other funds, or any combination of these funds, but not including funds appropriated
17 from the General Fund of the State.

18 **SECTION 9.26.(d)** Effective July 1, 2005, the Brody School of Medicine
19 Medical Faculty Practice Plan shall no longer be required to reimburse the General
20 Fund for use of outpatient facilities built with General Fund monies; the Brody School
21 of Medicine Medical Faculty Practice Plan shall assume responsibility for payment of
22 all operating costs, including utility costs, currently paid for by the General Fund. This
23 subsection shall remain in effect until changed or repealed by the General Assembly.

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

26 **SCHOLARSHIP STUDENT**

27 **SECTION 9.27.(a)** Article 14 of Chapter 116 of the General Statutes is
28 amended by adding a new section to read:

29 **"§ 116-143.6. Full scholarship students attending constituent institutions.**

30 (a) Notwithstanding any other provision of law, any person who receives a full
31 scholarship to a constituent institution and who attends the institution as an
32 undergraduate student shall be considered and treated for all purposes of The University
33 of North Carolina as a resident of North Carolina.

34 (b) The following definitions apply in this section:

35 (1) 'Full scholarship' means a grant that meets the full cost for a student to
36 attend the constituent institution for an academic year.

37 (2) 'Full cost' means an amount calculated by the constituent institution
38 that is no less than the sum of in-State tuition, required fees,
39 on-campus room and board, and required course-related books.

40 (c) This section shall not be applied in any manner that violates federal law.

41 (d) No State funds shall be expended to offset any fiscal impact of this section."

42 **SECTION 9.27.(b)** This section applies to students who accept admission
43 on or after July 1, 2005, to a constituent institution.

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

46 **ENHANCE NUTRITION IN UNIVERSITY AND COMMUNITY COLLEGE** 47 **FOOD PROGRAMS**

48 **SECTION 9.28.** For nutritional purposes, the Board of Governors of The
49 University of North Carolina and the State Board of Community Colleges shall adopt
50 policies governing any food programs operated by the constituent institutions or local
51 community colleges that prohibit: (i) the use of cooking oils in those food programs that
52 contain trans-fatty acids, or (ii) the sale of processed foods containing trans-fatty acids
53 that were formed during the commercial processing of the foods.

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

1 **GRANT-IN-AID/FIRE TRUCK FOR CULLOWHEE VOLUNTEER FIRE DEPT.**
2 **TO HELP ENSURE ADEQUATE FIRE PROTECTION SERVICES TO**
3 **WESTERN CAROLINA UNIVERSITY**

4 **SECTION 9.29.** Of the funds appropriated from the General Fund to the
5 Board of Governors of The University of North Carolina, the sum of seven hundred
6 fifteen thousand dollars (\$715,000) for the 2005-2006 fiscal year shall be allocated to
7 Western Carolina University as a grant-in-aid for the Cullowhee Volunteer Fire
8 Department, Inc., to use to purchase a 95-foot platform truck and equipment to ensure
9 adequate fire protection services to Western Carolina University.

10
11 Requested by: Senators Shaw, Lucas, Swindell, Garrou, Dalton, Hagan
12 **WAIVE TUITION FOR A PERSON OF A CERTAIN AGE WHO IS OR WAS A**
13 **WARD OF THE STATE AND WHO ATTENDS CLASSES AT ANY**
14 **CONSTITUENT INSTITUTION OF THE UNIVERSITY OF NORTH**
15 **CAROLINA OR ANY COMMUNITY COLLEGE**

16 **SECTION 9.30.(a)** G.S. 115B-2 is amended by adding a new subdivision to
17 read:

18 "(5) Any child, if the child (i) is at least 17 years old but not yet 23 years
19 old, (ii) is a ward of North Carolina or was a ward of the State at the
20 time the child reached the age of 18, and (iii) is a resident of the State."

21 **SECTION 9.30.(b)** G.S. 115B-5 is amended by adding a new subsection to
22 read:

23 "(c) The officials of the institutions charged with administration of this Chapter
24 may require proof to verify that a person applying to the institution under
25 G.S. 115B-2(5) is eligible for the benefits provided by this Chapter."

26
27 **PART X. DEPARTMENT OF HEALTH AND HUMAN SERVICES**
28

29 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan
30 **INFORMATION TECHNOLOGY**

31 **SECTION 10.1.(a)** To support its information technology initiatives, the
32 Department of Health and Human Services shall develop the following:

- 33 (1) A detailed business plan.
- 34 (2) An information technology plan directly tied to business requirements.
- 35 (3) An IT architecture.

36 The Department of Health and Human Services shall ensure that the planning
37 documents extend three to five years and include detailed shortfall analyses and
38 associated cost assessments. The Department of Health and Human Services shall
39 forward the documents to the Office of Information Technology Services, the Senate
40 Appropriations Committee on Health and Human Services, the House of
41 Representatives Appropriations Subcommittee on Health and Human Services, and the
42 Fiscal Research Division by December 1, 2005. The Office of Information Technology
43 Services shall review the documents and report its findings and recommendations to the
44 Senate Appropriations Committee on Health and Human Services, the House of
45 Representatives Appropriations Subcommittee on Health and Human Services, and the
46 Fiscal Research Division by January 31, 2006.

47 **SECTION 10.1.(b)** The Department of Health and Human Services shall
48 develop a project plan for each of its information technology projects. These plans shall
49 include the following:

- 50 (1) A detailed description of the project.
- 51 (2) A description of how the project improves Department operations and
52 service to customers.
- 53 (3) The projected cost of the project by year and phase.
- 54 (4) Deliverables required to implement each phase of the system.
- 55 (5) The date that each deliverable is to be implemented.

1 (6) The cost of implementing each deliverable.

2 (7) What capabilities each deliverable adds to the project.

3 **SECTION 10.1.(c)** The Department of Health and Human Services shall
4 provide the plans to the Senate Appropriations Committee on Health and Human
5 Services, the House of Representatives Appropriations Subcommittee on Health and
6 Human Services, and the Fiscal Research Division no later than October 1, 2005, with
7 subsequent updates provided quarterly. The Department of Health and Human Services
8 shall notify the Division of Fiscal Research within 10 days when costs, completion
9 dates, or system capabilities change and provide a report detailing the impact of the
10 change.

11 **SECTION 10.1.(d)** The Department of Health and Human Services shall not
12 spend more than the amounts appropriated by the General Assembly for information
13 technology projects and may not allocate funds appropriated for one information
14 technology project to any other information technology project.

15 **SECTION 10.1.(e)** The Department of Health and Human Services shall use
16 funds appropriated for the 2005-2006 and 2006-2007 fiscal years for the North Carolina
17 Families Accessing Services through Technology (NC FAST) program only for
18 program-specific development, deliverables, and maintenance costs associated with the
19 NC FAST program.

20
21 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

22 **OFFICE OF POLICY AND PLANNING**

23 **SECTION 10.2.** Article 3 of Chapter 143B is amended by adding the
24 following new Part to read:

25 "Part 34. Office of Policy and Planning.

26 **"§ 143B-216.70. Office of Policy and Planning.**

27 (a) To promote coordinated policy development and strategic planning for the
28 State's health and human services systems, the Secretary of Health and Human Services
29 shall establish an Office of Policy and Planning from existing resources across the
30 Department. The Director of the Office of Policy and Planning shall report directly to
31 the Secretary and shall have the following responsibilities:

32 (1) Coordinate the development of departmental policies, plans, and rules,
33 in consultation with the Divisions of the Department.

34 (2) Development of a departmental process for the development and
35 implementation of new policies, plans, and rules.

36 (3) Development of a departmental process for the review of existing
37 policies, plans, and rules to ensure that departmental policies, plans,
38 and rules are relevant.

39 (4) Coordination and review of all departmental policies before
40 dissemination to ensure that all policies are well-coordinated within
41 and across all programs.

42 (5) Implementation of ongoing strategic planning that integrates budget,
43 personnel, and resources with the mission and operational goals of the
44 Department.

45 (6) Review, disseminate, monitor, and evaluate best practice models.

46 (b) Under the direction of the Secretary of Health and Human Services, the
47 Director of the Office of Policy and Planning shall have the authority to direct
48 Divisions, offices, and programs within the Department to conduct periodic reviews of
49 policies, plans, and rules and shall advise the Secretary when it is determined to be
50 appropriate or necessary to modify, amend, and repeal departmental policies, plans, and
51 rules. All policy and management positions within the Office of Policy and Planning are
52 exempt positions as that term is defined in G.S. 126-5."

53
54 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

55 **SENIOR PRESCRIPTION DRUG ACCESS PROGRAM FUNDING**

SECTION 10.3. The Director of the Budget shall use available funds up to seven million dollars (\$7,000,000) in the 2005-2006 fiscal year to fully fund the Senior Prescription Drug Access Program through December 31, 2005, if there is a shortfall of funds from the Health and Wellness Trust Fund, and the funds are not sufficient to provide drug acquisition services under the Program through December 31, 2005.

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

SENIOR CARES PROGRAM ADMINISTRATION

SECTION 10.4.(a) The Department of Health and Human Services may administer the "Senior Cares" prescription drug access program approved by the Health and Wellness Trust Fund Commission and funded from the Health and Wellness Trust Fund. The Department may use funds appropriated in this act to administer the Senior Cares prescription drug access program.

SECTION 10.4.(b) This section expires December 31, 2005.

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

NONMEDICAID REIMBURSEMENT CHANGES

SECTION 10.5. Providers of medical services under the various State programs, other than Medicaid, offering medical care to citizens of the State shall be reimbursed at rates no more than those under the North Carolina Medical Assistance Program.

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

Notwithstanding the provisions of paragraph one, the Department of Health and Human Services may negotiate with providers of medical services under the various Department of Health and Human Services programs, other than Medicaid, for rates as close as possible to Medicaid rates for the following purposes: contracts or agreements for medical services and purchases of medical equipment and other medical supplies. These negotiated rates are allowable only to meet the medical needs of its non-Medicaid eligible patients, residents, and clients who require such services which cannot be provided when limited to the Medicaid rate.

Maximum net family annual income eligibility standards for services in these 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

The eligibility level for children in the Medical Eye Care Program in the Division of Services for the Blind shall be one hundred percent (100%) of the federal poverty guidelines, as revised annually by the United States Department of Health and Human Services and in effect on July 1 of each fiscal year. The eligibility level for adults 55 years of age or older who qualify for services through the Division of Services for the Blind, Independent Living Rehabilitation Program, shall be two hundred percent (200%) of the federal poverty guidelines, as revised annually by the United States Department of Health and Human Services and in effect on July 1 of each fiscal year.

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

State financial participation in the Atypical Antipsychotic Medication 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%

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

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

PHYSICIAN SERVICES

SECTION 10.6. With the approval of the Office of State Budget and Management, the Department of Health and Human Services may use funds appropriated in this act for across-the-board salary increases and performance pay to offset similar increases in the costs of contracting with private and independent universities for the provision of physician services to clients in facilities operated by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services. This offsetting shall be done in the same manner as is currently done with the constituent institutions of The University of North Carolina.

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

LIABILITY INSURANCE

SECTION 10.7.(a) The Secretary of the Department of Health and Human Services, the Secretary of the Department of Environment and Natural Resources, and the Secretary of the Department of Correction may provide medical liability coverage not to exceed one million dollars (\$1,000,000) per incident on behalf of employees of the Departments licensed to practice medicine or dentistry, on behalf of all licensed physicians who are faculty members of The University of North Carolina who work on contract for the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for incidents that occur in Division programs, and on behalf of physicians in all residency training programs from The University of North Carolina who are in training at institutions operated by the Department of Health and Human Services. This coverage may include commercial insurance or self-insurance and shall cover these individuals for their acts or omissions only while they are engaged in providing medical and dental services pursuant to their State employment or training.

SECTION 10.7.(b) The coverage provided under this section shall not cover any individual for any act or omission that the individual knows or reasonably should know constitutes a violation of the applicable criminal laws of any state or the United States or that arises out of any sexual, fraudulent, criminal, or malicious act or out of any act amounting to willful or wanton negligence.

SECTION 10.7.(c) The coverage provided pursuant to this section shall not require any additional appropriations and shall not apply to any individual providing

1 contractual service to the Department of Health and Human Services, the Department of
2 Environment and Natural Resources, or the Department of Correction, with the
3 exception that coverage may include physicians in all residency training programs from
4 The University of North Carolina who are in training at institutions operated by the
5 Department of Health and Human Services and licensed physicians who are faculty
6 members of The University of North Carolina who work for the Division of Mental
7 Health, Developmental Disabilities, and Substance Abuse Services.

8
9 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan
10 **DHHS PAYROLL DEDUCTION FOR CHILD CARE SERVICES**

11 **SECTION 10.8.** Part 1 of Article 3 of Chapter 143B of the General Statutes
12 is amended by adding the following new section to read:

13 **"§ 143B-139.6B. Department of Health and Human Services; authority to deduct**
14 **payroll for child care services.**

15 Notwithstanding G.S. 143-3.3 and pursuant to rules adopted by the State Controller,
16 an employee of the Department of Health and Human Services may, in writing,
17 authorize the Department to periodically deduct from the employee's salary or wages
18 paid for employment by the State, a designated lump sum to be paid to satisfy the cost
19 of services received for child care provided by the Department."

20
21 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan
22 **COMMUNITY HEALTH CENTERS FUNDS**

23 **SECTION 10.9.(a)** Of the funds appropriated in this act for Community
24 Health Grants for the 2005-2006 fiscal year, the sum of two million dollars (\$2,000,000)
25 in nonrecurring funds shall be used for federally qualified health centers, for those
26 health centers that meet the criteria for federally qualified health centers, and for
27 State-designated rural health centers and public health departments and other clinics to:

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

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

44 **SECTION 10.9.(b)** The Office shall work with the North Carolina
45 Community Health Center Association (hereafter "NCCHCA") and the North Carolina
46 Public Health Association (hereafter "NCPHA") to establish an advisory committee to
47 develop an objective and equitable process for awarding grant funds. The Office shall
48 also develop auditing and accountability procedures. Not more than one percent (1%) of
49 the funds appropriated in this section may be used to reimburse the Office for
50 administering the grant program in collaboration with the NCCHCA and the NCPHA.

51 **SECTION 10.9.(c)** Recipients of grant funds shall provide to the Office
52 annually a written report detailing the number of additional uninsured and medically
53 indigent patients that are cared for, the types of services that were provided, and any
54 other information requested by the Office as necessary for evaluating the success of the
55 grant program.

1 **SECTION 10.9.(d)** The Office shall work with the NCCHCA and NCPHA
2 to study and present recommendations for continuing funds to support the expansion of
3 community health centers, State-designated rural health centers, and public health
4 departments to serve more of the State's uninsured and indigent population. The Office
5 shall submit the report to the 2006 Regular Session of the 2005 General Assembly upon
6 its convening.

7
8 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

9 **PROVIDER REIMBURSEMENT RATES**

10 **SECTION 10.10.** The Department of Health and Human Services shall
11 maintain reimbursement rates paid to service providers at fiscal year 2004-2005 levels
12 during the 2005-2006 fiscal year. Exceptions made by the Department shall be made on
13 a case-by-case basis and must be approved by the Office of the Secretary. Changes in
14 rate structures that result in lower payments to the providers are exempted from this
15 requirement. As used in this section, "service providers" includes subcontractors, such
16 as counties, area agencies on aging, departments of social services, departments of
17 public health, child developmental services agencies, and local management entities.

18
19 Requested by: Senators Purcell, Malone, Dalton, Garrou, Hagan

20 **MEDICAID**

21 **SECTION 10.11.(a)** Funds appropriated in this act for services provided in
22 accordance with Title XIX of the Social Security Act (Medicaid) are for both the
23 categorically needy and the medically needy. Funds appropriated for these services shall
24 be expended in accordance with the following schedule of services and payment bases.
25 All services and payments are subject to the language at the end of this subsection.

26 Services and payment bases:

- 27 (1) Hospital inpatient. – Payment for hospital inpatient services will be
28 prescribed in the State Plan as established by the Department of Health
29 and Human Services.
- 30 (2) Hospital outpatient. – Eighty percent (80%) of allowable costs or a
31 prospective reimbursement plan as established by the Department of
32 Health and Human Services.
- 33 (3) Nursing facilities. – Payment for nursing facility services will be
34 prescribed in the State Plan as established by the Department of Health
35 and Human Services. Nursing facilities providing services to Medicaid
36 recipients who also qualify for Medicare must be enrolled in the
37 Medicare program as a condition of participation in the Medicaid
38 program. State facilities are not subject to the requirement to enroll in
39 the Medicare program. Residents of nursing facilities who are eligible
40 for Medicare coverage of nursing facility services must be placed in a
41 Medicare-certified bed. Medicaid shall cover facility services only
42 after the appropriate services have been billed to Medicare. The
43 Division of Medical Assistance shall allow nursing facility providers
44 sufficient time from the effective date of this act to certify additional
45 Medicare beds if necessary. In determining the date that the
46 requirements of this subdivision become effective, the Division of
47 Medical Assistance shall consider the regulations governing
48 certification of Medicare beds and the length of time required for this
49 process to be completed.
- 50 (4) Intermediate care facilities for the mentally retarded. – As prescribed
51 in the State Plan as established by the Department of Health and
52 Human Services.
- 53 (5) Drugs. – Drug costs as allowed by federal regulations plus a
54 professional services fee per month, excluding refills for the same drug
55 or generic equivalent during the same month. Reimbursement shall be

1 available for up to six prescriptions per recipient per month, including
2 refills. The Department may override the six-prescription limit up to
3 two additional prescriptions for a total of not more than eight
4 prescriptions per recipient per month, for recipients that meet the
5 Department's override policy requirements. Payments for drugs are
6 subject to the provisions of subsection (h) of this section and to the
7 provisions at the end of this subsection or in accordance with the State
8 Plan adopted by the Department of Health and Human Services,
9 consistent with federal reimbursement regulations. Payment of the
10 professional services fee shall be made in accordance with the State
11 Plan adopted by the Department of Health and Human Services,
12 consistent with federal reimbursement regulations. The professional
13 services fee shall be five dollars and sixty cents (\$5.60) per
14 prescription for generic drugs and four dollars (\$4.00) per prescription
15 for brand-name drugs. Adjustments to the professional services fee
16 shall be established by the General Assembly. In addition to the
17 professional services fee, the Department may pay an enhanced fee for
18 pharmacy services.

- 19 (6) Physicians, chiropractors, podiatrists, optometrists, dentists, certified
20 nurse midwife services, nurse practitioners. – Fee schedules as
21 developed by the Department of Health and Human Services.
22 Payments for dental services are subject to the provisions of subsection
23 (g) of this section.
- 24 (7) Community Alternative Program, EPSDT screens. – Payment to be
25 made in accordance with the rate schedule developed by the
26 Department of Health and Human Services.
- 27 (8) Home health and related services, private duty nursing, clinic services,
28 prepaid health plans, durable medical equipment. – Payment to be
29 made according to reimbursement plans developed by the Department
30 of Health and Human Services.
- 31 (9) Medicare Buy-In. – Social Security Administration premium.
- 32 (10) Ambulance services. – Uniform fee schedules as developed by the
33 Department of Health and Human Services. Public ambulance
34 providers will be reimbursed at cost.
- 35 (11) Hearing aids. – Wholesale cost plus a dispensing fee to the provider.
- 36 (12) Rural health clinic services. – Provider-based, reasonable cost;
37 nonprovider-based, single-cost reimbursement rate per clinic visit.
- 38 (13) Family planning. – Negotiated rate for local health departments. For
39 other providers, see specific services, for instance, hospitals,
40 physicians.
- 41 (14) Independent laboratory and X-ray services. – Uniform fee schedules as
42 developed by the Department of Health and Human Services.
- 43 (15) Optical supplies. – Payment for materials is made to a contractor in
44 accordance with 42 C.F.R. § 431.54(d). Fees paid to dispensing
45 providers are negotiated fees established by the State agency based on
46 industry charges.
- 47 (16) Ambulatory surgical centers. – Payment as prescribed in the
48 reimbursement plan established by the Department of Health and
49 Human Services.
- 50 (17) Medicare crossover claims. – By not later than October 1, 2005, the
51 Department shall apply Medicaid medical policy to Medicare claims
52 for dually eligible recipients. The Department shall pay an amount up
53 to the actual coinsurance or deductible or both, in accordance with the
54 State Plan, as approved by the Department of Health and Human
55 Services.

- 1 (18) Physical therapy and speech therapy. – Services limited to
2 EPSDT-eligible children. Payments are to be made only to qualified
3 providers at rates negotiated by the Department of Health and Human
4 Services. Physical therapy (including occupational therapy) and speech
5 therapy services are subject to prior approval and utilization review.
- 6 (19) Personal care services. – Payment in accordance with the State Plan
7 approved by the Department of Health and Human Services.
- 8 (20) Case management services. – Reimbursement in accordance with the
9 availability of funds to be transferred within the Department of Health
10 and Human Services.
- 11 (21) Hospice. – Services may be provided in accordance with the State Plan
12 developed by the Department of Health and Human Services.
- 13 (22) Other mental health services. – Unless otherwise covered by this
14 section, coverage is limited to:
- 15 a. Services as defined by the Division of Mental Health,
16 Developmental Disabilities, and Substance Abuse Services and
17 approved by the Centers for Medicare and Medicaid Services
18 (CMS) when provided in agencies meeting the requirements of
19 the rules established by the Commission for Mental Health,
20 Developmental Disabilities, and Substance Abuse Services and
21 reimbursement is made in accordance with a State Plan
22 developed by the Department of Health and Human Services
23 not to exceed the upper limits established in federal regulations,
24 and
- 25 b. For children eligible for EPSDT services provided by:
- 26 1. Licensed or certified psychologists, licensed clinical
27 social workers, certified clinical nurse specialists in
28 psychiatric mental health advanced practice, nurse
29 practitioners certified as clinical nurse specialists in
30 psychiatric mental health advanced practice, licensed
31 psychological associates, licensed professional
32 counselors, licensed marriage and family therapists,
33 certified clinical addictions specialists, and certified
34 clinical supervisors, when Medicaid-eligible children are
35 referred by the Community Care of North Carolina
36 primary care physician, a Medicaid-enrolled psychiatrist,
37 or the area mental health program or local management
38 entity, and
- 39 2. Institutional providers of residential services as defined
40 by the Division of Mental Health, Developmental
41 Disabilities, and Substance Abuse Services and approved
42 by the Centers for Medicare and Medicaid Services
43 (CMS) for children and Psychiatric Residential
44 Treatment Facility services that meet federal and State
45 requirements as defined by the Department.
- 46 c. For Medicaid-eligible adults, services provided by licensed or
47 certified psychologists, licensed clinical social workers,
48 certified clinical nurse specialists in psychiatric mental health
49 advanced practice, and nurse practitioners certified as clinical
50 nurse specialists in psychiatric mental health advanced practice,
51 licensed psychological associates, licensed professional
52 counselors, licensed marriage and family therapists, certified
53 clinical addictions specialists, and certified clinical supervisors,
54 Medicaid-eligible adults may be self-referred.

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

13 e. The Department of Health and Human Services shall not enroll
14 licensed psychological associates, licensed professional
15 counselors, licensed marriage and family therapists, certified
16 clinical addiction specialists, and certified clinical supervisors
17 until all of the following conditions have been met:

18 1. The fiscal impact of payments to these qualified
19 providers has been projected;

20 2. Funding for any projected requirements in excess of
21 budgeted Division of Medical Assistance funding has
22 been identified from within State funds appropriated to
23 the Department of Health and Human Services, Division
24 of Mental Health, Developmental Disabilities, and
25 Substance Abuse Services to support area mental health
26 programs or county programs, or identified from other
27 sources; and

28 3. Approval has been obtained from the Office of State
29 Budget and Management to transfer these State or other
30 source funds from the Division of Mental Health,
31 Developmental Disabilities, and Substance Abuse
32 Services to the Division of Medical Assistance. Upon
33 approval and implementation, the Department of Health
34 and Human Services shall, on a quarterly basis, provide a
35 status report to the Office of State Budget and
36 Management and the Fiscal Research Division.

37 Notwithstanding G.S. 150B-21.1(a), the Department of Health and
38 Human Services may adopt temporary rules in accordance with
39 Chapter 150B of the General Statutes further defining the
40 qualifications of providers and referral procedures in order to
41 implement this subdivision. Coverage policy for services defined by
42 the Division of Mental Health, Developmental Disabilities, and
43 Substance Abuse Services under sub-subdivisions a. and b.2 of this
44 subdivision shall be established by the Division of Medical Assistance.

45 (23) Medically necessary prosthetics or orthotics. – Reimbursement in
46 accordance with the State Plan approved by the Department of Health
47 and Human Services, except that in order to be eligible for
48 reimbursement, providers must be Board certified not later than July 1,
49 2005. Medically necessary prosthetics and orthotics are subject to prior
50 approval and utilization review.

51 (24) Health insurance premiums. – Payments to be made in accordance
52 with the State Plan adopted by the Department of Health and Human
53 Services consistent with federal regulations.

54 (25) Medical care/other remedial care. – Services not covered elsewhere in
55 this section include related services in schools; health professional

1 services provided outside the clinic setting to meet maternal and infant
 2 health goals; and services to meet federal EPSDT mandates. Services
 3 addressed by this subdivision are limited to those prescribed in the
 4 State Plan as established by the Department of Health and Human
 5 Services.

6 (26) Pregnancy-related services. – Covered services for pregnant women
 7 shall include nutritional counseling, psychosocial counseling, and
 8 predelivery and postpartum home visits by maternity care coordinators
 9 and public health nurses.

10 Services and payment bases may be changed with the approval of the Director of the
 11 Budget.

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

25 Reimbursement is available for up to 24 visits per recipient per year to any
 26 one or combination of the following: physicians, clinics, hospital outpatient,
 27 optometrists, chiropractors, and podiatrists. Prenatal services, all EPSDT children,
 28 emergency rooms, and mental health services subject to independent utilization review
 29 are exempt from the visit limitations contained in this paragraph. Exceptions may be
 30 authorized by the Department of Health and Human Services where the life of the
 31 patient would be threatened without such additional care.

32 **SECTION 10.11.(b)** Allocation of Nonfederal Cost of Medicaid. – The State
 33 shall pay eighty-five percent (85%); the county shall pay fifteen percent (15%) of the
 34 nonfederal costs of all applicable services listed in this section. In addition, the State
 35 shall pay eighty-five percent (85%); the county shall pay fifteen percent (15%) of the
 36 federal Medicare Part D clawback payments under the Medicare Modernization Act of
 37 2004.

38 **SECTION 10.11.(c)** Co-Payment for Medicaid Services. – The Department
 39 of Health and Human Services may establish co-payments up to the maximum
 40 permitted by federal law and regulation and required by this subsection in order to
 41 achieve reductions in the budget in fiscal years 2005-2006 and 2006-2007. The
 42 co-payment for inpatient hospitalization services is fifty dollars (\$50.00).

43 **SECTION 10.11.(d)** Medicaid and Work First Family Assistance, Income
 44 Eligibility Standards. – The maximum net family annual income eligibility standards for
 45 Medicaid and Work First Family Assistance and the Standard of Need for Work First
 46 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 Income</u>	
			<u>Level</u>	<u>AA, AB, AD*</u>
50	1	\$4,344	\$2,172	\$2,900
51	2	5,664	2,832	3,800
52	3	6,528	3,264	4,400

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

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

The payment level for Work First Family Assistance shall be fifty percent (50%) of the standard of need.

These standards may be changed with the approval of the Director of the Budget with the advice of the Advisory Budget Commission.

SECTION 10.11.(e) The Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to all elderly, blind, and disabled people who have incomes equal to or less than one hundred percent (100%) of the federal poverty guidelines, as revised each April 1. This subsection expires December 31, 2005.

SECTION 10.11.(f) ICF and ICF/MR Work Incentive Allowances. – The Department of Health and Human Services may provide an incentive allowance to Medicaid-eligible recipients of ICF and ICF/MR facilities who are regularly engaged in work activities as part of their developmental plan and for whom retention of additional income contributes to their achievement of independence. The State funds required to match the federal funds that are required by these allowances shall be provided from savings within the Medicaid budget or from other unbudgeted funds available to the Department. The incentive allowances may be as follows:

<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.

SECTION 10.11.(g) Dental Coverage Limits. – Dental services shall be provided on a restricted basis in accordance with rules adopted by the Department to implement this subsection.

SECTION 10.11.(h) Dispensing of Generic Drugs. – Notwithstanding G.S. 90-85.27 through G.S. 90-85.31, or any other law to the contrary, under the Medical Assistance Program (Title XIX of the Social Security Act), and except as otherwise provided in this subsection for atypical antipsychotic drugs and drugs listed in the narrow therapeutic index, a prescription order for a drug designated by a trade or brand name shall be considered to be an order for the drug by its established or generic name, except when the prescriber has determined, at the time the drug is prescribed, that the brand-name drug is medically necessary and has written on the prescription order the phrase "medically necessary". An initial prescription order for an atypical antipsychotic drug or a drug listed in the narrow therapeutic drug index that does not contain the phrase "medically necessary" shall be considered an order for the drug by its established or generic name, except that a pharmacy shall not substitute a generic or established name prescription drug for subsequent brand or trade name prescription orders of the same prescription drug without explicit oral or written approval of the prescriber given at the time the order is filled. Generic drugs shall be dispensed at a lower cost to the Medical Assistance Program rather than trade or brand name drugs. As used in this subsection, "brand name" means the proprietary name the manufacturer places upon a drug product or on its container, label, or wrapping at the time of packaging; and "established name" has the same meaning as in section 502(e)(3) of the Federal Food, Drug, and Cosmetic Act as amended, 21 U.S.C. § 352(e)(3).

1 **SECTION 10.11.(i)** The Department of Health and Human Services shall
2 not impose prior authorization requirements or other restrictions under the State
3 Medical Assistance Program on medications prescribed for Medicaid recipients for the
4 treatment of: (i) mental illness, including, but not limited to, medications for
5 schizophrenia, bipolar disorder, and major depressive disorder, or (ii) HIV/AIDS.

6 **SECTION 10.11.(j)** Exceptions to Service Limitations, Eligibility
7 Requirements, and Payments. – Service limitations, eligibility requirements, and
8 payments bases in this section may be waived by the Department of Health and Human
9 Services, with the approval of the Director of the Budget, to allow the Department to
10 carry out pilot programs for prepaid health plans, contracting for services, managed care
11 plans, or community-based services programs in accordance with plans approved by the
12 United States Department of Health and Human Services or when the Department
13 determines that such a waiver will result in a reduction in the total Medicaid costs for
14 the recipient. The Department of Health and Human Services may proceed with
15 planning and development work on the Program of All-Inclusive Care for the Elderly.

16 **SECTION 10.11.(k)** Volume Purchase Plans and Single Source
17 Procurement. – The Department of Health and Human Services, Division of Medical
18 Assistance, may, subject to the approval of a change in the State Medicaid Plan,
19 contract for services, medical equipment, supplies, and appliances by implementation of
20 volume purchase plans, single source procurement, or other contracting processes in
21 order to improve cost containment.

22 **SECTION 10.11.(l)** Cost-Containment Programs. – The Department of
23 Health and Human Services, Division of Medical Assistance, may undertake
24 cost-containment programs, including contracting for services, preadmissions to
25 hospitals, and prior approval for certain outpatient surgeries before they may be
26 performed in an inpatient setting.

27 **SECTION 10.11.(m)** For all Medicaid eligibility classifications for which
28 the federal poverty level is used as an income limit for eligibility determination, the
29 income limits will be updated each April 1 immediately following publication of federal
30 poverty guidelines.

31 **SECTION 10.11.(n)** The Department of Health and Human Services shall
32 provide Medicaid to 19-, 20-, and 21-year-olds in accordance with federal rules and
33 regulations.

34 **SECTION 10.11.(o)** The Department of Health and Human Services shall
35 provide coverage to pregnant women and to children according to the following
36 schedule:

- 37 (1) Pregnant women with incomes equal to or less than one hundred
38 eighty-five percent (85%) of the federal poverty guidelines as revised
39 each April 1 shall be covered for Medicaid benefits.
- 40 (2) Infants under the age of one with family incomes equal to or less than
41 one hundred eighty-five percent (85%) of the federal poverty
42 guidelines as revised each April 1 shall be covered for Medicaid
43 benefits.
- 44 (3) Children aged one through five with family incomes equal to or less
45 than one hundred thirty-three percent (33%) of the federal poverty
46 guidelines as revised each April 1 shall be covered for Medicaid
47 benefits.
- 48 (4) Children aged six through 18 with family incomes equal to or less than
49 the federal poverty guidelines as revised each April 1 shall be covered
50 for Medicaid benefits.
- 51 (5) The Department of Health and Human Services shall provide Medicaid
52 coverage for adoptive children with special or rehabilitative needs
53 regardless of the adoptive family's income.

54 Services to pregnant women eligible under this subsection continue
55 throughout the pregnancy but include only those related to pregnancy and to those other

1 conditions determined by the Department as conditions that may complicate pregnancy.
2 In order to reduce county administrative costs and to expedite the provision of medical
3 services to pregnant women, to infants, and to children described in subdivisions (3) and
4 (4) of this subsection, no resources test shall be applied.

5 **SECTION 10.11.(p)** Medicaid enrollment of categorically needy families
6 with children shall be continuous for one year without regard to changes in income or
7 assets.

8 **SECTION 10.11.(q)** The Division of Medical Assistance, Department of
9 Health and Human Services, may provide incentives to counties that successfully
10 recover fraudulently spent Medicaid funds by sharing State savings with counties
11 responsible for the recovery of the fraudulently spent funds.

12 **SECTION 10.11.(r)** If first approved by the Office of State Budget and
13 Management, the Division of Medical Assistance, Department of Health and Human
14 Services, may use funds that are identified to support the cost of development and
15 acquisition of equipment and software through contractual means to improve and
16 enhance information systems that provide management information and claims
17 processing. The Department of Health and Human Services shall identify adequate
18 funds to support the implementation and first year's operational costs that exceed the
19 currently allocated funds for the new contract for the fiscal agent for the Medicaid
20 Management Information System.

21 **SECTION 10.11.(s)** The Department of Health and Human Services may
22 adopt temporary or emergency rules according to the procedures established in
23 G.S. 150B-21.1 and G.S. 150B-21.1A when it finds that these rules are necessary to
24 maximize receipt of federal funds within existing State appropriations, to reduce
25 Medicaid expenditures, and to reduce fraud and abuse. Prior to the filing of these
26 temporary or emergency rules with the Rules Review Commission and the Office of
27 Administrative Hearings, the Department shall consult with the Office of State Budget
28 and Management on the possible fiscal impact of the temporary or emergency rule and
29 its effect on State appropriations and local governments.

30 **SECTION 10.11.(t)** The Department shall report to the Fiscal Research
31 Division of the Legislative Services Office and to the House of Representatives
32 Appropriations Subcommittee on Health and Human Services and the Senate
33 Appropriations Committee on Health and Human Services or the Joint Legislative
34 Health Care Oversight Committee on any change it anticipates making in the Medicaid
35 program that impacts the type or level of service, reimbursement methods, or waivers,
36 any of which require a change in the State Plan or other approval by the Centers for
37 Medicare and Medicaid Services (CMS). The reports shall be provided at the same time
38 they are submitted to CMS for approval.

39 **SECTION 10.11.(u)** Upon approval of a demonstration waiver by the
40 Centers for Medicare and Medicaid Services (CMS), the Department of Health and
41 Human Services may provide Medicaid coverage for family planning services to men
42 and women of childbearing age with family incomes equal to or less than one hundred
43 eighty-five percent (185%) of the federal poverty level. Coverage shall be contingent
44 upon federal approval of the waiver.

45 **SECTION 10.11.(v)** The Department of Health and Human Services may
46 apply federal transfer of assets policies, as described in Title XIX, section 1917(c) of the
47 Social Security Act, including the attachment of liens, to real property excluded as
48 "income producing", tenancy-in-common, or as nonhomesite property made "income
49 producing" under Title XIX, section 1902(r)(2) of the Social Security Act. The transfer
50 of assets policy shall apply only to an institutionalized individual or the individual's
51 spouse as defined in Title XIX, section 1917(c) of the Social Security Act. This
52 subsection becomes effective no earlier than October 1, 2001. Federal transfer of asset
53 policies and attachment of liens to properties excluded as tenancy-in-common or as
54 nonhomesite property made "income producing" in accordance with this subsection
55 shall become effective not earlier than November 1, 2002.

1 **SECTION 10.11.(w)** When implementing the Supplemental Security
2 Income (SSI) method for considering equity value of income producing property, the
3 Department shall, to the maximum extent possible, employ procedures to mitigate the
4 hardship to Medicaid enrollees occurring from application of the Supplemental Security
5 Income (SSI) method.

6 **SECTION 10.11.(x)** Unless required for compliance with federal law, the
7 Department shall not change medical policy affecting the amount, sufficiency, duration,
8 and scope of health care services and who may provide services until the Division of
9 Medical Assistance has prepared a five-year fiscal analysis documenting the increased
10 cost of the proposed change in medical policy and submitted it for Departmental review.
11 If the fiscal impact indicated by the fiscal analysis for any proposed medical policy
12 change exceeds three million dollars (\$3,000,000) in total requirements for a given
13 fiscal year, then the Department shall submit the proposed policy change with the fiscal
14 analysis to the Office of State Budget and Management and the Fiscal Research
15 Division. The Department shall not implement any proposed medical policy change
16 exceeding three million dollars (\$3,000,000) in total requirements for a given fiscal year
17 unless the source of State funding is identified and approved by the Office of State
18 Budget and Management. The Department shall provide the Office of State Budget and
19 Management and the Fiscal Research Division a quarterly report itemizing all medical
20 policy changes with total requirements of less than three million dollars (\$3,000,000).

21 **SECTION 10.11.(y)** The Department shall develop, amend, and adopt
22 medical coverage policy in accordance with the following:

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

50 **SECTION 10.11.(z)** For the purposes of investigating and reducing client
51 fraud and abuse, the Department of Health and Human Services, Division of Medical
52 Assistance, shall include in the Medicaid enrollment process the requirement that the
53 applicant for Medicaid consent to or authorize in writing the release of the applicant's
54 medical records for the three years immediately preceding the application for Medicaid
55 benefits. The Department shall obtain and use information from the applicant's medical

1 records in a manner and form that complies with the Health Insurance Portability and
2 Accountability Act of 1996 ("HIPAA"), P.L. 104-191, as amended, and that protects the
3 privacy of the information as required by other applicable federal or State law. In
4 addition to fraud and abuse detection, the Department may require the applicant's
5 consent for other purposes permitted by HIPAA and required or authorized by other
6 applicable federal or State law.

7
8 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

9 **DISPOSITION OF DISPROPORTIONATE SHARE RECEIPTS**

10 **SECTION 10.12.(a)** Disproportionate share receipts reserved at the end of
11 the 2005-2006 and 2006-2007 fiscal years shall be deposited with the Department of
12 State Treasurer as nontax revenue for each of those fiscal years.

13 **SECTION 10.12.(b)** For each year of the 2005-2007 fiscal biennium, as it
14 receives funds associated with Disproportionate Share Payments from State hospitals,
15 the Department of Health and Human Services, Division of Medical Assistance, shall
16 deposit up to one hundred million dollars (\$100,000,000) of these Disproportionate
17 Share Payments to the Department of State Treasurer for deposit as nontax revenue.
18 Any Disproportionate Share Payments collected in excess of one hundred million
19 dollars (\$100,000,000) shall be reserved by the State Treasurer for future
20 appropriations.

21
22 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

23 **COUNTY MEDICAID COST SHARE**

24 **SECTION 10.13.(a)** Effective July 1, 2000, the county share of the cost of
25 Medicaid services currently and previously provided by area mental health authorities
26 shall be increased incrementally each fiscal year until the county share reaches fifteen
27 percent (15%) of the nonfederal share by State fiscal year 2009-2010.

28 **SECTION 10.13.(b)** Effective July 1, 2000, the county share of the cost of
29 Medicaid Personal Care Services paid to adult care homes shall be decreased
30 incrementally each fiscal year until the county share reaches fifteen percent (15%) of
31 the nonfederal share by State fiscal year 2009-2010.

32
33 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

34 **MEDICAID COST CONTAINMENT ACTIVITIES**

35 **SECTION 10.14.** The Department of Health and Human Services may use
36 not more than three million dollars (\$3,000,000) in the 2005-2006 fiscal year and not
37 more than three million dollars (\$3,000,000) in the 2006-2007 fiscal year in Medicaid
38 funds budgeted for program services to support the cost of administrative activities
39 when cost-effectiveness and savings are demonstrated. The funds shall be used to
40 support activities that will contain the cost of the Medicaid Program, including
41 contracting for services or hiring additional staff. Medicaid cost-containment activities
42 may include prospective reimbursement methods, incentive-based reimbursement
43 methods, service limits, prior authorization of services, periodic medical necessity
44 reviews, revised medical necessity criteria, service provision in the least costly settings,
45 plastic magnetic stripped Medicaid identification cards for issuance to Medicaid
46 enrollees, fraud detection software or other fraud detection activities, technology that
47 improves clinical decision making, credit balance recovery and data mining services,
48 and other cost-containment activities. Funds may be expended under this section only
49 after the Office of State Budget and Management has approved a proposal for the
50 expenditure submitted by the Department. Proposals for expenditure of funds under this
51 section shall include the cost of implementing the cost-containment activity and
52 documentation of the amount of savings expected to be realized from the
53 cost-containment activity. The Department shall provide a copy of proposals for
54 expenditures under this section to the Fiscal Research Division.

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

2 **MEDICAID RESERVE FUND TRANSFER**

3 **SECTION 10.15.** Of the funds transferred to the Department of Health and
4 Human Services for Medicaid programs pursuant to G.S. 143-23.2, the sum of fifty
5 million dollars (\$50,000,000) for the 2005-2006 fiscal year and the sum of fifty million
6 dollars (\$50,000,000) for the 2006-2007 fiscal year shall be allocated as prescribed by
7 G.S. 143-23.2(b) for Medicaid programs. Notwithstanding the prescription in
8 G.S. 143-23.2(b) that these funds not reduce State general revenue funding, these funds
9 shall replace the reduction in general revenue funding effected in this act.

10
11 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

12 **NO PRIOR AUTHORIZATION FOR CERTAIN PRESCRIPTION DRUGS**
13 **UNDER MEDICAID**

14 **SECTION 10.16.** The Department of Health and Human Services, Division
15 of Medical Assistance, shall not establish prior authorization requirements or other
16 restrictions under the State Medical Assistance Program for FDA-approved medications
17 indicated for the treatment of life-threatening respiratory conditions due to chronic
18 obstructive pulmonary disease (COPD) or stroke. In developing a disease management
19 program, the Department of Health and Human Services shall include initiatives that
20 positively impact COPD and stroke-related health care costs.

21
22 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

23 **EXPAND COMMUNITY CARE OF NORTH CAROLINA MANAGEMENT TO**
24 **ADDITIONAL MEDICAID RECIPIENTS**

25 **SECTION 10.17.(a)** The Department of Health and Human Services shall
26 expand the scope of Community Care of NC care management model to recipients of
27 Medicaid and dually eligible individuals with a chronic condition and long-term care
28 needs. In expanding the scope, the Department shall focus on the Aged, Blind, and
29 Disabled, and CAP-DA populations for improvement in management,
30 cost-effectiveness, and local coordination of services through Community Care of NC
31 and in collaboration with local providers of care. The Department shall target personal
32 care services, private duty nursing, home health, durable medical equipment, ancillary
33 professional services, specialty care, residential services, including skilled nursing
34 facilities, home infusion therapy, pharmacy, and other services determined
35 target-worthy by the Department. The Department shall pilot communitywide
36 initiatives and shall expand statewide successful models.

37 **SECTION 10.17.(b)** The Department of Health and Human Services may
38 work with the federal government to attain the necessary regulatory and policy relief to
39 better align policy and economic incentives to improve care in the most cost-effective
40 manner and attain savings through controlled utilization of services.

41 **SECTION 10.17.(c)** The Department of Health and Human Services may
42 pay network and primary care providers an enhanced PMPM care management fee and
43 shall also provide additional block grant funds for start-up during the pilot phase.

44 **SECTION 10.17.(d)** The Department of Health and Human Services shall
45 report on the implementation of this section, including resulting savings and quality
46 improvement benchmarks to the Senate Appropriations Committee on Health and
47 Human Services, the House of Representatives Appropriations Subcommittee on Health
48 and Human Services, and the Fiscal Research Division not later than March 1, 2007.

49
50 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

51 **TICKET TO WORK/MEDICAID ELIGIBILITY**

52 **SECTION 10.18.(a)** Article 2 of Chapter 108A of the General Statutes is
53 amended by adding the following new section to read:

54 **"§ 108A-54.1. Medicaid buy-in for workers with disabilities.**

1 (a) Title. – This act may be cited as the Health Coverage for Workers With
2 Disabilities Act. The Department shall implement a Medicaid buy-in eligibility category
3 as permitted under P.L. 106-170, Ticket to Work and Work Incentives Improvement
4 Act of 1999. The Department shall establish rules, policies, and procedures to
5 implement this act in accordance with this section.

6 (b) Definitions. – As used in this section, unless the context clearly requires
7 otherwise:

8 (1) 'FPG' means the federal poverty guidelines.

9 (2) 'HCWD' means Health Coverage for Workers With Disabilities.

10 (3) 'SSI' means Supplemental Security Income.

11 (4) 'Ticket to Work' means the Ticket to Work and Work Incentives
12 Improvement Act of 1999.

13 (c) Eligibility. – An individual is eligible for HCWD if:

14 (1) The individual is at least 16 years of age and is less than 65 years of
15 age;

16 (2) The individual meets Social Security Disability criteria, or the
17 individual has been enrolled in HCWD and then becomes medically
18 improved as defined in Ticket to Work and as further specified by the
19 Department. An individual shall be determined to be eligible under this
20 section without regard to the individual's ability to engage in, or actual
21 engagement in, substantial gainful activity as defined in section 223 of
22 the Social Security Act (42 U.S.C. § 423(d)(4)). In conducting annual
23 redetermination of eligibility, the Department may not determine that
24 an individual participating in HCWD is no longer disabled based
25 solely on the individual's participation in employment or earned
26 income;

27 (3) The individual's unearned income does not exceed one hundred fifty
28 percent (150%) of FPG, and countable resources for the individual do
29 not exceed the resource limit for the minimum community spouse
30 resource standard under 42 U.S.C. § 1396r, and as further determined
31 by the Department. In determining an individual's countable income
32 and resources, the Department may not consider income or resources
33 that are disregarded under the State Medical Assistance Plan's
34 financial methodology, including the sixty-five-dollar (\$65.00)
35 disregard, impairment-related work expenses, student earned-income
36 exclusions, and other SSI program work incentive income disregards;
37 and

38 (4) The individual is engaged in a substantial and reasonable work effort
39 (employed) as provided in this subdivision and as further defined by
40 the Department and allowable under federal law. For purposes of this
41 subsection, "engaged in substantial and reasonable work effort" means
42 all of the following:

43 a. Working in a competitive, inclusive work setting, or
44 self-employed.

45 b. Earning at least the applicable minimum wage.

46 c. Having monthly earnings above the SSI basic sixty-five-dollar
47 (\$65.00) earned-income disregard.

48 d. Being able to provide evidence of paying applicable Medicare,
49 Social Security, and State and federal income taxes.

50 The Department may impose additional earnings requirements in
51 defining "engaged in substantial and reasonable work effort" for
52 individuals who are eligible for HCWD based on medical
53 improvement.

54 Individuals who participate in HCWD but thereafter become
55 unemployed for involuntary reasons, including health reasons, shall

1 have continued eligibility in HCWD for up to 12 months from the time
2 of involuntary unemployment, so long as the individual (i) maintains a
3 connection with the workforce, as determined by the Department, (ii)
4 meets all other eligibility criteria for HCWD during the period, and
5 (iii) pays applicable fees, premiums, and co-payments.

6 (d) Fees, Premiums, and Co-Payments. – Individuals who participate in HCWD
7 and have countable income greater than one hundred fifty percent (150%) of FPG shall
8 pay an annual enrollment fee of fifty dollars (\$50.00) to their county department of
9 social services. Individuals who participate in HCWD and have countable income
10 greater than or equal to two hundred percent (200%) of FPG shall pay a monthly
11 premium in addition to the annual fee. The Department shall set a sliding scale for
12 premiums, which is consistent with applicable federal law. An individual with countable
13 income equal to or greater than four hundred fifty percent (450%) of FPG shall pay not
14 less than one hundred percent (100%) of the cost of the premium, as determined by the
15 Department. The premium shall be based on the experience of all individuals
16 participating in the Medical Assistance Program. Individuals who participate in HCWD
17 are subject to co-payments equal to those required under the North Carolina Health
18 Choice Program."

19 **SECTION 10.18.(b)** Of the funds appropriated in this act to the Department
20 of Health and Human Services, Division of Medical Assistance, the sum of one hundred
21 fifty thousand dollars (\$150,000) for the 2006-2007 fiscal year shall be used to support
22 the expansion of Medicaid eligibility authorized under subsection (a) of this section.

23 **SECTION 10.18.(c)** Subsection (b) of this section becomes effective July 1,
24 2006. Subsection (a) of this section becomes effective January 1, 2007. The remainder
25 of this section is effective when it becomes law.

26
27 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

28 **MEDICAID PERSONAL CARE SERVICES LIMITATIONS**

29 **SECTION 10.19.(a)** The Department of Health and Human Services,
30 Division of Medical Assistance, shall apply the following minimum criteria for
31 eligibility for personal care services under Medicaid:

- 32 (1) Personal care services shall not exceed three hours per day and 40
33 hours per month.
- 34 (2) Before services are authorized, the individual must be assessed by a
35 physician who has examined the individual. The assessing physician
36 must use an assessment tool identified by the Division.
- 37 (3) The physician must see the individual at least every six months after
38 service is approved to determine if the need for services continues to
39 exist.
- 40 (4) The provider of personal care services must ensure that a nurse
41 reviews the individual's services every 90 days or less, as determined
42 by the Division of Medical Assistance.

43 The Division may include additional criteria for eligibility for personal care
44 services.

45 **SECTION 10.19.(b)** The Division of Medical Assistance shall work with
46 Community Care of North Carolina (CCNC) to determine how CCNC can help with the
47 review of the need for personal care services.

48 **SECTION 10.19.(c)** The Division of Medical Assistance shall study and
49 determine appropriate utilization/prior authorization systems for personal care services
50 and other home and community-based services that can be provided to individuals who
51 meet medical criteria and that can be implemented when the new MMIS goes into
52 effect. The Department of Health and Human Services, Division of Medical Assistance,
53 shall report the plan for implementation of this section, including costs, not later than
54 May 1, 2006, to the Senate Appropriations Committee on Health and Human Services,

1 the House of Representatives Appropriations Subcommittee on Health and Human
2 Services, and the Fiscal Research Division.

3
4 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

5 **CAP-DA CHANGES**

6 **SECTION 10.20.(a)** The Department of Health and Human Services,
7 Division of Medical Assistance, shall develop a new system for reimbursing for the
8 CAP-DA program. The new system shall:

- 9 (1) Use a case-mix reimbursement system, similar to the one used by
10 nursing facilities, to determine the level of care provided and the
11 amount paid for the care provided; and
12 (2) Use the Resource Utilization Groups-III (RUG-III) to determine level
13 of need for CAP-DA services.

14 **SECTION 10.20.(b)** When determining eligibility and service level for
15 CAP-DA services, the Division shall include criteria that consider the ability and
16 availability of family members to provide care.

17 **SECTION 10.20.(c)** Not later than May 1, 2006, the Department of Health
18 and Human Services, Division of Medical Assistance, shall report on the development
19 of the new system, including an implementation schedule. Full implementation of the
20 new system shall be not later than January 1, 2007. The Department shall submit the
21 report to the Senate Appropriations Committee on Health and Human Services, the
22 House of Representatives Appropriations Subcommittee on Health and Human
23 Services, and the Fiscal Research Division.

24
25 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

26 **DMA ACCESS TO HEALTH INSURANCE INFORMATION TO ENSURE**
27 **RECOUPMENT OF MEDICAID FUNDS SPENT ON MEDICAL CARE**
28 **COVERED BY INSURANCE**

29 **SECTION 10.21.(a)** Part 1 of Article 50 of Chapter 58 of the General
30 Statutes is amended by adding the following new section to read:

31 **"§ 58-50-46. Insurers to provide certain information to Department of Health and**
32 **Human Services.**

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

- 34 (1) 'Department' means the Department of Health and Human Services.
35 (2) 'Division' means the Division of Medical Assistance of the Department
36 of Health and Human Services.
37 (3) 'Health benefit plan' and 'insurer' have the meaning applicable under
38 G.S. 58-3-167.
39 (4) 'Medical assistance' means medical assistance benefits provided under
40 the State Medical Assistance Plan.

41 (b) Every insurer issuing a health benefit plan shall provide to the Department of
42 Health and Human Services, upon its request, information, including automated data
43 matches conducted under the direction of the Department of Health and Human
44 Services, Division of Medical Assistance, as necessary for the purpose of identifying
45 individuals covered under the insurer's health benefit plans who are also recipients of
46 medical assistance. To facilitate the Division in obtaining this and other related
47 information, every insurer shall:

- 48 (1) Cooperate with the Division to determine whether a named individual
49 who is a recipient of medical assistance may be covered under the
50 insurer's health benefit plan and eligible to receive benefits under the
51 health benefit plan for services provided under the State Medical
52 Assistance Plan;
53 (2) Accept the Division's authorization for the provision of medical
54 services on behalf of the recipient of medical assistance as the insurer's
55 authorization for the provision of the services; and

1 (3) Respond within 15 working days after receipt of written proof of loss
2 or claim for payment for health care services provided to a recipient of
3 medical assistance who is covered by the insurer's health benefit plan.

4 (c) An insurer that complies with this section shall not be liable on that account
5 in any civil or criminal action or proceedings brought by an individual covered under
6 the insurer's health benefit plan, or the individual's beneficiaries."

7 **SECTION 10.21.(b)** G.S. 108A-70 reads as rewritten:

8 "**§ 108A-70. Recoupment of amounts spent on medical care.**

9 (a) The Department may garnish the wages, salary, or other employment income
10 of, and the Secretary of Revenue shall withhold amounts from State tax refunds to, any
11 person who:

12 (1) Is required by court or administrative order to provide health benefit
13 plan coverage for the cost of health care services to a child eligible for
14 medical assistance under Medicaid; and

15 (2) Has received payment from a third party for the costs of such services;
16 but

17 (3) Has not used such payments to reimburse, as appropriate, either the
18 other parent or guardian of the child or the provider of the services;

19 to the extent necessary to reimburse the Department for expenditures for such costs
20 under this Part; provided, however, claims for current and past due child support shall
21 take priority over any such claims for the costs of such services.

22 (b) To the extent that payment for covered services has been made under
23 G.S. 108A-55 for health care items or services furnished to an individual, in any case
24 where a third party has a legal liability to make payments, the Department of Health and
25 Human Services is considered to have acquired the rights of the individual to payment
26 by any other party for those health care items or services.

27 (c) The Department of Health and Human Services, Division of Medical
28 Assistance, may request, receive, and use information obtained pursuant to
29 G.S. 58-50-46 in order to enforce this section."

30
31 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

32 **NC HEALTH CHOICE APPROPRIATIONS; CLAIMS PROCESSING;**
33 **MEDICAID RATES**

34 **SECTION 10.22.(a)** The total amount of funds appropriated to the North
35 Carolina Health Choice for Children Program for the 2005-2007 fiscal biennium may be
36 increased through budget transfers, subject to the approval of the Office of State Budget
37 and Management, if needed to match available federal funds to support program
38 expenditures.

39 **SECTION 10.22.(b)** The Department of Health and Human Services shall
40 issue a Request for Proposal to contract for administration and claims processing of the
41 NC Health Choice Program. The contract shall provide for applying Medicaid rates for
42 service providers as provided by law. The Department shall schedule the review process
43 for proposals received such that the Department has signed a contract with the selected
44 contractor not later than July 1, 2006. The contract shall provide for full implementation
45 of administration and claims processing, including the application of Medicaid rates for
46 service providers other than prescription drug and dental care providers, not later than
47 July 1, 2007. The Department shall study the impact of paying dental care providers at
48 Medicaid rates and shall make its recommendation to the Senate Appropriations
49 Committee on Health and Human Services, the House of Representatives
50 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research
51 Division not later than May 1, 2006.

52 **SECTION 10.22.(c)** Effective July 1, 2007, G.S. 108A-70.22,
53 G.S. 108A-70.24, and Part 5 of Article 3 of Chapter 135 of the General Statutes are
54 repealed.

1 **SECTION 10.22.(d)** Effective July 1, 2007, G.S. 108A-70.20 reads as
2 rewritten:

3 **"§ 108A-70.20. Program established.**

4 The Health Insurance Program for Children is established. The Program shall be
5 administered by the Department of Health and Human Services in accordance with this
6 Part and as required under Title XXI and related federal rules and regulations.
7 ~~Administration of Program benefits and claims processing shall be as provided under~~
8 ~~Part 5 of Article 3 of Chapter 135 of the General Statutes."~~

9 **SECTION 10.22.(e)** Effective July 1, 2007, G.S. 108A-70.21(b) reads as
10 rewritten:

11 **"§ 108A-70.21. Program eligibility; benefits; enrollment fee and other**
12 **cost-sharing; coverage from private plans; purchase of extended**
13 **coverage.**

14 ...
15 (b) Benefits. – Except as otherwise provided for eligibility, fees, deductibles,
16 copayments, and other cost-sharing charges, health benefits coverage provided to
17 children eligible under the Program shall be equivalent to coverage provided for
18 dependents under the North Carolina Teachers' and State Employees' Comprehensive
19 Major Medical Plan, including optional prepaid plans. Prescription drug providers shall
20 accept as payment in full, for outpatient prescriptions filled, ninety percent (90%) of the
21 average wholesale price for the prescription drug or the amounts published by the
22 Centers for Medicare and Medicaid Services plus a dispensing fee of five dollars and
23 sixty cents (\$5.60) per prescription for generic drugs and four dollars (\$4.00) per
24 prescription for brand name drugs. Except for dental care providers, All other health
25 care providers providing services to Program enrollees shall accept as payment in full
26 for services rendered the maximum allowable charges under the North Carolina
27 Teachers' and State Employees' Comprehensive Major Medical Plan State Medical
28 Assistance Program for services less any copayments assessed to enrollees under this
29 Part. Dental care providers providing services to Program enrollees shall accept as
30 payment in full for services rendered the maximum allowable charges under the North
31 Carolina Teachers' and State Employees' Comprehensive Major Medical Plan for
32 services less any co-payments assessed to enrollees under this Part. No child enrolled in
33 the Plan's self-insured indemnity program shall be required by the Plan to change health
34 care providers as a result of being enrolled in the Program.

35 In addition to the benefits provided under the Plan, the following services and
36 supplies are covered under the Health Insurance Program for Children established under
37 this Part:

- 38 (1) Dental: Oral examinations, teeth cleaning, and scaling twice during a
39 12-month period, full mouth X-rays once every 60 months, supplemental bitewing X-rays showing the back of the teeth once
40 during a 12-month period, fluoride applications twice during a
41 12-month period, fluoride varnish, sealants, simple extractions,
42 therapeutic pulpotomies, prefabricated stainless steel crowns, and
43 routine fillings of amalgam or other tooth-colored filling material to
44 restore diseased teeth. No benefits are to be provided for services
45 under this subsection that are not performed by or upon the direction
46 of a dentist, doctor, or other professional provider approved by the
47 Plan nor for services and materials that do not meet the standards
48 accepted by the American Dental Association.
49 (2) Vision: Scheduled routine eye examinations once every 12 months,
50 eyeglass lenses or contact lenses once every 12 months, routine
51 replacement of eyeglass frames once every 24 months, and optical
52 supplies and solutions when needed. Optical services, supplies, and
53 solutions must be obtained from licensed or certified ophthalmologists,
54 optometrists, or optical dispensing laboratories. Eyeglass lenses are
55

1 limited to single vision, bifocal, trifocal, or other complex lenses
 2 necessary for a Plan enrollee's visual welfare. Coverage for oversized
 3 lenses and frames, designer frames, photosensitive lenses, tinted
 4 contact lenses, blended lenses, progressive multifocal lenses, coated
 5 lenses, and laminated lenses is limited to the coverage for single
 6 vision, bifocal, trifocal, or other complex lenses provided by this
 7 subsection. Eyeglass frames are limited to those made of zylonite,
 8 metal, or a combination of zylonite and metal. All visual aids covered
 9 by this subsection require prior approval of the Plan. Upon prior
 10 approval by the Plan, refractions may be covered more often than once
 11 every 12 months.

- 12 (3) Hearing: Auditory diagnostic testing services and hearing aids and
 13 accessories when provided by a licensed or certified audiologist,
 14 otolaryngologist, or other hearing aid specialist approved by the Plan.
 15 Prior approval of the Plan is required for hearing aids, accessories,
 16 earmolds, repairs, loaners, and rental aids.

17 The Department may provide services to children aged birth through five years enrolled
 18 in the Program through the State Medical Assistance managed care program. Services
 19 provided through the managed care program shall be paid from Program funds."
 20

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

22 **HEALTH CHOICE SUBROGATION SAME AS MEDICAID**

23 **SECTION 10.23.** Part 8 of Article 2 of Chapter 108A of the General Statutes
 24 is amended by adding the following new section to read:

25 "**§ 108A-70.29. Subrogation rights.**

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

40 The United States and the State of North Carolina shall be entitled to shares in each
 41 net recovery under this section. Their shares shall be promptly paid under this section,
 42 and their proportionate parts of such sum shall be determined in accordance with the
 43 matching formulas in use during the period for which assistance was paid to the
 44 recipient.

45 (b) It is a Class 1 misdemeanor for any person seeking or having obtained
 46 assistance under this Part for himself or another to willfully fail to disclose to the county
 47 department of social services or its attorney the identity of any person or organization
 48 against whom the recipient of assistance has a right of recovery, contractual or
 49 otherwise."

50
 51 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

52 **LONG-TERM PLAN FOR MEETING MENTAL HEALTH,**
 53 **DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES**
 54 **NEEDS**

1 **SECTION 10.24.(a)** The Secretary of the Department of Health and Human
2 Services shall, in consultation with interested advocacy groups and affected State and
3 local agencies, develop a long-range plan for addressing the mental health,
4 developmental disabilities, and substance abuse services needs of the State. The plan
5 shall be consistent with the plan developed pursuant to G.S. 122C-102, and shall
6 address the following:

- 7 (1) The services needed at the community level within each LME in order
8 to ensure an adequate level of services to the average number of
9 persons needing the services based on population projections.
- 10 (2) The full continuum of services needed for each disability group within
11 an LME, including:
12 a. Which services could be regional or multi-LME based;
13 b. What percent of the population each LME would expect to use
14 State-level facilities; and
15 c. An inventory of existing services within each LME for each
16 disability group, and the gaps that exist;
- 17 (3) Projected growth in services for each disability group within each
18 LME or region that can reasonably be managed over the ensuing
19 five-year period; and
- 20 (4) Projected start-up costs and the total funding needed in each year from
21 the Trust Fund for Mental Health, Developmental Disabilities, and
22 Substance Abuse Services and Bridge Funding Needs to implement the
23 long-range plan.

24 Funds shall not be transferred from the Trust Fund for Mental Health,
25 Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs
26 until the Secretary has consulted with the Joint Legislative Commission on
27 Governmental Operations, the Joint Legislative Oversight Committee on Mental Health,
28 Developmental Disabilities, and Substance Abuse Services, and the Chairs of the Senate
29 Appropriations Committee on Health and Human Services and the House of
30 Representatives Appropriations Subcommittee on Health and Human Services.

31 **SECTION 10.24.(b)** Moneys in the Trust Fund established pursuant to
32 G.S. 143-15D shall be used to establish or expand community-based services only if
33 sufficient recurring funds can be identified within the Department from funds currently
34 budgeted for mental health, developmental disabilities, and substance abuse services,
35 area mental health programs or county programs, or local government.

36 **SECTION 10.24.(c)** Not later than January 1, 2006, the Department of
37 Health and Human Services shall report on the implementation of this section to the
38 Senate Appropriations Committee on Health and Human Services, the House of
39 Representatives Appropriations Subcommittee on Health and Human Services, and the
40 Fiscal Research Division.

41
42 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

43 **COMPREHENSIVE TREATMENT SERVICES PROGRAM**

44 **SECTION 10.25.(a)** The Department of Health and Human Services shall
45 continue the Comprehensive Treatment Services Program for children at risk for
46 institutionalization or other out-of-home placement. The Program shall be implemented
47 by the Department in consultation with the Department of Juvenile Justice and
48 Delinquency Prevention, the Department of Public Instruction, and other affected State
49 agencies. The purpose of the Program is to provide appropriate and medically
50 necessary residential and nonresidential treatment alternatives for children at risk of
51 institutionalization or other out-of-home placement. Program funds shall be targeted for
52 non-Medicaid eligible children. Program funds may also be used to expand a
53 system-of-care approach for services to children and their families statewide. The
54 program shall include the following:

- 1 (1) Behavioral health screening for all children at risk of
2 institutionalization or other out-of-home placement.
- 3 (2) Appropriate and medically necessary residential and nonresidential
4 services for deaf children.
- 5 (3) Appropriate and medically necessary residential and nonresidential
6 treatment services including placements for sexually aggressive youth.
- 7 (4) Appropriate and medically necessary residential and nonresidential
8 treatment services including placements for youths needing substance
9 abuse treatment services and children with serious emotional
10 disturbances.
- 11 (5) Multidisciplinary case management services, as needed.
- 12 (6) A system of utilization review specific to the nature and design of the
13 Program.
- 14 (7) Mechanisms to ensure that children are not placed in department of
15 social services custody for the purpose of obtaining mental health
16 residential treatment services.
- 17 (8) Mechanisms to maximize current State and local funds and to expand
18 use of Medicaid funds to accomplish the intent of this Program.
- 19 (9) Other appropriate components to accomplish the Program's purpose.
- 20 (10) The Secretary of the Department of Health and Human Services may
21 enter into contracts with residential service providers.
- 22 (11) A system of identifying and tracking children placed outside of the
23 family unit in group homes, therapeutic foster care home settings, and
24 other out-of-home placements.

25 **SECTION 10.25.(b)** In order to ensure that children at risk for
26 institutionalization or other out-of-home placement are appropriately served by the
27 mental health, developmental disabilities, and substance abuse services system, the
28 Department of Health and Human Services, Division of Mental Health, Developmental
29 Disabilities, and Substance Abuse Services, shall do the following with respect to
30 services provided to these children:

- 31 (1) Provide only those treatment services that are medically necessary.
- 32 (2) Implement utilization review of services provided.
- 33 (3) Adopt the following guiding principles for the provision of services:
 - 34 a. Service delivery system must be outcome-oriented and
35 evaluation-based.
 - 36 b. Services should be delivered as close as possible to the child's
37 home.
 - 38 c. Services selected should be those that are most efficient in
39 terms of cost and effectiveness.
 - 40 d. Services should not be provided solely for the convenience of
41 the provider or the client.
 - 42 e. Families and consumers should be involved in decision making
43 throughout treatment planning and delivery.
- 44 (4) Implement all of the following cost-reduction strategies:
 - 45 a. Preauthorization for all services except emergency services.
 - 46 b. Levels of care to assist in the development of treatment plans.
 - 47 c. Clinically appropriate services.

48 **SECTION 10.25.(c)** The Department shall collaborate with other affected
49 State agencies such as the Department of Juvenile Justice and Delinquency Prevention,
50 the Department of Public Instruction, the Administrative Office of the Courts, and with
51 local departments of social services, area mental health programs, and local education
52 agencies to eliminate cost shifting and facilitate cost-sharing among these governmental
53 agencies with respect to the treatment and placement services.

54 **SECTION 10.25.(d)** The Department shall not allocate funds appropriated
55 for Program services until a Memorandum of Agreement has been executed between the

1 Department of Health and Human Services, the Department of Public Instruction, and
2 other affected State agencies. The Memorandum of Agreement shall address
3 specifically the roles and responsibilities of the various departmental divisions and
4 affected State agencies involved in the administration, financing, care, and placement of
5 children at risk of institutionalization or other out-of-home placement. The Department
6 shall not allocate funds appropriated in this act for the Program until Memoranda of
7 Agreement between local departments of social services, area mental health programs,
8 local education agencies, and the Administrative Office of the Courts and the
9 Department of Juvenile Justice and Delinquency Prevention, as appropriate, are
10 executed to effectuate the purpose of the Program. The Memoranda of Agreement shall
11 address issues pertinent to local implementation of the Program, including provision for
12 the immediate availability of student records to a local school administrative unit
13 receiving a child placed in a residential setting outside the child's home county.

14 **SECTION 10.25.(e)** Notwithstanding any other provision of law to the
15 contrary, services under the Comprehensive Treatment Services Program are not an
16 entitlement for non-Medicaid eligible children served by the Program.

17 **SECTION 10.25.(f)** Of the funds appropriated in this act for the
18 Comprehensive Treatment Services Program, the Department of Health and Human
19 Services shall establish a reserve of three percent (3%) to ensure availability of these
20 funds to address specialized needs for children with unique or highly complex
21 problems.

22 **SECTION 10.25.(g)** The Department of Health and Human Services, in
23 conjunction with the Department of Juvenile Justice and Delinquency Prevention, the
24 Department of Public Instruction, and other affected agencies, shall report on the
25 following Program information:

- 26 (1) The number and other demographic information of children served.
- 27 (2) The amount and source of funds expended to implement the Program.
- 28 (3) Information regarding the number of children screened, specific
29 placement of children including the placement of children in programs
30 or facilities outside of the child's home county, and treatment needs of
31 children served.
- 32 (4) The average length of stay in residential treatment, transition, and
33 return to home.
- 34 (5) The number of children diverted from institutions or other out-of-home
35 placements such as training schools and State psychiatric hospitals and
36 a description of the services provided.
- 37 (6) Recommendations on other areas of the Program that need to be
38 improved.
- 39 (7) Other information relevant to successful implementation of the
40 Program.

41 **SECTION 10.25.(h)** The Department shall submit a report on December 1,
42 2005, on the implementation of this section and a final report not later than April 1,
43 2006, to the House of Representatives Appropriations Subcommittee on Health and
44 Human Services, the Senate Appropriations Committee on Health and Human Services,
45 the Joint Legislative Oversight Committee on Mental Health, Developmental
46 Disabilities, and Substance Abuse Services, and the Fiscal Research Division.

47 **SECTION 10.25.(i)** This section expires July 1, 2006.

48
49 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

50 **SERVICES TO MULTIPLY DIAGNOSED ADULTS**

51 **SECTION 10.26.(a)** In order to ensure that multiply diagnosed adults are
52 appropriately served by the mental health, developmental disabilities, and substance
53 abuse services system, the Department of Health and Human Services, Division of
54 Mental Health, Developmental Disabilities, and Substance Abuse Services, shall do the
55 following with respect to services provided to these adults:

- 1 (1) Implement the following guiding principles for the provision of
- 2 services:
- 3 a. Service delivery system must be outcome-oriented and
- 4 evaluation-based.
- 5 b. Services should be delivered as close as possible to the
- 6 consumer's home.
- 7 c. Services selected should be those that are most efficient in
- 8 terms of cost and effectiveness.
- 9 d. Services should not be provided solely for the convenience of
- 10 the provider or the client.
- 11 e. Families and consumers should be involved in decision making
- 12 throughout treatment planning and delivery.
- 13 (2) Provide those treatment services that are medically necessary.
- 14 (3) Implement utilization review of services provided.

15 **SECTION 10.26.(b)** The Department of Health and Human Services shall
 16 implement all of the following cost-reduction strategies:

- 17 (1) Preauthorization for all services except emergency services.
- 18 (2) Criteria for determining medical necessity.
- 19 (3) Clinically appropriate services.

20 **SECTION 10.26.(c)** No State funds shall be used for the purchase of
 21 single-family or other residential dwellings to house multiply diagnosed adults.

22 **SECTION 10.26.(d)** The Department shall submit a progress report on
 23 implementation of this section not later than February 1, 2006, and a final report not
 24 later than May 1, 2006, to the Senate Appropriations Committee on Health and Human
 25 Services, the House of Representatives Appropriations Subcommittee on Health and
 26 Human Services, the Joint Legislative Oversight Committee on Mental Health,
 27 Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research
 28 Division.

29 **SECTION 10.26.(e)** This section expires July 1, 2006.

30
 31 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

32 **EXTEND MENTAL HEALTH CONSUMER ADVOCACY PROGRAM**
 33 **CONTINGENT UPON FUNDS APPROPRIATED BY THE 2007 GENERAL**
 34 **ASSEMBLY**

35 **SECTION 10.27.** Section 4 of S.L. 2001-437, as amended by Section 10.30
 36 of S.L. 2002-126, and as further amended by Section 10.10 of S.L. 2003-284, reads as
 37 rewritten:

38 "**SECTION 4.** Sections 1.1 through 1.21(b) of this act become effective July 1,
 39 2002. ~~Section 2 of this act becomes effective only if funds are appropriated by the 2005~~
 40 ~~General Assembly for that purpose.~~ Section 2 of this act becomes effective July 1 of the
 41 fiscal year for which funds are appropriated by the ~~2005~~ General Assembly for that
 42 purpose. The remainder of this act is effective when it becomes law."
 43

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

45 **TRANSITION PLANNING FOR STATE PSYCHIATRIC HOSPITALS**

46 **SECTION 10.28.(a)** In keeping with the United States Supreme Court
 47 decision in Olmstead vs. L.C. & E.W. and State policy to provide appropriate services
 48 to clients in the least restrictive and most appropriate environment, the Department of
 49 Health and Human Services shall continue to implement a plan for the transition of
 50 patients from State psychiatric hospitals to the community or to other long-term care
 51 facilities, as appropriate. The goal is to develop mechanisms and identify resources
 52 needed to enable patients and their families to receive the necessary services and
 53 supports based on the following guiding principles:

- 54 (1) Individuals shall be provided acute psychiatric care in non-State
- 55 facilities when appropriate.

- 1 (2) Individuals shall be provided acute psychiatric care in State facilities
2 only when non-State facilities are unavailable.
3 (3) Individuals shall receive evidenced-based psychiatric services and care
4 that are cost-efficient.
5 (4) The State shall minimize cost shifting to other State and local facilities
6 or institutions.

7 **SECTION 10.28.(b)** The Department of Health and Human Services shall
8 conduct an analysis of the individual patient service needs and shall develop and
9 implement an individual transition plan, as appropriate, for patients in each hospital.
10 The State shall ensure that each individual transition plan, as appropriate, shall take into
11 consideration the availability of appropriate alternative placements based on the needs
12 of the patient and within resources available for the mental health, developmental
13 disabilities, and substance abuse services system. In developing each plan, the
14 Department shall consult with the patient and the patient's family or other legal
15 representative.

16 **SECTION 10.28.(c)** In accordance with the plan established in subsections
17 (a) and (b) of this section, any nonrecurring savings in State appropriations that result
18 from reductions in beds or services shall be placed in the Trust Fund for Mental Health,
19 Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs.
20 These funds shall be used to facilitate the transition of clients into appropriate
21 community-based services and supports in accordance with G.S. 143-15.3D. Recurring
22 savings realized through implementation of this section shall be retained by the
23 Department of Health and Human Services, Division of Mental Health, Developmental
24 Disabilities, and Substance Abuse Services, (i) for implementation of subsections (a)
25 and (b) of this section and (ii) to support the recurring costs of additional
26 community-based placements from Division facilities in accordance with Olmstead vs.
27 L.C. & E.W.

28 **SECTION 10.28.(d)** The Department of Health and Human Services shall
29 submit reports on the status of implementation of this section to the Joint Legislative
30 Commission on Governmental Operations, the Senate Appropriations Committee on
31 Health and Human Services, the House of Representatives Appropriations
32 Subcommittee on Health and Human Services, the Joint Legislative Oversight
33 Committee on Mental Health, Developmental Disabilities, and Substance Abuse
34 Services, and the Fiscal Research Division. These reports shall be submitted on
35 December 1, 2005, and May 1, 2006.

36
37 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

38 **MENTAL RETARDATION CENTER DOWNSIZING**

39 **SECTION 10.29.(a)** In accordance with the Department of Health and
40 Human Services' plan for downsizing the State's regional mental retardation facilities by
41 four percent (4%) each year, the Department shall implement cost-containment and
42 reduction strategies to ensure the corresponding financial and staff downsizing of each
43 facility. The Department shall manage the client population of the mental retardation
44 centers in order to ensure that placements for ICF/MR level of care shall be made in
45 non-State facilities. Admissions to State ICF/MR facilities are permitted only as a last
46 resort and only upon approval of the Department. The corresponding budgets for each
47 of the State mental retardation centers shall be reduced, and positions shall be
48 eliminated as the census of each facility decreases. At no time shall mental retardation
49 center positions be transferred to other units within a facility or assigned nondirect care
50 activities such as outreach.

51 **SECTION 10.29.(b)** The Department of Health and Human Services shall
52 apply any savings in State appropriations in each year of the 2005-2007 fiscal biennium
53 that result from reductions in beds or services as follows:

- 54 (1) The Department shall place nonrecurring savings in the Trust Fund for
55 Mental Health, Developmental Disabilities, and Substance Abuse

1 Services and Bridge Funding Needs and use the savings to facilitate
 2 the transition of clients into appropriate community-based services and
 3 support in accordance with G.S. 143-15.3D;

4 (2) The Department of Health and Human Services, Division of Mental
 5 Health, Developmental Disabilities, and Substance Abuse Services,
 6 shall retain recurring savings realized through implementation of this
 7 section to support the recurring costs of additional community-based
 8 placements from Division facilities in accordance with Olmstead vs.
 9 L.C. & E.W. In determining the savings in this section, savings shall
 10 include all savings realized from the downsizing of the State mental
 11 retardation centers, including the savings in direct State appropriations
 12 in the budgets of the State mental retardation centers; and

13 (3) The Department of Health and Human Services, Division of Medical
 14 Assistance, shall transfer any recurring Medicaid savings resulting
 15 from the downsizing of State-operated MR centers from the ICF-MR
 16 line in Medicaid to the CAP-MR/DD line.

17 **SECTION 10.29.(c)** The Department of Health and Human Services shall
 18 report on its progress in complying with this section to the Senate Appropriations
 19 Committee on Health and Human Services, the House of Representatives
 20 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research
 21 Division. The Department shall submit the progress report no later than January 15,
 22 2006, and submit a final report no later than May 1, 2006.

23 **SECTION 10.29.(d)** The Department of Health and Human Services shall
 24 maintain downsizing of mental retardation centers occurring in the 2005-2006 fiscal
 25 year for the 2006-2007 fiscal year. The Department shall accomplish downsizing in
 26 accordance with this section and the State Plan for Mental Health, Developmental
 27 Disabilities, and Substance Abuse Services. The Department shall use all savings
 28 resulting from downsizing occurring on and after July 1, 2005, as set forth in subsection
 29 (b) of this section.

30
 31 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan
 32 **PRIVATE AGENCY UNIFORM COST FINDING REQUIREMENT**

33 **SECTION 10.30.(a)** To ensure uniformity in rates charged to area programs
 34 and funded with State-allocated resources, the Division of Mental Health,
 35 Developmental Disabilities, and Substance Abuse Services of the Department of Health
 36 and Human Services may require a private agency that provides services under contract
 37 with an area program or county program, except for hospital services that have an
 38 established Medicaid rate, to complete an agency-wide uniform cost finding in
 39 accordance with G.S. 122C-147.2. The resulting cost shall be the maximum included
 40 for the private agency in the contracting area program's unit cost finding.

41 **SECTION 10.30.(b)** If a private agency fails to timely and accurately
 42 complete the required agency-wide uniform cost finding in a manner acceptable to the
 43 Department's controller's office, the Department may suspend all Department funding
 44 and payment to the private agency until such time as an acceptable cost finding has been
 45 completed by the private agency and approved by the Department's controller's office.

46
 47 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan
 48 **DHHS POLICIES AND PROCEDURES IN DELIVERING COMMUNITY**
 49 **MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND**
 50 **SUBSTANCE ABUSE SERVICES**

51 **SECTION 10.31.** The Department of Health and Human Services, Division
 52 of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall in
 53 cooperation with area mental health authorities and county programs, identify and
 54 eliminate administrative and fiscal barriers created by existing State and local policies
 55 and procedures in the delivery of community-based mental health, developmental

1 disabilities, and substance abuse services provided through the area programs and
2 county programs, including services provided through the Comprehensive Treatment
3 Services Program for Children and services delivered to multiply diagnosed adults. The
4 Department shall implement changes in policies and procedures in order to facilitate all
5 of the following:

- 6 (1) The provision of services to adults and children as defined in the
7 Mental Health System Reform State Plan as priority or targeted
8 populations.
- 9 (2) A revised system of allocating State and federal funds to area mental
10 health authorities and county programs that reflects projected needs,
11 including the impact of system reform efforts rather than historical
12 allocation practices and spending patterns.
- 13 (3) The provision of services to children not deemed eligible for the
14 Comprehensive Treatment Services Program for Children, but who
15 would otherwise be in need of medically necessary treatment services
16 to prevent out-of-home placement.
- 17 (4) The provision of services in the community to adults remaining in and
18 being placed in State institutions addressed in Olmstead v. L.C.

19 Area mental health, developmental disabilities, and substance abuse services
20 authorities and county programs shall use all funds appropriated for and necessary to
21 provide mental health, developmental disabilities, and substance abuse services to meet
22 the need for these services. If excess funds are available after expending appropriated
23 funds to fully meet service needs, one-half of these excess funds shall not revert to the
24 General Fund but shall be transferred to the Trust Fund for Mental Health,
25 Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs,
26 except that one-half of the funds appropriated for the Comprehensive Treatment
27 Services Program for Children that are unexpended and unencumbered shall not revert
28 to the General Fund but shall be carried forward and used only for services for children
29 and adolescents.

30 The Department, in consultation with the area mental health authorities and
31 county programs, shall report to the House of Representatives Appropriations
32 Subcommittee on Health and Human Services, the Senate Appropriations Committee on
33 Health and Human Services, and the Joint Legislative Oversight Committee on Mental
34 Health, Developmental Disabilities, and Substance Abuse Services on the progress in
35 implementing these changes. The report shall be submitted on October 1, 2005, and
36 February 1, 2006.

37
38 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

39 **IMMUNITY FOR REPORTING ABUSE AND NEGLECT**

40 **SECTION 10.32.** G.S. 122C-66 reads as rewritten:

41 **"§ 122C-66. Protection from abuse and exploitation; reporting.**

42 (a) An employee of or a volunteer at a facility who, other than as a part of
43 generally accepted medical or therapeutic procedure, knowingly causes pain or injury to
44 a client or borrows or takes personal property from a client is guilty of a Class 1
45 misdemeanor. Any employee or volunteer who uses reasonable force to carry out the
46 provisions of G.S. 122C-60 or to protect himself or others from a violent client does not
47 violate this subsection.

48 (a1) An individual who witnesses or has knowledge of abuse, neglect, or
49 exploitation of a client of a residential facility may report the incident of abuse, neglect,
50 or exploitation to an authorized employee of the facility.

51 (b) An employee of a facility who witnesses or has knowledge of a violation of
52 subsection (a) or of an accidental injury to a client shall report the violation or
53 accidental injury to authorized personnel designated by the facility. No employee
54 making a report may be threatened or harassed by any other employee or volunteer on

1 account of the report. Violation of this subsection is a Class 3 misdemeanor punishable
 2 only by a fine, not to exceed five hundred dollars (\$500.00).

3 (c) The identity of an individual who makes a report under this section or who
 4 cooperates in an ensuing investigation may not be disclosed without his consent, except
 5 to persons authorized by the facility or by State or federal law to investigate or
 6 prosecute these incidents, or in a grievance or personnel hearing or civil or criminal
 7 action in which a reporting individual is testifying, or when disclosure is legally
 8 compelled or authorized by judicial discovery. This subsection shall not be interpreted
 9 to require the disclosure of the identity of an individual where it is otherwise prohibited
 10 by law.

11 (d) An employee or citizen who makes a report in good faith under this section is
 12 immune from any civil liability that might otherwise occur for the report. In any case
 13 involving liability, making of a report under this section is prima facie evidence that the
 14 maker acted in good faith.

15 (e) The duty imposed by this section is in addition to any duty imposed by
 16 G.S. 7B-301 or G.S. 108A-102.

17 (f) The facility shall investigate or provide for the investigation of all reports
 18 made under the provisions of this section."
 19

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

21 **RULES PERTAINING TO CONFLICT OF INTEREST IN REFERRALS TO**
 22 **PROVIDER AGENCIES**

23 **SECTION 10.33.** G.S. 122C-26 reads as rewritten:

24 **"§ 122C-26. Powers of the Commission.**

25 In addition to other powers and duties, the Commission shall exercise the following
 26 powers and duties:

- 27 (1) Adopt, amend, and repeal rules consistent with the laws of this State
 28 and the laws and regulations of the federal government to implement
 29 the provisions and purposes of this Article;
- 30 (2) Issue declaratory rulings needed to implement the provisions and
 31 purposes of this Article;
- 32 (3) Adopt rules governing appeals of decisions to approve or deny
 33 licensure under this Article;
- 34 (4) Adopt rules for the waiver of rules adopted under this Article; and
- 35 (5) Adopt rules applicable to facilities licensed under this Article:
 - 36 a. Establishing personnel requirements of staff employed in
 37 facilities;
 - 38 b. Establishing qualifications of facility administrators or
 39 directors;
 - 40 c. Establishing requirements for death reporting including
 41 confidentiality provisions related to death reporting; ~~and~~
 - 42 d. Establishing requirements for patient ~~advocates~~; advocates; and
 - 43 e. Requiring facility personnel who refer clients to provider
 44 agencies to disclose any pecuniary interest the referring person
 45 has in the provider agency, or other interest that may give rise
 46 to the appearance of impropriety."
 47

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

49 **LEGISLATIVE OVERSIGHT COMMITTEE ON MENTAL HEALTH,**
 50 **DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES**
 51 **TO STUDY OVERSIGHT AND MONITORING BY DEPARTMENT OF**
 52 **HEALTH AND HUMAN SERVICES OF SERVICES TO MENTAL HEALTH**
 53 **CONSUMERS**

54 **SECTION 10.34.** The Legislative Oversight Committee on Mental Health,
 55 Developmental Disabilities, and Substance Abuse Services shall study the oversight and

1 monitoring roles and activities of the Divisions of: Social Services, Facility Services,
2 Medical Assistance, and Mental Health, Developmental Disabilities, and Substance
3 Abuse Services, of the Department of Health and Human Services. The study shall
4 focus on how the oversight and monitoring activities benefit consumers of mental
5 health, developmental disabilities, and substance abuse services in residential settings,
6 and shall include in its report recommendations on ensuring quality of care and
7 increasing efficiency in the provision of services. The Oversight Committee shall report
8 its findings and recommendations to the Senate Appropriations Committee on Health
9 and Human Services, the House of Representatives Appropriations Subcommittee on
10 Health and Human Services, and the Fiscal Research Division not later than April 1,
11 2006.

12
13 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

14 **APPEALS PROCESS FOR CLIENTS OF MENTAL HEALTH,
15 DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES
16 PROGRAMS**

17 **SECTION 10.35.** G.S. 122C-151.2 reads as rewritten:

18 "**§ 122C-151.2. Appeal by area authorities and county programs; rules**
19 **governing appeals process for clients of area authorities or county**
20 **programs.**

21 (a) The area authority or county program may appeal to the Commission any
22 action regarding rules under the jurisdiction of the Commission or rules under the joint
23 jurisdiction of the Commission and the Secretary.

24 (b) The area authority or county program may appeal to the Secretary any action
25 regarding rules under the jurisdiction of the Secretary.

26 (b1) The Commission shall adopt rules governing an appeals process for clients to
27 the Division of Mental Health, Developmental Disabilities, and Substance Abuse
28 Services and the Secretary. The appeals process shall ensure that area authority and
29 county program services meet the requirements of applicable statutes and the rules of
30 the Commission and the Secretary.

31 (c) Appeals shall be conducted according to rules adopted by the Commission
32 and Secretary and in accordance with Chapter 150B of the General Statutes."
33

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

35 **CONTROLLED SUBSTANCES REPORTING**

36 **SECTION 10.36.(a)** Chapter 90 of the General Statutes is amended by
37 adding a new Article to read:

38 "Article 5D.

39 "North Carolina Controlled Substances Reporting Act.

40 **"§ 90-113.60. Short title.**

41 This Article shall be known and may be cited as the "North Carolina Controlled
42 Substances Reporting System Act."

43 **"§ 90-113.61. Legislative findings.**

44 The General Assembly makes the following findings:

45 (1) North Carolina is experiencing an epidemic of poisoning deaths from
46 unintentional drug overdoses.

47 (2) Since 1997, the number of deaths from unintentional drug overdoses
48 has increased threefold, from 228 deaths in 1997 to 690 deaths in
49 2003.

50 (3) The number of unintentional deaths from illicit drugs in North
51 Carolina has decreased since 1992 while unintentional deaths from
52 licit drugs, primarily prescriptions, have increased.

53 (4) Licit drugs are now responsible for over half of the fatal unintentional
54 poisonings in North Carolina.

- 1 (5) Over half of the prescription drugs associated with unintentional
2 deaths are narcotics (opioids).
3 (6) Of these licit drugs, deaths from methadone, usually prescribed as an
4 analgesic for severe pain, have increased sevenfold since 1997.
5 (7) Methadone from opioid treatment program clinics is a negligible
6 source of the methadone that has contributed to the dramatic increase
7 in unintentional methadone-related deaths in North Carolina.
8 (8) Review of the experience of the 19 states that have active controlled
9 substances reporting systems clearly documents that implementation of
10 these reporting systems do not create a "chilling" effect on prescribing.
11 (9) Review of data from controlled substances reporting systems help:
12 a. Support the legitimate medical use of controlled substances.
13 b. Identify and prevent diversion of prescribed controlled
14 substances.
15 c. Reduce morbidity and mortality from unintentional drug
16 overdoses.
17 d. Reduce the costs associated with the misuse and abuse of
18 controlled substances.
19 e. Assist clinicians in identifying and referring for treatment
20 patients misusing controlled substances.
21 f. Reduce the cost for law enforcement of investigating cases of
22 diversion and misuse.
23 g. Inform the public, including health care professionals, of the
24 use and abuse trends related to prescription drugs.

25 **"§ 90-113.62. Definitions.**

26 The following definitions apply in this Article:

- 27 (1) "Controlled substance" means a controlled substance as defined in
28 G.S. 90-87(5).
29 (2) "Department" means the Department of Health and Human Services.
30 (3) "Dispenser" means a person who delivers a Schedule II through V
31 controlled substance to an ultimate user in North Carolina, but does
32 not include any of the following:
33 a. A licensed hospital or long-term care pharmacy that dispenses
34 such substances for the purpose of inpatient administration.
35 b. A person authorized to administer such a substance pursuant to
36 Chapter 90 of the General Statutes.
37 c. A wholesale distributor of a Schedule II through V controlled
38 substance.
39 (4) "Ultimate user" means a person who has lawfully obtained, and who
40 possesses, a Schedule II through V controlled substance for his or her
41 own use, for the use of a member of his or her household, or for the
42 use of an animal owned or controlled by him or her or by a member of
43 his or her household.

44 **"§ 90-113.63. Requirements for controlled substances reporting system.**

45 The Department shall establish and maintain a reporting system of prescriptions for
46 all Schedule II through V controlled substances. Each dispenser shall submit the
47 information in accordance with transmission methods and frequency established by rule
48 by the Commission. The Department may issue a waiver to a dispenser that is unable to
49 submit prescription information by electronic means. Such waiver may permit the
50 dispenser to submit prescription information by paper form or other means, provided all
51 information required of electronically submitted data is submitted.

52 **"§ 90-113.64. Confidentiality.**

53 (a) Prescription information submitted to the Department shall be confidential
54 and shall not be public records pursuant to G.S. 132-1. The Department may use such
55 information for purposes of administration and enforcement. Any contractor shall be

1 bound to maintain the confidentiality of prescription information in accordance with this
2 section. The information may only be disclosed in accordance with subsections (b) and
3 (c) of this section.

4 (b) The Department shall, upon request, release data in the controlled substances
5 reporting system to the following persons:

6 (1) Persons authorized to prescribe or dispense controlled substances for
7 the purpose of providing medical or pharmaceutical care for their
8 patients.

9 (2) An individual who requests the individual's own controlled substances
10 reporting system information.

11 (3) Other agencies authorized to have access to such information pursuant
12 to the provisions of G.S. 90-107.

13 (4) Primary monitoring authorities for other states if information concerns
14 the dispensing of a Schedule II through V controlled substance to an
15 ultimate user who resides in such state or the dispensing of a Schedule
16 II through V controlled substance prescribed by a licensed health care
17 practitioner whose principal place of business is located in such other
18 state.

19 (5) To a court pursuant to a lawful court order.

20 (c) The Department may provide data to public or private entities for statistical,
21 research, or educational purposes after removing information that could be used to
22 identify individual patients who received prescriptions from dispensers.

23 **"§ 90-113.65. Commission for Mental Health, Developmental Disabilities, and**
24 **Substance Abuse Services to adopt rules.**

25 The Commission for Mental Health, Developmental Disabilities, and Substance
26 Abuse Services shall adopt rules necessary to implement this act."

27 **SECTION 10.36.(b)** This section becomes effective January 1, 2006.
28

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

30 **SENIOR CENTER OUTREACH**

31 **SECTION 10.37.(a)** Funds appropriated to the Department of Health and
32 Human Services, Division of Aging and Adult Services, for the 2005-2007 fiscal
33 biennium, shall be used by the Division of Aging and Adult Services to enhance senior
34 center programs as follows:

35 (1) To expand the outreach capacity of senior centers to reach unserved or
36 underserved areas; or

37 (2) To provide start-up funds for new senior centers.

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

39 **SECTION 10.37.(b)** Prior to funds being allocated pursuant to this section
40 for start-up funds for a new senior center, the county commissioners of the county in
41 which the new center will be located shall:

42 (1) Formally endorse the need for such a center;

43 (2) Formally agree on the sponsoring agency for the center; and

44 (3) Make a formal commitment to use local funds to support the ongoing
45 operation of the center.

46 **SECTION 10.37.(c)** State funding shall not exceed seventy-five percent
47 (75%) of reimbursable costs.
48

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

50 **STATE/COUNTY SPECIAL ASSISTANCE**

51 **SECTION 10.38.(a)** The eligibility of Special Assistance recipients residing
52 in adult care homes on August 1, 1995, shall not be affected by an income reduction in
53 the Special Assistance eligibility criteria resulting from adoption of the Rate Setting
54 Methodology Report and Related Services, providing these recipients are otherwise

1 eligible. The maximum monthly rate for these residents in adult care home facilities
2 shall be one thousand two hundred thirty-one dollars (\$1,231) per month per resident.

3 **SECTION 10.38.(b)** Effective July 1, 2005, the maximum monthly rate for
4 residents in adult care home facilities shall be one thousand eighty-four dollars (\$1,084)
5 per month per resident unless adjusted by the Department in accordance with subsection
6 (d) of this section.

7 **SECTION 10.38.(c)** It is the intent of the General Assembly to protect
8 individuals who meet current eligibility standards for State/County Special Assistance
9 from becoming disenfranchised from the program as a result of any changes proposed in
10 this section. Therefore, subject to any necessary approvals by the Center for Medicare
11 & Medicaid Services (CMS):

- 12 (1) The eligibility of Special Assistance recipients who resided in adult
13 care homes on September 30, 2003, and remain continuously eligible
14 shall not be affected by an income reduction in the Special Assistance
15 eligibility criteria, providing these recipients are otherwise eligible.
16 The maximum monthly rate for these residents in adult care home
17 facilities shall be one thousand ninety-one dollars (\$1,091) per month
18 per resident; and
- 19 (2) The standard of need level for coverage eligibility under State/County
20 Special Assistance, for individuals not enrolled or recipients of the
21 program on September 30, 2003, shall be not less than one thousand
22 ninety-one dollars (\$1,091) per month per individual, but the monthly
23 reimbursement rate for such individuals shall be the amount
24 established under subsections (c) and (d) of this section. However, the
25 Department of Health and Human Services, in its determination of
26 reimbursement rates, may establish a minimum monthly
27 reimbursement rate of not more than five dollars (\$5.00) per month for
28 any resident of an adult care home facility meeting the established
29 standard of need level for coverage.

30 **SECTION 10.38.(d)** Notwithstanding any other provision of this section, the
31 Department of Health and Human Services shall review activities and costs related to
32 the provision of care in adult care homes and shall determine what costs may be
33 considered to properly maximize allowable reimbursement available through Medicaid
34 personal care services for adult care homes (ACH-PCS) under federal law. As
35 determined, and with any necessary approval from the Centers for Medicare and
36 Medicaid Services (CMS), and the approval of the Office of State Budget and
37 Management, the Department may transfer necessary funds from the State/County
38 Special Assistance program within the Division of Social Services to the Division of
39 Medical Assistance and may use those funds as State match to draw down federal
40 matching funds to pay for such activities and costs under Medicaid's personal care
41 services for adult care homes (ACH-PCS), thus maximizing available federal funds.
42 The established rate for State/County Special Assistance set forth in subsection (c) of
43 this section shall be adjusted by the Department to reflect any transfer of funds from the
44 Division of Social Services to the Division of Medical Assistance, and related transfer
45 costs and responsibilities from State/County Special Assistance to the Medicaid
46 personal care services for adult care homes (ACH-PCS). Such rate adjustments to the
47 Special Assistance rate shall be effective with the effective date of increased
48 reimbursement under ACH-PCS. In no event shall the reimbursement for services
49 through the ACH-PCS exceed the average cost of such services as determined by the
50 Department from review of cost reports as required and submitted by adult care homes.
51 The Department shall report any transfers of funds and modifications of rates to the
52 House of Representatives Appropriations Subcommittee on Health and Human
53 Services, the Senate Appropriations Committee on Health and Human Services, and the
54 Fiscal Research Division.
55

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

2 **SPECIAL ASSISTANCE IN-HOME**

3 **SECTION 10.39.(a)** The Department of Health and Human Services may
4 use funds from the existing State-County Special Assistance for Adults budget to
5 provide Special Assistance payments to eligible individuals in in-home living
6 arrangements. These payments may be made for up to 800 individuals during the
7 2005-2006 fiscal year and the 2006-2007 fiscal year. The standard monthly payment to
8 individuals enrolled in the Special Assistance in-home program shall be fifty percent
9 (50%) of the monthly payment the individual would receive if the individual resided in
10 an adult care home and qualified for Special Assistance, except if a lesser payment
11 amount is appropriate for the individual as determined by the local case manager. For
12 State fiscal year 2005-2006, qualified individuals shall not receive payments at rates
13 less than they would have been eligible to receive in State fiscal year 2004-2005. The
14 Department shall implement Special Assistance in-home eligibility policies and
15 procedures to assure that in-home program participants are those individuals who need
16 and, but for the in-home program, would seek placement in an adult care home facility.
17 The Department's policies and procedures shall include the use of a functional
18 assessment. The Department shall make this in-home option available to all counties on
19 a voluntary basis. To the maximum extent possible, the Department shall consider
20 geographic balance in the dispersion of payments to individuals across the State.

21 **SECTION 10.39.(b)** The Department shall report on or before January 1,
22 2006, and on or before January 1, 2007, to the cochairs of the House of Representatives
23 Appropriations Committee, the House of Representatives Appropriations Subcommittee
24 on Health and Human Services, the cochairs of the Senate Appropriations Committee,
25 and the cochairs of the Senate Appropriations Committee on Health and Human
26 Services. This report shall include the following information:

- 27 (1) A description of cost savings that result from allowing individuals
28 eligible for State-County Special Assistance the option of remaining in
29 the home.
- 30 (2) A complete fiscal analysis of the in-home option to include all federal,
31 State, and local funds expended.
- 32 (3) How much case management is needed and which types of individuals
33 are most in need of case management.
- 34 (4) The geographic location of individuals receiving payments under this
35 section.
- 36 (5) A description of the services purchased with these payments.
- 37 (6) A description of the income levels of individuals who receive
38 payments under this section and the impact on the Medicaid program.
- 39 (7) Findings and recommendations as to the feasibility of continuing or
40 expanding the in-home program.
- 41 (8) The level and quantity of services (including personal care services)
42 provided to the demonstration project participants compared to the
43 level and quantity of services for residents in adult care homes.

44 **SECTION 10.39.(c)** The Department shall incorporate data collection tools
45 designed to compare quality of life among institutionalized versus noninstitutionalized
46 populations (i.e., an individual's perception of his or her own health and well-being,
47 years of healthy life, and activity limitations). To the extent national standards are
48 available, the Department shall utilize those standards.

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

50 **LICENSURE OF RESIDENTIAL TREATMENT FACILITIES**

51 **SECTION 10.40.(a)** Article 2 of Chapter 122C of the General Statutes is
52 amended by adding the following new section to read:

53 **"§ 122C-23.1. Licensure of residential treatment facilities.**

54 **The General Assembly finds:**
55

- (1) That much of the care for residential treatment facility residents is paid by the State and the counties;
- (2) That the cost to the State for care for residents of residential treatment facilities is substantial, and high vacancy rates in residential treatment facilities further increase the cost of care;
- (3) That the proliferation of residential treatment facilities results in costly duplication and underuse of facilities and may result in lower quality service;
- (4) There is currently no ongoing relationship between some applicants for licensure and local management entities (LMEs) that are responsible for the placement of children and adults in residential treatment facilities; and
- (5) That it is necessary to protect the general welfare and lives, health, and property of the people of the State for the local management entity (LME) to verify that additional beds are needed in the LME's catchment area before new residential treatment facilities are licensed. This process is established to ensure that unnecessary costs to the State do not result, residential treatment facility beds are available where needed, and that individuals who need care in residential treatment facilities may have access to quality care.

Based on these findings, the Department of Health and Human Services may license new residential treatment facilities if the applicant for licensure submits with the application a letter of support obtained from the local management entity in whose catchment area the facility will be located. The letter of support shall be submitted to the Department of Health and Human Services, Division of Facility Services and Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, and shall specify the number of existing beds in the same type of facility in the catchment area and the projected need for additional beds of the same type of facility. As used in this subsection, "residential treatment facility" means a "residential facility" as defined in and licensed under this Chapter, but not subject to Certificate of Need requirements under Article 9 of Chapter 131E of the General Statutes.

SECTION 10.40.(b) This section applies to license applications pending and license applications submitted on and after the effective date of this act.

Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan
PLAN FOR STAR-RATING SYSTEM FOR ADULT CARE HOMES

SECTION 10.41. The Department of Health and Human Services shall develop a plan for implementing a star-rating system for adult care homes to improve quality of care. The Department shall report on the status and details of the plan, including a recommended timeline for implementation, 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 March 1, 2006.

Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan
SOCIAL SERVICES COMMISSION TECHNICAL CORRECTION

SECTION 10.42. G.S. 108A-14(a)(8) reads as rewritten:
"§ 108A-14. Duties and responsibilities.

(a) The director of social services shall have the following duties and responsibilities:

- ...
- (8) To supervise adult care homes under the rules and regulations of the ~~Social Services~~ Medical Care Commission;
-"

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

2 **CHILD SUPPORT PROGRAM/ENHANCED STANDARDS**

3 **SECTION 10.43.(a)** The Department of Health and Human Services shall
4 develop and implement performance standards for each of the State and county child
5 support enforcement offices across the State. To develop these performance standards,
6 the Department of Health and Human Services shall evaluate other private and public
7 child support models and national standards as well as other successful collections
8 models. These performance standards shall include the following:

- 9 (1) Cost per collections.
- 10 (2) Consumer satisfaction.
- 11 (3) Paternity establishments.
- 12 (4) Administrative costs.
- 13 (5) Orders established.
- 14 (6) Collections on arrearages.
- 15 (7) Location of absent parents.
- 16 (8) Other related performance measures.

17 The Department of Health and Human Services shall monitor the
18 performance of each office and shall implement a system of reporting that allows each
19 local office to review its performance as well as the performance of other local offices.
20 The Department of Health and Human Services shall publish an annual performance
21 report that shall include the statewide and local office performance of each child support
22 office.

23 **SECTION 10.43.(b)** The Department of Health and Human Services shall
24 report on its progress, in compliance with this section, to the Senate Appropriations
25 Committee on Health and Human Services, the House of Representatives
26 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research
27 Division by May 1, 2006.

28
29 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

30 **CHILD WELFARE SYSTEM STUDY**

31 **SECTION 10.44.** The Department of Health and Human Services shall
32 conduct a study to document variations in the implementation of the Child Welfare
33 System within North Carolina counties. The study shall include recommendations for
34 correcting identified disparities. The study shall identify systemic issues associated with
35 North Carolina's Child Welfare System and provide recommendations for resolving
36 these issues. The Department shall report the results of its study to the Senate
37 Appropriations Committee on Health and Human Services, the House of
38 Representatives Appropriations Subcommittee on Health and Human Services, and the
39 Fiscal Research Division no later than January 1, 2006.

40
41 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

42 **MULTIPLE RESPONSE SYSTEM**

43 **SECTION 10.45.(a)** The Department of Health and Human Services,
44 Division of Social Services, shall continue working with local departments of social
45 services to implement an alternative response system of child protection. Local
46 departments of social services shall continue systems already in place. The alternative
47 response system shall provide a family-centered approach to child protective services in
48 which local departments of social services use family assessment tools and family
49 support principles when responding to selected reports of suspected child abuse,
50 neglect, and dependency, including establishing a system of care with child and family
51 teams.

52 **SECTION 10.45.(b)** The Department of Health and Human Services shall
53 expand this project using both State appropriations and any non-State funding sources
54 that can be identified for this purpose. Counties may also implement the system using
55 existing resources.

1
2 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

3 **FOSTER CARE AND ADOPTION ASSISTANCE PAYMENTS**

4 **SECTION 10.46.(a)** The maximum rates for State participation in the foster
5 care assistance program are established on a graduated scale as follows:

- 6 (1) \$390.00 per child per month for children aged birth through 5;
7 (2) \$440.00 per child per month for children aged 6 through 12; and
8 (3) \$490.00 per child per month for children aged 13 through 18.

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

11 **SECTION 10.46.(b)** The maximum rates for State participation in the
12 adoption assistance program are established on a graduated scale as follows:

- 13 (1) \$390.00 per child per month for children aged birth through 5;
14 (2) \$440.00 per child per month for children aged 6 through 12; and
15 (3) \$490.00 per child per month for children aged 13 through 18.

16 **SECTION 10.46.(c)** In addition to providing board payments to foster and
17 adoptive families of HIV-infected children, as prescribed in Section 23.28 of Chapter
18 324 of the 1995 Session Laws, any additional funds remaining that were appropriated
19 for this purpose shall be used to provide medical training in avoiding HIV transmission
20 in the home.

21 **SECTION 10.46.(d)** The maximum rates for the State participation in HIV
22 foster care and adoption assistance are established on a graduated scale as follows:

- 23 (1) \$800.00 per child per month with indeterminate HIV status;
24 (2) \$1,000 per child per month confirmed HIV-infected, asymptomatic;
25 (3) \$1,200 per child per month confirmed HIV-infected, symptomatic; and
26 (4) \$1,600 per child per month terminally ill with complex care needs.

27
28 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

29 **CHILD CARING INSTITUTIONS**

30 **SECTION 10.47.(a)** The Office of the State Auditor shall conduct an audit
31 to evaluate overhead rates and reimbursements for child caring institutions receiving
32 State funding. Of the funds appropriated to the Department of Health and Human
33 Services, Office of the Controller, the sum of one hundred fifty thousand dollars
34 (\$150,000) shall be transferred to the State Auditor to conduct the audit. The audit shall
35 include the following:

- 36 (1) A detailed evaluation of each child caring institution's cost allocation
37 processes.
38 (2) A determination of whether the allocated costs are consistent in
39 different agencies.
40 (3) A determination of the basis used for cost allocation by each agency.
41 (4) The methodology used to assign direct and indirect costs to specific
42 child caring institution programs.
43 (5) A determination of whether the overhead charged is reasonable for that
44 specific type of nonprofit, based on national surveys.
45 (6) A determination of how agency utilization rates impact the child
46 caring institutions' cost allocation and subsequent State
47 reimbursements.
48 (7) An examination of rate-setting methodologies used by other states and
49 how North Carolina's payment to child caring institutions compare to
50 other states.
51 (8) Recommendations on how to develop equitable, reasonable rates.
52 (9) An examination of the feasibility of providing child caring institutions
53 with the opportunity to compete based on providing the best service at
54 least cost.

1 The Office of the State Auditor shall report to the Senate Appropriations
2 Committee on Health and Human Services, the House of Representatives
3 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research
4 Division no later than March 1, 2006. The written report shall include copies of working
5 papers developed during the course of the audit.

6 **SECTION 10.47.(b)** The Department of Health and Human Services shall
7 establish standardized rates for child caring institutions in this State. These rates shall be
8 effective January 1, 2006, and shall be updated annually on July 1. Rate-setting
9 recommendations provided by the Office of the State Auditor shall be incorporated into
10 the Department of Social Services rate-setting methodology.

11 **SECTION 10.47.(c)** Until standardized rates are set, child caring
12 institutions' maximum reimbursement shall not exceed the rate established for the
13 specific child caring institution by the Department of Health and Human Services Office
14 of the Controller. In determining the maximum reimbursement, counties shall include
15 county and IV-E reimbursements.

16 **SECTION 10.47.(d)** Minimum reimbursement for foster parents providing
17 services through child caring institutions shall not be lower than the rates established by
18 the General Assembly.

19
20 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

21 **SPECIAL CHILDREN ADOPTION FUND**

22 **SECTION 10.48.(a)** Of the funds appropriated to the Department of Health
23 and Human Services in this act, the sum of one hundred thousand dollars (\$100,000)
24 shall be used to support the Special Children Adoption Fund for the 2005-2006 fiscal
25 year. The Division of Social Services, in consultation with the North Carolina
26 Association of County Directors of Social Services and representatives of licensed
27 private adoption agencies, shall develop guidelines for the awarding of funds to licensed
28 public and private adoption agencies upon the adoption of children described in
29 G.S. 108A-50 and in foster care. Payments received from the Special Children Adoption
30 Fund by participating agencies shall be used exclusively to enhance the adoption
31 services. No local match shall be required as a condition for receipt of these funds. In
32 accordance with State rules for allowable costs, the Special Children Adoption Fund
33 may be used for post-adoption services for families whose income exceeds two hundred
34 percent (200%) of the federal poverty level.

35 **SECTION 10.48.(b)** Of the total funds appropriated for the Special Children
36 Adoption Fund each year, twenty percent (20%) of the total funds available shall be
37 reserved for payment to participating private adoption agencies. If the funds reserved in
38 this subsection for payments to private agencies have not been spent on or before March
39 31, 2006, the Division of Social Services may reallocate those funds, in accordance with
40 this section, to other participating adoption agencies.

41 **SECTION 10.48.(c)** The Division of Social Services shall monitor the total
42 expenditures in the Special Children Adoption Fund and redistribute unspent funds to
43 ensure that the funds are used according to the guidelines established in subsection (a)
44 of this section. The Division shall implement strategies to ensure that funds that have
45 historically reverted for this program are used for the intended purpose. The Division
46 shall report to the House of Representatives Appropriations Subcommittee on Health
47 and Human Services, the Senate Appropriations Committee on Health and Human
48 Services, and the Fiscal Research Division on the expenditures and activities of the
49 program no later than December 1, 2005, and June 30, 2006.

50
51 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

52 **STUDY TO IDENTIFY ADOPTION INCENTIVES FOR CHILDREN WHO** 53 **ARE DIFFICULT TO PLACE**

54 **SECTION 10.49.** The Department of Health and Human Services shall
55 conduct a study to identify potential incentives for adoption of children who are difficult

1 to place and the associated costs for each incentive. The study shall identify incentives
2 currently in place in individual counties and the associated costs. The study shall
3 identify funding sources available to support each incentive. The Department shall
4 report the results of its study to the Senate Appropriations Committee on Health and
5 Human Services, the House of Representatives Appropriations Subcommittee on Health
6 and Human Services, and the Fiscal Research Division no later than October 1, 2005.
7

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

9 **LIMITATION ON STATE ABORTION FUND**

10 **SECTION 10.50.** The limitations on funding of the performance of abortion
11 established in Section 23.27 of Chapter 324 of the 1995 Session Laws, as amended by
12 Section 23.8A of Chapter 507 of the 1995 Session Laws, apply to the 2005-2006 and
13 2006-2007 fiscal years.
14

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

16 **TANF BENEFIT IMPLEMENTATION**

17 **SECTION 10.51.(a)** The General Assembly approves the plan titled "North
18 Carolina Temporary Assistance for Needy Families State Plan FY 2005-2007", prepared
19 by the Department of Health and Human Services and presented to the General
20 Assembly as revised in accordance with subsection (b) of this section, except that the
21 provision contained in the approved North Carolina Temporary Assistance for Needy
22 Families State Plan FY 2005-2007 eliminating pay-after-performance as a benefit
23 delivery method for two-parent families will only be implemented if the federal
24 two-parent work participation rate is eliminated. The North Carolina Temporary
25 Assistance for Needy Families State Plan covers the period October 1, 2005, through
26 September 30, 2007. The Department shall submit the State Plan, as revised in
27 accordance with subsection (b) of this section, to the United States Department of
28 Health and Human Services, as amended by this act or any other act of the 2005
29 General Assembly.

30 **SECTION 10.51.(b)** The counties approved as Electing Counties in North
31 Carolina's Temporary Assistance for Needy Families State Plan FY 2005-2007 as
32 approved by this section are: Beaufort, Caldwell, Catawba, Iredell, Lenoir, Lincoln,
33 Macon, McDowell, Sampson, and Stokes.

34 **SECTION 10.51.(c)** Counties that submitted the letter of intent to remain as
35 an Electing County or to be redesignated as an Electing County and the accompanying
36 county plan for fiscal years 2005 through 2007, pursuant to G.S. 108A-27(e), shall
37 operate under the Electing County budget requirements effective July 1, 2005. For
38 programmatic purposes, all counties referred to in this subsection shall remain under
39 their current county designation through September 30, 2005.
40

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

42 **RESIDENTIAL SCHOOLS REPORTING**

43 **SECTION 10.52.** The Office of Education Services shall report not later
44 than December 1, 2005, to the Senate Appropriations Committee on Health and Human
45 Services, the House of Representatives Appropriations Subcommittee on Health and
46 Human Services, and the Fiscal Research Division on the activities of the Eastern North
47 Carolina School for the Deaf at Wilson, the North Carolina School for the Deaf at
48 Morganton, and the Governor Morehead School for the Blind. The report shall include
49 enrollment numbers at the schools, the budgets, and the academic status of the schools
50 as defined under the ABCs program.
51

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

53 **FUNDS FOR SCHOOL NURSES**

54 **SECTION 10.53.** Of the funds appropriated in this act to the Department of
55 Health and Human Services, the sum of two million five hundred thousand dollars

1 (\$2,500,000) for the 2005-2006 fiscal year, and the sum of two million five hundred
2 thousand dollars (\$2,500,000) for the 2006-2007 fiscal year shall be used for the school
3 nurse funding initiative. The Department of Health and Human Services, Division of
4 Public Health, in conjunction with the Department of Public Instruction, shall provide
5 funds to communities to hire school nurses. The program will fund 50 permanent local
6 nurses. The criteria shall include determining the areas in greatest need for school
7 nurses with the greatest inability to pay for these nurses. Other criteria to be considered
8 shall include: (i) the current nurse-to-student ratio; (ii) the economic status of the
9 community; and (iii) the health needs of area children.

10 There shall be no supplanting of local, State, or federal funds with these
11 funds. Communities shall maintain their current level of effort and funding for school
12 nurses. These funds shall not be used for funding nurses for State agencies. All funding
13 shall be used for direct services.

14 The Department of Health and Human Services shall report on the use of
15 funds allocated under this section by December 1, 2005, to the Senate Appropriations
16 Committee on Health and Human Services, the House of Representatives
17 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research
18 Division.

19
20 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

21 **EARLY INTERVENTION REPORTING AND EVALUATION**

22 **SECTION 10.54.(a)** The Department of Health and Human Services,
23 Division of Public Health, shall report on Early Intervention services. The report shall
24 include the number of children served, the number and types of services and evaluations
25 provided, and the budget for each Children's Developmental Services Agency. In
26 addition, the Division of Public Health shall evaluate its Early Intervention Program
27 provider network, including provider certification and continuing education
28 requirements.

29 **SECTION 10.54.(b)** The Department of Health and Human Services shall
30 analyze the reimbursement rates for Early Intervention services, and may adjust rates
31 according to the findings of the analysis.

32 **SECTION 10.54.(c)** The Division of Public Health shall analyze the
33 program funding for the Children with Special Needs Program and shall develop a plan
34 to utilize these funds within the Early Intervention Program. The Division shall report
35 its findings and recommendations to the Senate Appropriations Committee on Health
36 and Human Services, the House of Representatives Appropriations Subcommittee on
37 Health and Human Services, and the Fiscal Research Division not later than December
38 1, 2005.

39
40 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

41 **CONTRACTING FOR MORE EFFECTIVE COMBINATION VACCINES**

42 **SECTION 10.55.** The Department of Health and Human Services may
43 contract for the purchase of new combination vaccines that are more expensive than
44 currently used combination or single component vaccines only if the new, more
45 expensive combination vaccine is more effective than the currently used combination or
46 single component vaccine it replaces.

47
48 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

49 **CHRONIC DISEASE PREVENTION ACTIVITIES INVENTORY**

50 **SECTION 10.56.** In order to reduce costs and eliminate duplication of
51 effort, the Department of Health and Human Services shall create an inventory of all
52 chronic disease prevention activities, funding, staffing, and other resources for these
53 activities, including funding and resources for related task forces and committees. The
54 inventory shall include at a minimum, heart disease, stroke, diabetes, osteoporosis, and
55 cancer. The Department shall create a plan to combine task forces and activities for

1 chronic disease prevention and shall explore collapsing these task forces and
2 committees into the Healthy Carolinians structure. The Department shall report on the
3 inventory and the Department's recommendations not later than February 1, 2006, to the
4 Senate Appropriations Committee on Health and Human Services, the House of
5 Representatives Appropriations Subcommittee on Health and Human Services, and the
6 Fiscal Research Division.

7
8 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

9 **PILOT PROGRAM FOR AUTOMATIC EXTERNAL DEFIBRILLATORS IN**
10 **PUBLIC BUILDINGS**

11 **SECTION 10.57.(a)** The Department of Health and Human Services,
12 Division of Public Health, shall develop a pilot program to place Automated External
13 Defibrillators (AED) in public buildings, including public gymnasiums, that do not have
14 an operational AED in place. In selecting pilot sites, the Department shall ensure
15 geographic representation of the State.

16 **SECTION 10.57.(b)** Of the funds appropriated in this act to the Department
17 of Health and Human Services, the sum of seventeen thousand dollars (\$17,000) for the
18 2005-2006 fiscal year, and the sum of six thousand dollars (\$6,000) for the 2006-2007
19 fiscal year shall be used to purchase AED units, conduct on-site training at the pilot
20 sites, and conduct ongoing education and awareness campaigns to the general public in
21 the piloted sites. The Department shall ensure that training in the use of an AED shall be
22 conducted in accordance with G.S. 90-21.15(b)(3). The Heart Disease and Stroke
23 Prevention Branch of the Division of Public Health shall be responsible for the purchase
24 of AEDs, the training of pilot program participants, and evaluation of the pilot program.

25 **SECTION 10.57.(c)** The Department of Health and Human Services shall
26 report on the location, establishment, and implementation of the pilot sites to the Senate
27 Appropriations Committee on Health and Human Services, the House of
28 Representatives Appropriations Subcommittee on Health and Human Services, and the
29 Fiscal Research Division on or before March 1, 2006.

30
31 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

32 **IMMUNIZATION PROGRAM FUNDING**

33 **SECTION 10.58.(a)** Of the funds appropriated in this act to the Department
34 of Health and Human Services for childhood immunization programs for positions,
35 operating support, equipment, and pharmaceuticals, the sum of one million dollars
36 (\$1,000,000) for the 2005-2006 fiscal year and the sum of one million dollars
37 (\$1,000,000) for the 2006-2007 fiscal year may be used for projects and activities that
38 are also designed to increase childhood immunization rates in North Carolina. These
39 projects and activities shall include the following:

40 (1) Outreach efforts at the State and local levels to improve service
41 delivery of vaccines. Outreach efforts may include educational
42 seminars, media advertising, support services to parents to enable
43 children to be transported to clinics, longer operating hours for clinics,
44 and mobile vaccine units.

45 (2) Continued development of an automated immunization registry.

46 **SECTION 10.58.(b)** Funds authorized to be used for immunization efforts
47 under subsection (a) of this section shall not be used to fund additional State positions in
48 the Department of Health and Human Services or contracts, except for contracts to
49 develop an automated immunization registry or contracts with local health departments
50 for outreach.

51
52 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

53 **AIDS DRUG ASSISTANCE PROGRAM**

54 **SECTION 10.59.(a)** For the 2005-2006 fiscal year and for the 2006-2007
55 fiscal year, HIV-positive individuals with incomes at or below one hundred twenty-five

1 percent (125%) of the federal poverty level are eligible for participation in ADAP.
2 Eligibility for participation in ADAP during the 2005-2007 fiscal biennium shall not be
3 extended to individuals with incomes above one hundred twenty-five percent (125%) of
4 the federal poverty level.

5 **SECTION 10.59.(b)** The Department of Health and Human Services shall
6 make an interim report on ADAP program utilization by January 1, 2006, and a final
7 report on ADAP program utilization by May 1, 2006, to the Senate Appropriations
8 Committee on Health and Human Services, the House of Representatives
9 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research
10 Division on ADAP. The reports shall include ADAP program utilization as follows:

- 11 (1) Monthly data on total cumulative AIDS/HIV cases reported in North
12 Carolina.
- 13 (2) Monthly data on the number of individuals who have applied to
14 participate in ADAP that have been determined to be ineligible.
- 15 (3) Monthly data on the income level of participants in ADAP and of
16 individuals who have applied to participate in ADAP who have been
17 determined to be ineligible.
- 18 (4) Monthly data on fiscal year-to-date expenditures of ADAP. The
19 interim report shall contain monthly data on the calendar year-to-date
20 expenditures of ADAP.
- 21 (5) An update on the status of the information management system.
- 22 (6) Monthly data on ADAP usage patterns and demographics of
23 participants in ADAP.
- 24 (7) Fiscal year-to-date budget information.
- 25 (8) The status of the new system of management for ADAP, the costs
26 savings realized from the new system, and recommendations for
27 improving the system.

28
29 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

30 **CHILD CARE FUNDS MATCHING REQUIREMENT**

31 **SECTION 10.60.** No local matching funds may be required by the
32 Department of Health and Human Services as a condition of any locality's receiving any
33 State child care funds appropriated by this act unless federal law requires a match. This
34 shall not prohibit any locality from spending local funds for child care services.
35

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

37 **CHILD CARE ALLOCATION FORMULA**

38 **SECTION 10.61.(a)** The Department of Health and Human Services shall
39 allocate child care subsidy voucher funds to pay the costs of necessary child care for
40 minor children of needy families. The mandatory thirty percent (30%) Smart Start
41 subsidy allocation under G.S. 143B-168.15(g) shall constitute the base amount for each
42 county's child care subsidy allocation. The Department of Health and Human Services
43 shall use the following method when allocating federal and State child care funds, not
44 including the aggregate mandatory thirty percent (30%) Smart Start subsidy allocation:

- 45 (1) Funds shall be allocated based upon the projected cost of serving
46 children in a county under age 11 in families with all parents working
47 who earn less than seventy-five percent (75%) of the State median
48 income.
- 49 (2) No county's allocation shall be less than ninety percent (90%) of its
50 State Fiscal Year 2001-2002 initial child care subsidy allocation.

51 **SECTION 10.61.(b)** The Department of Health and Human Services may
52 reallocate unused child care subsidy voucher funds in order to meet the child care needs
53 of low-income families. Any reallocation of funds shall be based upon the expenditures
54 of all child care subsidy voucher funding, including Smart Start funds, within a county.
55

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

CHILD CARE SUBSIDY RATES

SECTION 10.62.(a) The maximum gross annual income for initial eligibility, adjusted biennially, for subsidized child care services shall be seventy-five percent (75%) of the State median income, adjusted for family size.

SECTION 10.62.(b) Fees for families who are required to share in the cost of care shall be established based on a percent of gross family income and adjusted for 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%.

SECTION 10.62.(c) Payments for the purchase of child care services for low-income children shall be in accordance with the following requirements:

- (1) Religious-sponsored child care facilities operating pursuant to G.S. 110-106 and licensed child care centers and homes that meet the minimum licensing standards that are participating in the subsidized child care program shall be paid the one-star county market rate or the rate they charge privately paying parents, whichever is lower.
- (2) Licensed child care centers and homes with two or more stars shall receive the market rate for that rated license level for that age group or the rate they charge privately paying parents, whichever is lower.
- (3) Nonlicensed homes shall receive fifty percent (50%) of the county market rate or the rate they charge privately paying parents, whichever is lower.
- (4) Maximum payment rates shall also be calculated periodically by the Division of Child Development and School Readiness for transportation to and from child care provided by the child care provider, individual transporter, or transportation agency, and for fees charged by providers to parents. These payment rates shall be based upon information collected by market rate surveys.

SECTION 10.62.(d) Provisions of payment rates for child care providers in counties that do not have at least 50 children in each age group for center-based and home-based care are as follows:

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

SECTION 10.62.(e) A market rate shall be calculated for child care centers and homes at each rated license level for each county and for each age group or age category of enrollees and shall be representative of fees charged to unsubsidized privately paying parents for each age group of enrollees within the county. The Division of Child Development and School Readiness shall also calculate a statewide rate and regional market rates for each rated license level for each age category.

SECTION 10.62.(f) Facilities licensed pursuant to Article 7 of Chapter 110 of the General Statutes and facilities operated pursuant to G.S. 110-106 may participate in the program that provides for the purchase of care in child care facilities for minor children of needy families. No separate licensing requirements shall be used to select facilities to participate. In addition, child care facilities shall be required to meet any additional applicable requirements of federal law or regulations. Child care arrangements exempt from State regulation pursuant to Article 7 of Chapter 110 of the

1 General Statutes shall meet the requirements established by other State law and by the
2 Social Services Commission.

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

7 **SECTION 10.62.(g)** Payment for subsidized child care services provided
8 with Work First Block Grant funds shall comply with all regulations and policies issued
9 by the Division of Child Development and School Readiness for the subsidized child
10 care program.

11 **SECTION 10.62.(h)** Noncitizen families who reside in this State legally
12 shall be eligible for child care subsidies if all other conditions of eligibility are met. If
13 all other conditions of eligibility are met, noncitizen families who reside in this State
14 illegally shall be eligible for child care subsidies only if at least one of the following
15 conditions is met:

- 16 (1) The child for whom a child care subsidy is sought is receiving child
17 protective services or foster care services.
- 18 (2) The child for whom a child care subsidy is sought is developmentally
19 delayed or at risk of being developmentally delayed.
- 20 (3) The child for whom a child care subsidy is sought is a citizen of the
21 United States.

22
23 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

24 **CHILD CARE REVOLVING LOAN**

25 **SECTION 10.63.** Notwithstanding any law to the contrary, funds budgeted
26 for the Child Care Revolving Loan Fund may be transferred to and invested by the
27 financial institution contracted to operate the Fund. The principal and any income to the
28 Fund may be used to make loans, reduce loan interest to borrowers, serve as collateral
29 for borrowers, pay the contractor's cost of operating the Fund, or pay the Department's
30 cost of administering the program.

31
32 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

33 **EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES** 34 **ENHANCEMENTS**

35 **SECTION 10.64.(a)** Administrative costs shall be equivalent to, on an
36 average statewide basis for all local partnerships, not more than eight percent (8%) of
37 the total statewide allocation to all local partnerships. For purposes of this subsection,
38 administrative costs shall include costs associated with partnership oversight, business
39 and financial management, general accounting, human resources, budgeting,
40 purchasing, contracting, and information systems management.

41 **SECTION 10.64.(b)** The North Carolina Partnership for Children, Inc., and
42 all local partnerships shall use competitive bidding practices in contracting for goods
43 and services on contract amounts as follows:

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

53 **SECTION 10.64.(c)** The North Carolina Partnership for Children, Inc., and
54 all local partnerships shall, in the aggregate, be required to match no less than fifty
55 percent (50%) of the total amount budgeted for the program in each fiscal year of the

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

- 18 (1) Be verifiable from the contractor's records.
- 19 (2) If in-kind, other than volunteer services, be quantifiable in accordance
20 with generally accepted accounting principles for nonprofit
21 organizations.
- 22 (3) Not include expenses funded by State funds.
- 23 (4) Be supplemental to and not supplant preexisting resources for related
24 program activities.
- 25 (5) Be incurred as a direct result of the Early Childhood Initiatives
26 Program and be necessary and reasonable for the proper and efficient
27 accomplishment of the Program's objectives.
- 28 (6) Be otherwise allowable under federal or State law.
- 29 (7) Be required and described in the contractual agreements approved by
30 the North Carolina Partnership for Children, Inc., or the local
31 partnership.
- 32 (8) Be reported to the North Carolina Partnership for Children, Inc., or the
33 local partnership by the contractor in the same manner as reimbursable
34 expenses.

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

43 **SECTION 10.64.(d)** The Department of Health and Human Services shall
44 continue to implement the performance-based evaluation system.

45 **SECTION 10.64.(e)** The Department of Health and Human Services and the
46 North Carolina Partnership for Children, Inc., shall ensure that the allocation of funds
47 for Early Childhood Education and Development Initiatives for State fiscal years
48 2005-2006 and 2006-2007 shall be administered and distributed in the following
49 manner:

- 50 (1) Capital expenditures are prohibited for fiscal years 2005-2006 and
51 2006-2007. For the purposes of this section, "capital expenditures"
52 means expenditures for capital improvements as defined in
53 G.S. 143-34.40.
- 54 (2) Expenditures of State funds for advertising and promotional activities
55 are prohibited for fiscal years 2005-2006 and 2006-2007.

1 **SECTION 10.64.(f)** A county may use the county's allocation of State and
2 federal child care funds to subsidize child care according to the county's Early
3 Childhood Education and Development Initiatives Plan as approved by the North
4 Carolina Partnership for Children, Inc. The use of federal funds shall be consistent with
5 the appropriate federal regulations. Child care providers shall, at a minimum, comply
6 with the applicable requirements for State licensure pursuant to Article 7 of Chapter 110
7 of the General Statutes.

8
9 Requested by: Senators Purcell, Malone, Hagan, Garrou, Dalton

10 **SMART START FUNDING STUDY**

11 **SECTION 10.65.(a)** The North Carolina Partnership for Children, Inc., shall
12 study its allocation of funds to local partnerships. The North Carolina Partnership for
13 Children, Inc., shall study funding equity among all counties and local partnerships
14 based on population, the number of children from birth to five years of age residing in
15 the county region, economic indicators, and the quality of existing child care. The North
16 Carolina Partnership for Children, Inc., shall develop strategies to alleviate the inequity
17 of funds to local partnerships.

18 **SECTION 10.65.(b)** The North Carolina Partnership for Children, Inc., shall
19 report its findings and recommendations to the Senate Appropriations Committee on
20 Health and Human Services, the House of Representatives Appropriations
21 Subcommittee on Health and Human Services, and the Fiscal Research Division on or
22 before March 1, 2006.

23
24 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

25 **ANALYZE CHILD CARE SUBSIDY REIMBURSEMENT SYSTEM**

26 **SECTION 10.66.(a)** The Department of Health and Human Services,
27 Division of Child Development and School Readiness, shall conduct an analysis of the
28 child care subsidy reimbursement system. The Division of Child Development and
29 School Readiness shall conduct the analysis as follows:

- 30 (1) Compare surveyed rates from the 2005 child care market survey to
31 existing reimbursement rates and identify counties and levels of
32 disparity of current market rates to subsidy reimbursements.
- 33 (2) Compare overall compensation for child care workers by county and
34 determine if there is a correlation with child care quality and subsidy
35 reimbursements.
- 36 (3) Examine the impact of North Carolina Partnership for Children, Inc.,
37 funding on child care market rates and quality of child care by
38 comparing the length of time local partnerships have been present in
39 counties, the amount local partnerships spend on child care quality
40 initiatives, the number of higher quality child care centers and homes,
41 and the allocation to the county by percentage of need.
- 42 (4) Examine, by county, the prevalence of child care providers who charge
43 parents a differential fee to make up the difference between private and
44 subsidy reimbursement rates.
- 45 (5) Examine the impact that child care reimbursement rates have on
46 providing families access to all levels of child care.

47 **SECTION 10.66.(b)** The Division of Child Development and School
48 Readiness shall develop strategies to implement market rate equity among counties and
49 submit a report of its findings and recommendations to the Senate Appropriations
50 Committee on Health and Human Services, the House of Representatives
51 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research
52 Division by January 30, 2006.

53
54 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

55 **MORE AT FOUR**

1 **SECTION 10.67.(a)** Of the funds appropriated in this act to the Department
2 of Health and Human Services, the sum of sixty-six million five hundred forty-six
3 thousand six hundred fifty-three dollars (\$66,546,653) for the 2005-2006 fiscal year and
4 the sum of seventy-nine million one hundred nine thousand seven hundred seventy-nine
5 dollars (\$79,109,779) for the 2006-2007 fiscal year shall be used to implement "More
6 At Four", a voluntary prekindergarten program for at-risk four-year-olds.

7 **SECTION 10.67.(b)** The Department of Health and Human Services,
8 Division of Child Development and School Readiness, shall continue the
9 implementation of the "More At Four" prekindergarten program for at-risk
10 four-year-olds who are at risk of failure in kindergarten. The program is available
11 statewide to all counties that choose to participate, including underserved areas. The
12 goal of the program is to provide quality prekindergarten services to a greater number of
13 at-risk children in order to enhance kindergarten readiness for these children. The
14 program shall be consistent with standards and assessments established jointly by the
15 Department of Health and Human Services and the Department of Public Instruction.
16 The program shall include:

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

1 (10) A local contribution. Programs must demonstrate that they are
2 accessing resources other than "More At Four".

3 (11) A system of accountability.

4 (12) Consideration of the reallocation of existing funds. In order to
5 maximize current funding and resources, the Department of Health and
6 Human Services, the Department of Public Instruction, and the Task
7 Force shall consider the reallocation of existing funds from State and
8 local programs that provide prekindergarten-related care and services.

9 **SECTION 10.67.(c)** The Department of Health and Human Services shall
10 plan for expansion of the "More At Four" program within existing resources to include
11 four- and five-star-rated centers and schools serving four-year-olds and develop
12 guidelines for these programs. The Department shall analyze guidelines for use of the
13 "More At Four" funds, State subsidy funds, and Smart Start subsidy funds and devise a
14 complementary plan for administration of funds for all four-year-old classrooms. The
15 four- and five-star-rated centers that choose to become a "More At Four" program shall,
16 at a minimum, receive curricula and access to training and workshops for "More At
17 Four" programs and be considered along with other "More At Four" programs for
18 T.E.A.C.H. funding. The Department shall ensure that no individual receives funding
19 from more than one source for the same purpose or activity during the same funding
20 period. For purposes of this subsection, sources shall include T.E.A.C.H., W.A.G.E.\$.,
21 and T.E.A.C.H. Health Insurance programs for individual recipients.

22 The "More At Four" program shall review the number of slots filled by
23 counties on a monthly basis and shift the unfilled slots to counties with waiting lists.
24 The shifting of slots shall occur through December 30, 2005, at which time any
25 remaining funds for slots unfilled shall be used to meet the needs of the waiting list for
26 subsidized child care.

27 **SECTION 10.67.(d)** The Department of Health and Human Services,
28 Division of Child Development and School Readiness, and the Task Force shall submit
29 a report by February 1, 2006, to the Joint Legislative Commission on Governmental
30 Operations, the Joint Legislative Education Oversight Committee, 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. This final report shall include the following:

34 (1) The number of children participating in the program.

35 (2) The number of children participating in the program who have never
36 been served in other early education programs, such as child care,
37 public or private preschool, Head Start, Early Head Start, or early
38 intervention programs.

39 (3) The expected expenditures for the programs and the source of the local
40 match for each grantee.

41 (4) The location of program sites and the corresponding number of
42 children participating in the program at each site.

43 (5) Activities involving Child Find in counties.

44 (6) A comprehensive cost analysis of the program, including the cost per
45 child served by the program.

46 (7) The plan for expansion of "More At Four" through existing resources
47 as outlined in this section.

48 **SECTION 10.67.(e)** For the 2005-2006 and the 2006-2007 fiscal years, the
49 "More At Four" program shall establish income eligibility requirements for the program
50 not to exceed seventy-five percent (75%) of the State median income to make the
51 program consistent with the child care subsidy requirements. Up to twenty percent
52 (20%) of children enrolled may have family incomes in excess of seventy-five percent
53 (75%) of median income if they have other designated risk factors.

54 **SECTION 10.67.(f)** The "More At Four" program funding shall not supplant
55 any funding for classrooms serving four-year-olds as of the 2003-2004 fiscal year.

1 **SECTION 10.67.(g)** The Department of Health and Human Services,
2 Division of Child Development and School Readiness, shall review and evaluate the
3 early literacy project in Davie County and consider incorporation of this curriculum into
4 the "More At Four" program.

5 **SECTION 10.67.(h)** The "More At Four" program shall contract with
6 Prevent Blindness of North Carolina for one hundred fifty thousand dollars (\$150,000)
7 for vision screenings for children in the "More At Four" program and other child care
8 classrooms.

9 **SECTION 10.67.(i)** The "More At Four" program shall provide a grant of
10 one hundred seventy-seven thousand dollars (\$177,000) to the Carolina Children's
11 Communicative Disorders Program at the University of North Carolina at Chapel Hill.

12
13 Requested by: Senators Garrou, Dalton, Hagan

14 **ESTABLISH THE DIVISION OF CHILD DEVELOPMENT AND SCHOOL**
15 **READINESS IN THE DEPARTMENT OF HEALTH AND HUMAN**
16 **SERVICES**

17 **SECTION 10.68.(a)** The Division of Child Development of the Department
18 of Health and Human Services is renamed the Division of Child Development and
19 School Readiness (hereinafter "the Division"). The purpose of the Division is to
20 regulate and license child care facilities, administer the five-star rating system of child
21 care facilities, and ensure school readiness for North Carolina's children through
22 increased coordination and effectiveness of the State's early care and education
23 programs and through improved transitions for at-risk children into kindergarten. In
24 addition, the Division shall have oversight of all prekindergarten programs serving
25 three- and four-year-olds, which includes the More at Four prekindergarten programs,
26 and shall expand the focus of the programs, thereby developing increased collaboration
27 between local Head Start programs and the State's prekindergarten programs as well as
28 private child care programs. The Division shall collaborate with the Department of
29 Public Instruction to develop a common statewide assessment and to promote improved
30 transition practices for children entering kindergarten.

31 **SECTION 10.68.(b)** The More at Four Prekindergarten Program is
32 transferred from the Office of the Governor to the Department of Health and Human
33 Services, Division of Child Development and School Readiness. This transfer shall
34 have all the elements of a Type I transfer, as defined in G.S. 143A-6.

35 **SECTION 10.68.(c)** The Head Start Collaboration Office shall remain in the
36 Department of Health and Human Services under the Division of Child Development
37 and School Readiness.

38 **SECTION 10.68.(d)** The North Carolina Partnership for Children, Inc., shall
39 continue to be funded through, and work cooperatively with, the Department of Health
40 and Human Services, the Division of Child Development and School Readiness.

41 **SECTION 10.68.(e)** The More at Four Task Force shall be reconstituted and
42 renamed the North Carolina Child Development and School Readiness Task Force. The
43 Secretary of the Department of Health and Human Services shall appoint the members
44 of the North Carolina Child Development and School Readiness Task Force from
45 representatives of publicly funded programs and services for children age birth to five
46 years, including the More at Four Prekindergarten Program, the North Carolina
47 Partnership for the Children, Inc., Early Intervention, preschool programs in the public
48 schools and other stakeholders, including Head Start.

49 The Task Force shall study the integration of public funds and programs to
50 ensure that all North Carolina's children age birth to five years are prepared to come to
51 school ready to achieve. In conducting the study, the Task Force shall consider and
52 develop recommendations for the following:

- 53 (1) Creating principles, rationale, strategies, structure, and outcomes for
54 the integration of all funding and programs that serve children age
55 birth to five years to achieve improved school readiness;

- 1 (2) Eliminating the duplication of programs;
- 2 (3) Enhancing the quality and performance of current programs;
- 3 (4) Creating performance measures that will document outcomes for
- 4 programs and children and will provide accessible service for families;
- 5 (5) Creating effective transition plans as children move from one program
- 6 or service to another;
- 7 (6) Documenting all current funding and programs for children ages birth
- 8 to kindergarten entry and coordination of existing data systems; and
- 9 (7) Equalizing the funding of the various programs that provide services to
- 10 children from birth to the age of five years to ensure equity in
- 11 accessibility to these programs.

12 The Task Force shall submit a report by April 1, 2006, to the President Pro
13 Tempore of the Senate, the Speaker of the House of Representatives, the Chairs of the
14 Senate Appropriations Committee on Health and Human Services, the Chairs of the
15 House of Representatives Appropriations Subcommittee on Health and Human
16 Services, and the Fiscal Research Division.

17 **SECTION 10.68.(f)** The Revisor of Statutes shall substitute the term
18 "Division of Child Development and School Readiness" for the term "Division of Child
19 Development" everywhere those terms appear in the following sections of the General
20 Statutes:

21 G.S. 110-90.2. Mandatory child care providers' criminal history checks.

22 G.S. 110-102. Information for parents.

23 G.S. 114-19.5. Criminal record checks of child care providers.

24 G.S. 143B-138.1. Department of Health and Human Service functions and
25 organization.

26 **SECTION 10.68.(g)** This section becomes effective July 1, 2005, for
27 organizational changes. The budgetary adjustments required by this section become
28 effective October 1, 2005.

30 PART XI. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

31
32 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

33 PESTICIDE DISPOSAL PROGRAM

34 **SECTION 11.1.** G.S. 143-468(b) reads as rewritten:

35 "(b) The Pesticide Environmental Trust Fund is established as a nonreverting
36 account within the Department of Agriculture and Consumer Services. The Department
37 of Agriculture and Consumer Services shall administer the Fund. The additional
38 assessment imposed by G.S. 143-442(b) on the registration of a brand or grade of
39 pesticide shall be credited to the Fund. The Department shall distribute money in the
40 Fund as follows:

- 41 (1) Two and one-half percent (2.5%) to North Carolina State University
42 Cooperative Extension Service to enhance its agromedicine efforts in
43 cooperation with East Carolina University School of Medicine.
- 44 (2) Two and one-half percent (2.5%) to East Carolina University School
45 of Medicine to enhance its agromedicine efforts in cooperation with
46 North Carolina State University Cooperative Extension Service.
- 47 (3) Twenty percent (20%) to North Carolina State University, Department
48 of Toxicology, to establish and maintain an extension agromedicine
49 specialist position.
- 50 (4) Seventy-five percent (75%) to the Department of Agriculture and
51 Consumer Services for the costs of administering its pesticide disposal
52 program, including the salaries and support of staff for the pesticide
53 disposal program, and for its environmental programs, as directed by
54 the Board, including establishing a pesticide container management

1 program to enhance its pesticide disposal program and its water quality
2 initiatives."
3

4 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

5 **TIMBER SALES RECEIPTS FOR CAPITAL IMPROVEMENTS AT**
6 **AGRICULTURAL RESEARCH STATIONS AND FARMS**

7 **SECTION 11.2.** The sum of one million thirty-three thousand one hundred
8 dollars (\$1,033,100) shall be transferred from the Department of Agriculture and
9 Consumer Services' timber sales capital improvement account in the Department of
10 Agriculture and Consumer Services as such funds become available during the
11 2005-2006 fiscal year, and used by the Department for the following capital
12 improvements projects at agricultural research stations and research farms:

- 13 (1) \$378,000 for improvements at the swine facility at the Cherry
14 Research Farm.
- 15 (2) \$285,500 for renovation of dairy facilities at the Cherry Research
16 Farm.
- 17 (3) \$369,600 for land acquisition and development at the Tidewater
18 Research Station.
19

20 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

21 **PLANT CONSERVATION PROGRAM FUNDS**

22 **SECTION 11.3.** From funds received from the sale of timber that are
23 deposited with the State Treasurer pursuant to G.S. 146-30 to the credit of the
24 Department of Agriculture and Consumer Services in a capital improvement account,
25 the sum of twenty thousand dollars (\$20,000) shall be transferred to the Department of
26 Agriculture and Consumer Services to be used by the Department for its plant
27 conservation program under Article 19B of Chapter 106 of the General Statutes for
28 costs incidental to the acquisition of land, such as land appraisals, land surveys, title
29 searches, and environmental studies.
30

31 Requested by: Senators Kerr, Garrou, Dalton, Hagan

32 **INCREASE FUNDS FOR NORTH CAROLINA GRAPE GROWERS COUNCIL**

33 **SECTION 11.4.** G.S. 105-113.81A reads as rewritten:

34 **"§ 105-113.81A. Distribution of part of wine taxes attributable to North Carolina**
35 **wine.**

36 The Secretary shall on a quarterly basis credit to the Department of Agriculture and
37 Consumer Services the net proceeds of the excise tax collected on unfortified wine
38 bottled in North Carolina during the previous quarter and the net proceeds of the excise
39 tax collected on fortified wine bottled in North Carolina during the previous quarter,
40 except that the amount credited to the Department of Agriculture and Consumer
41 Services under this section shall not exceed ~~three hundred fifty thousand dollars~~
42 ~~(\$350,000)~~ five hundred thousand dollars (\$500,000) per fiscal year. The Department of
43 Agriculture and Consumer Services shall allocate the funds received under this section
44 to the North Carolina Grape Growers Council to be used to promote the North Carolina
45 grape and wine industry and to contract for research and development services to
46 improve viticultural and enological practices in North Carolina. Any funds credited to
47 the Department of Agriculture and Consumer Services under this section that are not
48 expended by June 30 of any fiscal year may not revert to the General Fund, but shall
49 remain available to the Department for the uses set forth in this section."
50

51 **PART XII. DEPARTMENT OF ENVIRONMENT AND NATURAL**
52 **RESOURCES**
53

54 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

55 **STATE MATCH FOR FEDERAL SAFE DRINKING WATER ACT FUNDS**

1 **SECTION 12.1.** Notwithstanding the provisions of Chapter 159G of the
2 General Statutes, the Department of Environment and Natural Resources may transfer
3 from the General Water Supply Revolving Loan Account up to one million five hundred
4 thousand dollars (\$1,500,000) to the Department of Environment and Natural Resources
5 to be used to match the federal grant moneys authorized by section 1452 of the federal
6 Safe Drinking Water Act amendments of 1996 for the 2005-2006 fiscal year. The
7 General Water Supply Revolving Loan Account is an account under the Clean Water
8 Revolving Loan and Grant Fund and is established under G.S. 159G-4. The Clean
9 Water Revolving Loan and Grant Fund is established by G.S. 159G-5.

10
11 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

12 **EXPAND EXPRESS REVIEW PROGRAM STATEWIDE**

13 **SECTION 12.2.(a)** Part 1 of Article 7 of Chapter 143B of the General
14 Statutes is amended by adding two new sections to read:

15 **"§ 143B-279.13. Express permit and certification reviews.**

16 (a) The Department of Environment and Natural Resources shall develop an
17 express review program to provide express permit and certification reviews in all of its
18 regional offices. Participation in the express review program is voluntary, and the
19 program is to become supported by the fees determined pursuant to subsection (b) of
20 this section. The Department of Environment and Natural Resources shall determine the
21 project applications to review under the express review program from those who request
22 to participate in the program. The express review program may be applied to any one or
23 all of the permits, approvals, or certifications in the following programs: the erosion and
24 sedimentation control program, the coastal management program, and the water quality
25 programs, including water quality certifications and stormwater management. The
26 express review program shall focus on the following permits or certifications:

- 27 (1) Stormwater permits under Part 1 of Article 21 of Chapter 143 of the
28 General Statutes.
- 29 (2) Stream origination certifications under Article 21 of Chapter 143 of
30 the General Statutes.
- 31 (3) Water quality certification under Article 21 of Chapter 143 of the
32 General Statutes.
- 33 (4) Erosion and sedimentation control permits under Article 4 of Chapter
34 113A of the General Statutes.
- 35 (5) Permits under the Coastal Area Management Act (CAMA), Part 4 of
36 Article 7 of Chapter 113A of the General Statutes.

37 (b) The Department of Environment and Natural Resources may determine the
38 fees for express application review under the express review program. Notwithstanding
39 G.S. 143-215.3D, the maximum permit application fee to be charged under subsection
40 (a) of this section for the express review of a project application requiring all of the
41 permits under subdivisions (1) through (5) of subsection (a) of this section shall not
42 exceed five thousand five hundred dollars (\$5,500). Notwithstanding G.S. 143-215.3D,
43 the maximum permit application fee to be charged for the express review of a project
44 application requiring all of the permits under subdivisions (1) through (4) of subsection
45 (a) of this section shall not exceed four thousand five hundred dollars (\$4,500).
46 Notwithstanding G.S. 143-215.3D, the maximum permit application fee charged for the
47 express review of a project application for any other combination of permits under
48 subdivisions (1) through (5) of subsection (a) of this section shall not exceed four
49 thousand dollars (\$4,000). Express review of a project application involving additional
50 permits or certifications issued by the Department of Environment and Natural
51 Resources other than those under subdivisions (1) through (5) of subsection (a) of this
52 section may be allowed by the Department, and, notwithstanding G.S. 143-215.3D or
53 any other statute or rule that sets a permit fee, the maximum permit application fee
54 charged for the express review of a project application shall not exceed four thousand
55 dollars (\$4,000), plus one hundred fifty percent (150%) of the fee that would otherwise

1 apply by statute or rule for that particular permit or certification. Additional fees, not to
2 exceed fifty percent (50%) of the original permit application fee under this section, may
3 be charged for subsequent reviews due to the insufficiency of the permit applications.
4 The Department of Environment and Natural Resources may establish the procedure by
5 which the amount of the fees under this subsection is determined, and the fees and
6 procedures are not rules under G.S. 150B-2(8a) for the express review program under
7 this section.

8 (c) No later than March 1 of each year, the Department of Environment and
9 Natural Resources shall report to the Fiscal Research Division and the Environmental
10 Review Commission its findings on the success of the program under this section and
11 any other findings or recommendations, including any legislative proposals that it
12 deems pertinent.

13 **"§ 143B-279.14. Express Review Fund.**

14 The Express Review Fund is created as a special nonreverting fund. All fees
15 collected under G.S. 143B-279.13 shall be credited to the Express Review Fund. The
16 Express Review Fund shall be used for the costs of implementing the express review
17 program under G.S. 143B-279.13 and the costs of administering the program, including
18 the salaries and support of the program's staff. If the express review program is
19 abolished, the funds in the Express Review Fund shall be credited to the General Fund."

20 **SECTION 12.2.(b)** The Department of Environment and Natural Resources
21 shall expand to a statewide program that operates in each regional office of the
22 Department the Express Review Pilot Program established by Section 11.4A of S.L.
23 2003-284 and expanded by Section 12.9 of S.L. 2004-124, and the provisions of
24 G.S. 143B-279.13, as enacted by subsection (a) of this section, shall apply to this
25 statewide program.

26 **SECTION 12.2.(c)** The Department of Environment and Natural Resources
27 shall establish and support 12 additional positions to administer the statewide express
28 review program under G.S. 143B-279.13, as enacted by subsection (a) of this section.
29 Up to seven hundred thirty-six thousand six hundred twenty-nine dollars (\$736,629) for
30 the 2005-2006 fiscal year and up to six hundred seventy-one thousand four hundred
31 nine dollars (\$671,409) for the 2006-2007 fiscal year shall be allocated from the
32 Express Review Fund created in G.S. 143B-279.14, as enacted by subsection (a) of this
33 section, to establish and support these 12 positions.

34 **SECTION 12.2.(d)** The Department of Environment and Natural Resources
35 shall continue and support the four positions established under Section 12.9(c) of S.L.
36 2004-124 to administer the statewide express review program under G.S. 143B-279.13,
37 as enacted by subsection (a) of this section. Up to two hundred twenty-three thousand
38 eight hundred three dollars (\$223,803) for the 2005-2006 fiscal year and up to two
39 hundred twenty-three thousand eight hundred three dollars (\$223,803) for the
40 2006-2007 fiscal year shall be allocated from the Express Review Fund created in
41 G.S. 143B-279.14, as enacted by subsection (a) of this section, to continue and support
42 these four positions.

43
44 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

45 **SEDIMENTATION EDUCATION FUNDS**

46 **SECTION 12.3.** The Department of Environment and Natural Resources
47 shall use the funds appropriated in this act to the Department of Environment and
48 Natural Resources for the 2005-2006 fiscal year and for the 2006-2007 fiscal year for
49 sedimentation education for only the following:

- 50 (1) Sedimentation education activities that provide technical assistance to
51 local erosion and sedimentation control programs under G.S. 113A-60;
52 or
- 53 (2) Sedimentation education to professionals involved in developing
54 erosion and sedimentation control plans for which prior approval is
55 required under Article 4 of Chapter 113A of the General Statutes.

Requested by: Senators Weinstein, Garrou, Dalton, Hagan

**FUNDS TO IMPLEMENT FISHING LICENSE REQUIREMENTS
LEGISLATION/CONTINGENT REPEAL OF SALTWATER FISHING
LICENSE REQUIREMENT**

SECTION 12.4.(a) The Wildlife Resources Commission may disburse up to one million dollars (\$1,000,000) from the Wildlife Resources Fund to implement Senate Bill 1126 (Amend Fishing License Requirements-2) or House Bill 1092 (Amend Fishing License Requirements) if either bill becomes law no later than 30 days after adjournment of the 2005 Regular Session.

SECTION 12.4.(b) The State Treasurer shall transfer a sum equal to the sum of funds disbursed pursuant to subsection (a) of this section from the Marine Resources Fund to the Wildlife Resources Fund on July 1, 2010.

SECTION 12.4.(c) Sections 1 through 4 and Sections 6 through 12 of S.L. 2004-187 and Section 12.16 of S.L. 2004-124 are repealed unless Senate Bill 1126 (Amend Fishing License Requirements-2) or House Bill 1092 (Amend Fishing License Requirements) becomes law no later than 30 days after the adjournment in 2005 of the 2005 Regular Session under a joint resolution.

Requested by: Senators Weinstein, Garrou, Dalton, Hagan

GRASSROOTS SCIENCE PROGRAM

SECTION 12.5.(a) Of the funds appropriated in this act to the Department of Environment and Natural Resources for the Grassroots Science Program, the sum of three million one hundred ninety-seven thousand seven hundred sixty-two dollars (\$3,197,762) for the 2005-2006 fiscal year is allocated as grants-in-aid for each fiscal year as follows:

	2005-2006
Aurora Fossil Museum	\$59,057
Cape Fear Museum	\$161,007
Carolina Raptor Center	\$112,174
Catawba Science Center	\$133,429
Colburn Gem and Mineral Museum, Inc.	\$74,545
Discovery Place	\$662,865
Eastern NC Regional Science Center	\$50,000
Elizabeth City Science Center	\$50,000
Fascinate-U	\$80,742
Granville County Museum Commission, Inc.–Harris Gallery	\$56,422
Greensboro Children's Museum	\$135,076
The Health Adventure Museum of Pack Place Education, Arts and Science Center, Inc.	\$134,499
Highlands Nature Center	\$79,268
Imagination Station	\$86,034
Kidsenses	\$50,000
Museum of Coastal Carolina	\$186,354
Natural Science Center of Greensboro	\$74,192
North Carolina Museum of Life and Science	\$379,826
Rocky Mount Children's Museum	\$72,254
Schiele Museum of Natural History	\$229,547
Sci Works Science Center and Environmental Park of Forsyth County	\$146,499
Western North Carolina Nature Center	\$112,879

1 the Fiscal Research ~~Division~~ Division, and the Appropriations Subcommittees on
2 Natural and Economic Resources in both the Senate and the House of Representatives.
3 These reports shall indicate whether the pilot program has increased the effectiveness of
4 the annual inspections program or the response to complaints and reported problems,
5 specifically whether the pilot program had resulted in identifying violations earlier,
6 taking corrective actions earlier, increasing compliance with the animal waste
7 management plans and permit conditions, improving the time to respond to discharges,
8 complaints, and reported problems, improving communications between farmers and
9 Department employees, and any other consequences deemed pertinent by the
10 Department. These reports shall also compare the costs of conducting operations
11 reviews and inspections under the pilot program with the costs of conducting operations
12 reviews and inspections pursuant to G.S. 143-215.10D and G.S. 143-215.10F and the
13 resources that would be required to expand the pilot program to all counties. ~~The final~~
14 ~~report shall include a recommendation as to whether to continue or expand the pilot~~
15 ~~program under this act. The Environmental Review Commission may recommend to the~~
16 ~~General Assembly whether to continue or expand the pilot program under this act and~~
17 ~~may make any related legislative proposals."~~

18 **SECTION 12.7.(c)** No later than October 15, 2005, the Department of
19 Environment and Natural Resources shall recommend to the Environmental Review
20 Commission and the General Assembly whether to continue or expand the pilot
21 program under this section. The Environmental Review Commission shall recommend
22 to the 2006 Session of the General Assembly whether to continue or expand the pilot
23 program under this section and may make any related legislative proposals.

24 **PART XIII. DEPARTMENT OF COMMERCE**

25
26
27 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

28 **WANCHESE SEAFOOD INDUSTRIAL PARK/OREGON INLET FUNDS**

29 **SECTION 13.1.(a)** Funds appropriated to the Department of Commerce for
30 the 2004-2005 fiscal year for the Wanchese Seafood Industrial Park that are unexpended
31 and unencumbered as of June 30, 2005, shall not revert to the General Fund on June 30,
32 2005, but shall remain available to the Department to be expended by the Wanchese
33 Seafood Industrial Park for operations, maintenance, repair, and capital improvements
34 in accordance with Article 23C of Chapter 113 of the General Statutes.

35 **SECTION 13.1.(b)** Funds appropriated to the Department of Commerce for
36 the 2004-2005 fiscal year for the Oregon Inlet Project that are unexpended and
37 unencumbered as of June 30, 2005, shall not revert to the General Fund on June 30,
38 2005.

39 **SECTION 13.1.(c)** This section becomes effective June 30, 2005.

40
41 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

42 **COUNCIL OF GOVERNMENT FUNDS**

43 **SECTION 13.2.(a)** Of the funds appropriated in this act to the Department
44 of Commerce, eight hundred thirty-two thousand one hundred fifty dollars (\$832,150)
45 for the 2005-2006 fiscal year and eight hundred thirty-two thousand one hundred fifty
46 dollars (\$832,150) for the 2006-2007 fiscal year shall only be used as provided by this
47 section. Each regional council of government or lead regional organization is allocated
48 up to forty-eight thousand nine hundred fifty dollars (\$48,950) for the 2005-2006 and
49 the 2006-2007 fiscal years.

50 **SECTION 13.2.(b)** A regional council of government may use funds
51 appropriated by this section only to assist local governments in grant applications,
52 economic development, community development, support of local industrial
53 development activities, and other activities as deemed appropriate by the member
54 governments.

1 **SECTION 13.2.(c)** Funds appropriated by this section shall be paid by
2 electronic transfer in two equal installments, the first no later than September 1, 2005,
3 and the second subsequent to acceptable submission of the annual report due to the Joint
4 Legislative Commission on Governmental Operations and the Fiscal Research Division
5 by January 15, 2006, as specified in subdivision (e)(2) of this section.

6 **SECTION 13.2.(d)** Funds appropriated by this section shall not be used for
7 payment of dues or assessments by the member governments and shall not supplant
8 funds appropriated by the member governments.

9 **SECTION 13.2.(e)** Each council of government or lead regional
10 organization shall do the following:

11 (1) By January 15, 2006, and more frequently as requested, report to the
12 Joint Legislative Commission on Governmental Operations and the
13 Fiscal Research Division the following information:

- 14 a. State fiscal year 2004-2005 program activities, objectives, and
15 accomplishments;
16 b. State fiscal year 2004-2005 itemized expenditures and fund
17 sources;
18 c. State fiscal year 2005-2006 planned activities, objectives, and
19 accomplishments, including actual results through December
20 31, 2005; and
21 d. State fiscal year 2005-2006 estimated itemized expenditures
22 and fund sources, including actual expenditures and fund
23 sources through December 31, 2005.

24 (2) By January 15, 2007, and more frequently as requested, report to the
25 Joint Legislative Commission on Governmental Operations and the
26 Fiscal Research Division the following information:

- 27 a. State fiscal year 2005-2006 program activities, objectives, and
28 accomplishments;
29 b. State fiscal year 2005-2006 itemized expenditures and fund
30 sources;
31 c. State fiscal year 2006-2007 planned activities, objectives, and
32 accomplishments, including actual results through December
33 31, 2006; and
34 d. State fiscal year 2006-2007 estimated itemized expenditures
35 and fund sources, including actual expenditures and fund
36 sources through December 31, 2006.

37 (3) Provide to the Fiscal Research Division a copy of the organization's
38 annual audited financial statement within 30 days of issuance of the
39 statement.
40

41 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

42 **TOURISM PROMOTION FUNDS**

43 **SECTION 13.3.** Funds appropriated in this act to the Department of
44 Commerce for tourism promotion grants shall be allocated to counties in an effort to
45 direct funds to counties most in need. Determinations of which counties are most in
46 need shall focus on those with the lowest per capita income, highest unemployment, and
47 slowest population growth in the following manner:

48 (1) Counties 1 through 20 are each eligible to receive a maximum grant of
49 seven thousand five hundred dollars (\$7,500) for each fiscal year,
50 provided these funds are matched on the basis of one non-State dollar
51 (\$1.00) for every four State dollars (\$4.00).

52 (2) Counties 21 through 50 are each eligible to receive a maximum grant
53 of three thousand five hundred dollars (\$3,500) for two of the next
54 three fiscal years, provided these funds are matched on the basis of one
55 non-State dollar (\$1.00) for every three State dollars (\$3.00).

- 1 (3) Counties 51 through 100 are each eligible to receive a maximum grant
 2 of three thousand five hundred dollars (\$3,500) for alternating fiscal
 3 years, beginning with the 1991-1992 fiscal year, provided these funds
 4 are matched on the basis of four non-State dollars (\$4.00) for every
 5 one State dollar (\$1.00).
 6

7 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

8 **EMPLOYMENT SECURITY FUNDS**

9 **SECTION 13.4.(a)** There is appropriated from the Special Employment
 10 Security Administration Fund to the Employment Security Commission of North
 11 Carolina the sum of six million three hundred thousand dollars (\$6,300,000) for the
 12 2005-2006 fiscal year to be used for the following purposes:

- 13 (1) Six million dollars (\$6,000,000) for the operation and support of local
 14 offices.
 15 (2) Two hundred thousand dollars (\$200,000) for the State Occupational
 16 Information Coordinating Committee to develop and operate an
 17 interagency system to track former participants in State education and
 18 training programs.
 19 (3) One hundred thousand dollars (\$100,000) to maintain compliance with
 20 Chapter 96 of the General Statutes, which directs the Commission to
 21 employ the Common Follow-Up Management Information System to
 22 evaluate the effectiveness of the State's job training, education, and
 23 placement programs.

24 **SECTION 13.4.(b)** This section becomes effective July 1, 2005.
 25

26 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

27 **INDUSTRIAL DEVELOPMENT FUND**

28 **SECTION 13.5.** G.S. 143B-437.01 reads as rewritten:

29 **"§ 143B-437.01. Industrial Development Fund.**

30 (a) Creation and Purpose of Fund. – There is created in the Department of
 31 Commerce the Industrial Development Fund to provide funds to assist the local
 32 government units of the most economically distressed counties in the State in creating
 33 jobs in certain industries. The Department of Commerce shall adopt rules providing for
 34 the administration of the program. Those rules shall include the following provisions,
 35 which shall apply to each grant from the fund:
 36

- 37 (1) The funds shall be used for (i) installation of or purchases of
 38 equipment for eligible industries, (ii) structural repairs, improvements,
 39 or renovations of existing buildings to be used for expansion of
 40 eligible industries, or (iii) construction of or improvements to new or
 41 existing water, sewer, gas, telecommunications, high-speed broadband,
 42 ~~or~~ electrical utility distribution lines or ~~equipment~~ equipment, or
 43 transportation infrastructure for existing or new or proposed industrial
 44 buildings to be used for eligible industries. To be eligible for funding,
 45 the water, sewer, gas, telecommunications, high-speed broadband, ~~or~~
 46 electrical utility lines or ~~facilities~~ facilities, or transportation
 47 infrastructure shall be located on the site of the building or, if not
 48 located on the site, shall be directly related to the operation of the
 49 specific eligible industrial activity.
 50

51 (b1) Utility Account. – There is created within the Industrial Development Fund a
 52 special account to be known as the Utility Account to provide funds to assist the local
 53 government units of enterprise tier one, two, and three areas, as defined in
 54 G.S. 105-129.3, in creating jobs in eligible industries. The Department of Commerce
 55 shall adopt rules providing for the administration of the program. Except as otherwise

1 provided in this subsection, those rules shall be consistent with the rules adopted with
2 respect to the Industrial Development Fund. The rules shall provide that the funds in the
3 Utility Account may be used only for construction of or improvements to new or
4 existing water, sewer, gas, telecommunications, high-speed broadband, ~~or~~ electrical
5 utility distribution lines or ~~equipment~~equipment, or transportation infrastructure for
6 existing or new or proposed industrial buildings to be used for eligible industrial
7 operations. To be eligible for funding, the water, sewer, gas, telecommunications,
8 high-speed broadband, ~~or~~ electrical utility lines or ~~facilities~~facilities, or transportation
9 infrastructure shall be located on the site of the building or, if not located on the site,
10 shall be directly related to the operation of the specific industrial activity. There shall be
11 no maximum funding amount per new job to be created or per project.

12"

13
14 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

15 **ONE NORTH CAROLINA FUND**

16 **SECTION 13.6.** Of the funds appropriated in Section 1(a) of S.L. 2004-88
17 to the One North Carolina Fund, the Department of Commerce may use up to three
18 hundred thousand dollars (\$300,000) to cover its expenses in administering the One
19 North Carolina Fund and other economic development incentive grant programs in the
20 2005-2006 fiscal year.

21
22 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

23 **REGIONAL ECONOMIC DEVELOPMENT COMMISSION ALLOCATIONS**

24 **SECTION 13.7.(a)** Funds appropriated in this act to the Department of
25 Commerce for regional economic development commissions shall be allocated to the
26 following Commissions in accordance with subsection (b) of this section: Western
27 North Carolina Regional Economic Development Commission, Research Triangle
28 Regional Commission, Southeastern North Carolina Regional Economic Development
29 Commission, Piedmont Triad Partnership, Northeastern North Carolina Regional
30 Economic Development Commission, Global TransPark Development Commission,
31 and Carolinas Partnership, Inc.

32 **SECTION 13.7.(b)** Funds appropriated pursuant to subsection (a) of this
33 section shall be allocated to each Regional Economic Development Commission as
34 follows:

- 35 (1) First, the Department shall establish each Commission's allocation by
36 determining the sum of allocations to each county that is a member of
37 that Commission. Each county's allocation shall be determined by
38 dividing the county's enterprise factor by the sum of the enterprise
39 factors for eligible counties and multiplying the resulting percentage
40 by the amount of the appropriation. As used in this subdivision, the
41 term "enterprise factor" means a county's enterprise factor as
42 calculated under G.S. 105-129.3; and
- 43 (2) Next, the Department shall subtract from funds allocated to the Global
44 TransPark Development Commission the sum of one hundred eighteen
45 thousand one hundred twenty-nine dollars (\$118,129) in the
46 2005-2006 fiscal year and one hundred eighteen thousand four
47 hundred seventy-seven dollars (\$118,477) in the 2006-2007 fiscal
48 year, which sum represents the interest earnings in each fiscal year on
49 the estimated balance of seven million five hundred thousand dollars
50 (\$7,500,000) appropriated to the Global TransPark Development Zone
51 in Section 6 of Chapter 561 of the 1993 Session Laws; and
- 52 (3) Next, the Department shall redistribute the sum of one hundred
53 eighteen thousand one hundred twenty-nine dollars (\$118,129) in the
54 2005-2006 fiscal year and one hundred eighteen thousand four
55 hundred seventy-seven dollars (\$118,477) in the 2006-2007 fiscal year

1 to the seven Regional Economic Development Commissions named in
2 subsection (a) of this section. Each Commission's share of this
3 redistribution shall be determined according to the enterprise factor
4 formula set out in subdivision (1) of this subsection. This
5 redistribution shall be in addition to each Commission's allocation
6 determined under subdivision (1) of this subsection.
7

8 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

9 **REGIONAL ECONOMIC DEVELOPMENT COMMISSION REPORTS**

10 **SECTION 13.8.(a)** By February 15 of each fiscal year, the seven regional
11 economic development commissions shall report to the Joint Legislative Commission
12 on Governmental Operations and the Fiscal Research Division the following
13 information:

- 14 (1) The preceding fiscal year's program activities, objectives, and
15 accomplishments.
- 16 (2) The preceding fiscal year's itemized expenditures and fund sources.
- 17 (3) Demonstration of how the commission's regional economic
18 development and marketing strategy aligns with the State's overall
19 economic development and marketing strategies.
- 20 (4) To the extent they are involved in promotion activities such as trade
21 shows, visits to prospects and consultants, advertising and media
22 placement, the commissions shall demonstrate how they have
23 generated qualified leads.

24 **SECTION 13.8.(b)** Each of the commissions shall provide to the Fiscal
25 Research Division a copy of their annual audited financial statement within 30 days of
26 issuance of the statement.

27 **SECTION 13.8.(c)** The reporting requirements for regional economic
28 development commissions, as provided in subsection (a) of this section, shall be
29 reviewed annually by the North Carolina Partnership for Economic Development, and
30 recommendations for changes to the reporting requirements shall be made to the Fiscal
31 Research Division, the President Pro Tempore of the Senate, and the Speaker of the
32 House of Representatives.

33 **SECTION 13.8.(d)** Regional economic development commissions shall
34 receive quarterly allocations of the funds appropriated in this act to the Department of
35 Commerce for regional economic development commissions.

36 **SECTION 13.8.(e)** Regional economic development commissions shall
37 remain in the Department of Commerce's Budget Code 14601 with other State-aided
38 nonprofit entities.
39

40 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

41 **NONPROFIT REPORTING REQUIREMENTS**

42 **SECTION 13.9.(a)** The N.C. Institute for Minority Economic Development,
43 Inc., Land Loss Prevention Project, North Carolina Minority Support Center, North
44 Carolina Community Development Initiative, Inc., North Carolina Association of
45 Community Development Corporations, Inc., Coalition of Farm and Rural Families, and
46 Partnership for the Sounds, Inc., shall do the following:

- 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 31,
3 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 31,
16 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 13.9.(b)** No funds appropriated under this act shall be released to
24 a nonprofit organization listed in subsection (a) of this section until the organization has
25 satisfied the reporting requirement for January 15, 2005. Fourth quarter allotments shall
26 not be released to any nonprofit organization that does not satisfy the reporting
27 requirements by January 15, 2006, or January 15, 2007.
28

29 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

30 **BIOTECHNOLOGY CENTER**

31 **SECTION 13.10.(a)** The North Carolina Biotechnology Center shall
32 recapture funds spent in support of successful research and development efforts in the
33 for-profit private sector.

34 **SECTION 13.10.(b)** The North Carolina Biotechnology Center shall
35 provide funding for biotechnology, biomedical, and related bioscience applications
36 under its Business and Science Technology Programs.

37 **SECTION 13.10.(c)** The North Carolina Biotechnology Center shall:

- 38 (1) By January 15, 2006, and more frequently as requested, report to the
39 Joint Legislative Commission on Governmental Operations and the
40 Fiscal Research Division the following information:
41 a. State fiscal year 2004-2005 program activities, objectives, and
42 accomplishments;
43 b. State fiscal year 2004-2005 itemized expenditures and fund
44 sources;
45 c. State fiscal year 2005-2006 planned activities, objectives, and
46 accomplishments, including actual results through December
47 31, 2005; and
48 d. State fiscal year 2005-2006 estimated itemized expenditures
49 and fund sources, including actual expenditures and fund
50 sources through December 31, 2005.
51 (2) By January 15, 2007, and more frequently as requested, report to the
52 Joint Legislative Commission on Governmental Operations and the
53 Fiscal Research Division the following information:
54 a. State fiscal year 2005-2006 program activities, objectives, and
55 accomplishments;

- b. State fiscal year 2005-2006 itemized expenditures and fund sources;
 - c. State fiscal year 2006-2007 planned activities, objectives, and accomplishments, including actual results through December 31, 2006; and
 - d. State fiscal year 2006-2007 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2006.
- (3) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

SECTION 13.10.(d) The North Carolina Biotechnology Center shall provide a report containing detailed budget, personnel, and salary information to the Office of State Budget and Management and to the Fiscal Research Division in the same manner as State departments and agencies in preparation for biennium budget requests.

Requested by: Senators Weinstein, Garrou, Dalton, Hagan

RURAL ECONOMIC DEVELOPMENT CENTER

SECTION 13.11.(a) Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of two million twenty-five thousand six hundred ninety-seven dollars (\$2,025,697) for the 2005-2006 fiscal year and the sum of two million twenty-five thousand six hundred ninety-seven dollars (\$2,025,697) for the 2006-2007 fiscal year shall be allocated as follows:

	2005-2006	2006-2007
Research and Demonstration Grants	\$370,000	\$370,000
Technical Assistance and Center Administration of Research and Demonstration Grants	444,399	444,399
Center Administration, Oversight, and Other Programs	604,298	604,298
Administration of Clean Water/ Natural Gas Critical Needs Bond Act of 1998	199,722	199,722
Additional Administration of Supplemental Funding Program	138,278	138,278
Administration of Capacity Building Assistance Program (1998 Bond Act)	125,000	125,000
Institute for Rural Entrepreneurship	144,000	144,000.

SECTION 13.11.(b) The Rural Economic Development Center, Inc., shall provide a report containing detailed budget, personnel, and salary information to the Office of State Budget and Management in the same manner as State departments and agencies in preparation for biennium budget requests.

SECTION 13.11.(c) For purposes of this section, the term "community development corporation" means a nonprofit corporation:

- (1) Chartered pursuant to Chapter 55A of the General Statutes;
- (2) Tax-exempt pursuant to section 501(c)(3) of the Internal Revenue Code of 1986;
- (3) Whose primary mission is to develop and improve low-income communities and neighborhoods through economic and related development;
- (4) Whose activities and decisions are initiated, managed, and controlled by the constituents of those local communities; and
- (5) Whose primary function is to act as deal-maker and packager of projects and activities that will increase their constituencies' opportunities to become owners, managers, and producers of small

1 businesses, affordable housing, and jobs designed to produce positive
2 cash flow and curb blight in the targeted community.

3 **SECTION 13.11.(d)** Of the funds appropriated in this act to the Rural
4 Economic Development Center, Inc., the sum of two million four hundred fifteen
5 thousand nine hundred ten dollars (\$2,415,910) for the 2005-2006 fiscal year and the
6 sum of two million four hundred fifteen thousand nine hundred ten dollars (\$2,415,910)
7 for the 2006-2007 fiscal year shall be allocated as follows:

- 8 (1) \$1,047,410 in each fiscal year for community development grants to
9 support development projects and activities within the State's minority
10 communities. Any community development corporation as defined in
11 this section is eligible to apply for funds. The Rural Economic
12 Development Center, Inc., shall establish performance-based criteria
13 for determining which community development corporation will
14 receive a grant and the grant amount. The Rural Economic
15 Development Center, Inc., shall allocate these funds as follows:
- 16 a. \$997,410 for direct grants to local community development
17 corporations to support operations and project activities.
- 18 b. \$50,000 in each fiscal year to the Rural Economic Development
19 Center, Inc., to be used to cover expenses in administering this
20 section.
- 21 (2) \$195,000 in each fiscal year to the Microenterprise Loan Program to
22 support the loan fund and operations of the Program; and
- 23 (3) \$983,000 in each fiscal year shall be used for a program to provide
24 supplemental funding for matching requirements for projects and
25 activities authorized under this subsection. The Center shall allocate
26 these funds as follows:
- 27 a. \$675,000 in each fiscal year to make grants to local
28 governments and nonprofit corporations to provide funds
29 necessary to match federal grants or other grants for:
- 30 1. Necessary economic development projects and activities
31 in economically distressed areas;
- 32 2. Necessary water and sewer projects and activities in
33 economically distressed communities to address health
34 or environmental quality problems except that funds
35 shall not be expended for the repair or replacement of
36 low-pressure pipe wastewater systems. If a grant is
37 awarded under this sub-subdivision, then the grant shall
38 be matched on a dollar-for-dollar basis in the amount of
39 the grant awarded; or
- 40 3. Projects that demonstrate alternative water and waste
41 management processes for local governments. Special
42 consideration should be given to cost-effectiveness,
43 efficacy, management efficiency, and the ability of the
44 demonstration project to be replicated.
- 45 b. \$208,000 in each fiscal year to make grants to local
46 governments and nonprofit corporations to provide funds
47 necessary to match federal grants or other grants related to
48 water, sewer, or business development projects.
- 49 c. \$100,000 in each fiscal year to support the update of the
50 statewide water and sewer database and to support the
51 development of a statewide water management plan.
- 52 (4) \$190,500 in each fiscal year for the Agricultural Advancement
53 Consortium. These funds shall be placed in a reserve and allocated as
54 follows:

- 1 a. \$75,000 in each fiscal year for operating expenses associated
2 with the Consortium; and
3 b. \$115,500 in each fiscal year for research initiatives funded by
4 the Consortium.

5 The Consortium shall facilitate discussions among interested parties
6 and shall develop recommendations to improve the State's economic
7 development through farming and agricultural interests.

8 The grant recipients in this subsection shall be selected on the basis of need.

9 **SECTION 13.11.(e)** The Rural Economic Development Center, Inc., shall:

- 10 (1) By January 15, 2006, and more frequently as requested, report to the
11 Joint Legislative Commission on Governmental Operations and the
12 Fiscal Research Division the following information:

- 13 a. State fiscal year 2004-2005 program activities, objectives, and
14 accomplishments;
15 b. State fiscal year 2004-2005 itemized expenditures and fund
16 sources;
17 c. State fiscal year 2005-2006 planned activities, objectives, and
18 accomplishments, including actual results through December
19 31, 2005; and
20 d. State fiscal year 2005-2006 estimated itemized expenditures
21 and fund sources, including actual expenditures and fund
22 sources through December 31, 2005.

- 23 (2) By January 15, 2007, and more frequently as requested, report to the
24 Joint Legislative Commission on Governmental Operations and the
25 Fiscal Research Division the following information:

- 26 a. State fiscal year 2005-2006 program activities, objectives, and
27 accomplishments;
28 b. State fiscal year 2005-2006 itemized expenditures and fund
29 sources;
30 c. State fiscal year 2006-2007 planned activities, objectives, and
31 accomplishments, including actual results through December
32 31, 2006; and
33 d. State fiscal year 2006-2007 estimated itemized expenditures
34 and fund sources, including actual expenditures and fund
35 sources through December 31, 2006.

- 36 (3) Provide to the Fiscal Research Division a copy of each grant
37 recipient's annual audited financial statement within 30 days of
38 issuance of the statement.

39 **SECTION 13.11.(f)** No funds appropriated under this act shall be released to
40 a community development corporation, as defined in this section, unless the corporation
41 can demonstrate that there are no outstanding or proposed assessments or other
42 collection actions against the corporation for any State or federal taxes, including
43 related penalties, interest, and fees.
44

45 Requested by: Senators Weinstein, Albertson, Garrou, Dalton, Hagan

46 **RURAL ECONOMIC DEVELOPMENT CENTER**

47 **SECTION 13.12.(a)** Of the funds appropriated in this act to the Rural
48 Economic Development Center, Inc., the sum of twenty million dollars (\$20,000,000)
49 for the 2005-2006 fiscal year and the sum of twenty million dollars (\$20,000,000) for
50 the 2006-2007 fiscal year shall be allocated as follows:

- 51 (1) To continue the North Carolina Infrastructure Program. The purpose of
52 the Program is to provide grants to local governments to construct
53 critical water and wastewater facilities and to provide other
54 infrastructure needs, including technology needs, to sites where these
55 facilities will generate private job-creating investment. At least fifteen

1 million dollars (\$15,000,000) of the funds appropriated in this act for
2 each year of the biennium must be used to provide grants under this
3 Program.

- 4 (2) To provide matching grants to local governments in distressed areas
5 and equity investments in public-private ventures that will
6 productively reuse vacant buildings and properties, with priority given
7 to towns or communities with populations of less than 5,000.

- 8 (3) To provide economic development research and demonstration grants.

9 **SECTION 13.12.(b)** The funds appropriated in this act to the Rural
10 Economic Development Center, Inc., shall be recurring funds.

11 **SECTION 13.12.(c)** The Rural Economic Development Center, Inc., may
12 contract with other State agencies, constituent institutions of The University of North
13 Carolina, and colleges within the North Carolina Community College System for certain
14 aspects of the North Carolina Infrastructure Program, including design of Program
15 guidelines and evaluation of Program results.

16 **SECTION 13.12.(d)** During each year of the 2005-2007 biennium, the Rural
17 Economic Development Center, Inc., may use up to two percent (2%) of the funds
18 appropriated in this act to cover its expenses in administering the North Carolina
19 Economic Infrastructure Program.

20 **SECTION 13.12.(e)** No later than January 15 each year, the Rural Economic
21 Development Center, Inc., shall submit an annual report to the Joint Legislative
22 Commission on Governmental Operations concerning the progress of the North
23 Carolina Economic Infrastructure Program.

24 **SECTION 13.12.(f)** Of the funds appropriated in this act to the Rural
25 Economic Development Center, Inc., the sum of five hundred thousand dollars
26 (\$500,000) for the 2005-2006 fiscal year and the sum of five hundred thousand dollars
27 (\$500,000) for the 2006-2007 fiscal year shall be allocated to the e-NC Authority.

28 The e-NC Authority may:

- 29 (1) Contract with other State agencies, The University of North Carolina,
30 the North Carolina Community College System, and nonprofit
31 organizations to assist with program development and the evaluation
32 of program activities.
33 (2) Use up to five percent (5%) of the funds allocated in this section to
34 cover its expenses in program development and implementation of
35 activity areas.

36 The e-NC Authority shall report to the 2006 General Assembly on the
37 following:

- 38 (1) The activities necessary to be undertaken in distressed urban areas of
39 the State to enhance the capability of citizens and businesses residing
40 in these areas to access the high-speed Internet.
41 (2) An implementation plan for the training of citizens and businesses in
42 distressed urban areas.
43 (3) The technology and digital literacy training necessary to assist citizens
44 and existing businesses to create new technology-based enterprises in
45 these communities and to use the Internet to enhance the productivity
46 of their businesses.

47 The e-NC Authority shall, by January 31, 2006, and quarterly thereafter,
48 report to the Joint Legislative Commission on Governmental Operations on program
49 development and the evaluation of program activities.

50 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

51 **OPPORTUNITIES INDUSTRIALIZATION CENTER FUNDS**

52 **SECTION 13.13.(a)** Of the funds appropriated in this act to the Rural
53 Economic Development Center, Inc., the sum of three hundred sixty-one thousand
54 dollars (\$361,000) for the 2005-2006 fiscal year and the sum of three hundred sixty-one
55

1 thousand dollars (\$361,000) for the 2006-2007 fiscal year shall be equally distributed
2 among the certified Opportunities Industrialization Centers for ongoing job training
3 programs.

4 **SECTION 13.13.(b)** For each of the Opportunities Industrialization Centers
5 receiving funds pursuant to subsection (a) of this section, the Rural Economic
6 Development Center, Inc., shall:

7 (1) By January 15, 2006, 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 2004-2005 program activities, objectives, and
11 accomplishments;
12 b. State fiscal year 2004-2005 itemized expenditures and fund
13 sources;
14 c. State fiscal year 2005-2006 planned activities, objectives, and
15 accomplishments, including actual results through December
16 31, 2005; and
17 d. State fiscal year 2005-2006 estimated itemized expenditures
18 and fund sources, including actual expenditures and fund
19 sources through December 31, 2005.

20 (2) By January 15, 2007, 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 2005-2006 program activities, objectives, and
24 accomplishments;
25 b. State fiscal year 2005-2006 itemized expenditures and fund
26 sources;
27 c. State fiscal year 2006-2007 planned activities, objectives, and
28 accomplishments, including actual results through December
29 31, 2006; and
30 d. State fiscal year 2006-2007 estimated itemized expenditures
31 and fund sources, including actual expenditures and fund
32 sources through December 31, 2006.

33 (3) Notwithstanding G.S. 143-6.1(d), file annually with the State Auditor
34 a financial statement in the form and on the schedule prescribed by the
35 State Auditor. The financial statements must be audited in accordance
36 with standards prescribed by the State Auditor to assure that State
37 funds are used for the purposes provided by law.

38 (4) Provide to the Fiscal Research Division a copy of the annual audited
39 financial statement required in subdivision (3) of this subsection within
40 30 days of issuance of the statement.

41 **SECTION 13.13.(c)** No funds appropriated under this act shall be released
42 to an Opportunities Industrialization Center (hereinafter Center) listed in subsection (a)
43 of this section if the Center has any overdue tax debts, as that term is defined in
44 G.S. 105-243.1, at the federal or State level.

45 46 **PART XIV. JUDICIAL DEPARTMENT**

47
48 Requested by: Senators Thomas, Garrou, Dalton, Hagan

49 **ESTABLISH CONFERENCE OF CLERKS OF COURT OF SUPERIOR COURT**

50 **SECTION 14.1.(a)** Chapter 7A of the General Statutes is amended by
51 adding a new Subchapter to read:

52 **"SUBCHAPTER XV. CONFERENCE OF CLERKS OF SUPERIOR COURT.**

53 **"Article 63.**

54 **"Conference of Clerks of Superior Court.**

55 **"§ 7A-805. Establishment and purpose.**

1 There is created the Conference of Clerks of Superior Court of North Carolina, of
2 which each clerk of superior court is a member. The purpose of the Conference is to
3 assist in improving the administration of justice in North Carolina by coordinating the
4 efforts of the various clerks of superior court, by assisting them in the administration of
5 their offices, and by exercising the powers and performing the duties provided for in
6 this Article.

7 **"§ 7A-806. Annual meetings; organization; election of officers.**

8 (a) Annual Meetings. – The Conference shall meet each summer and winter at a
9 time and place selected by the President of the Conference.

10 (b) Election of Officers. – Officers of the Conference are a President, two Vice
11 Presidents, a Secretary, a Treasurer, and other officers from among its membership that
12 the Conference may designate in its bylaws. Officers are elected for one-year terms at
13 the annual summer conference and take office on July 1 immediately following their
14 election.

15 (c) Executive Committee. – The Executive Committee of the Conference consists
16 of the President, the two Vice Presidents, the Secretary, the Treasurer, and seven other
17 members of the Conference. One of these seven members shall be the immediate past
18 president if there is one and that past president continues to be a member.

19 (d) Organization and Functioning; Bylaws. – The bylaws may provide for the
20 organization and functioning of the Conference, including the powers and duties of its
21 officers and committees. The bylaws shall state the number of members required to
22 constitute a quorum at any meeting of the Conference or the Executive Committee. The
23 bylaws shall set out the procedure for amending the bylaws.

24 (e) Calling Meetings; Duty to Attend. – The President or the Executive
25 Committee may call a meeting of the Conference upon 10 days' notice to the members,
26 except upon written waiver of notice signed by at least three-fourths of the members. A
27 member should attend each meeting of the Conference and the Executive Committee of
28 which he is given notice. Members are entitled to reimbursement for travel and
29 subsistence expenses at the rate applicable to State employees.

30 **"§ 7A-807. Powers of Conference.**

31 (a) The Conference may:

32 (1) Cooperate with citizens and other public and private agencies to
33 promote the effective administration of justice.

34 (2) Develop advisory manuals to assist in the organization and
35 administration of their offices, case management, calendaring, case
36 tracking, filing, and office procedures.

37 (3) Work with the cooperation of the Administrative Office of the Courts
38 and the Institute of Government of the School of Government at
39 UNC-Chapel Hill to provide education and training programs for
40 clerks and staff.

41 (b) The Conference may not adopt rules pursuant to Chapter 150B of the General
42 Statutes.

43 **"§ 7A-808. Executive secretary; clerical support.**

44 The Conference may employ an executive secretary and any necessary supporting
45 staff to assist it in carrying out its duties."

46 **SECTION 14.1.(b)** The organizational meeting of the Conference of Clerks
47 of Superior Court shall be convened by the Director of the Administrative Office of the
48 Courts as soon as feasible. Officers elected at that organizational meeting shall serve
49 until their successors take office July 1, 2006.

50
51 Requested by: Senators Thomas, Dalton, Purcell, Garrou, Hagan

52 **DIVIDE DISTRICT COURT DISTRICT 20 AND PROSECUTORIAL DISTRICT**
53 **20 INTO 20A AND 20B AND REALIGN SUPERIOR COURT DISTRICTS**
54 **20A AND 20B/DIVIDE SUPERIOR COURT, DISTRICT COURT, AND**
55 **PROSECUTORIAL DISTRICTS 29 INTO DISTRICTS 29A AND 29B**

1 **SECTION 14.2.(a)** G.S. 7A-41(a) reads as rewritten:
 2 "(a) The counties of the State are organized into judicial divisions and superior
 3 court districts, and each superior court district has the counties, and the number of
 4 regular resident superior court judges set forth in the following table, and for districts of
 5 less than a whole county, as set out in subsection (b) of this section:

Judicial Division	Superior Court District	Counties	No. of Resident Judges
10 First	1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	2
13 First	2	Beaufort, Hyde, Martin, Tyrrell, Washington	1
15 First	3A	Pitt	2
16 Second	3B	Carteret, Craven, Pamlico	3
18 Second	4A	Duplin, Jones, Sampson	1
19 Second	4B	Onslow	1
21 Second	5A	(part of New Hanover, part of Pender see subsection (b))	1
22	5B	(part of New Hanover, part of Pender see subsection (b))	1
23	5C	(part of New Hanover, see subsection (b))	1
24	6A	Halifax	1
25 First	6B	Bertie, Hertford, Northampton	1
26 First	7A	Nash	1
27 First	7B	(part of Wilson, part of Edgecombe, see subsection (b))	1
28	7C	(part of Wilson, part of Edgecombe, see subsection (b))	1
29 Second	8A	Lenoir and Greene	1
30 Second	8B	Wayne	1
31 Third	9	Franklin, Granville, Vance, Warren	2
32 Third	9A	Person, Caswell	1
33 Third	10A	(part of Wake, see subsection (b))	2
34 Third	10B	(part of Wake, see subsection (b))	2
35 Third	10C	(part of Wake, see subsection (b))	1
36 Third	10D	(part of Wake, see subsection (b))	1
37 Fourth	11A	Harnett, Lee	1
38 Fourth	11B	Johnston	1
39 Fourth	12A	(part of Cumberland, see subsection (b))	1
40 Fourth	12B	(part of Cumberland, see subsection (b))	1

1	Fourth	12C	(part of Cumberland, see subsection (b))	2
2				
3	Fourth	13	Bladen, Brunswick, Columbus	2
4				
5	Third	14A	(part of Durham, see subsection (b))	1
6				
7	Third	14B	(part of Durham, see subsection (b))	3
8				
9	Third	15A	Alamance	2
10	Third	15B	Orange, Chatham	2
11	Fourth	16A	Scotland, Hoke	1
12	Fourth	16B	Robeson	2
13	Fifth	17A	Rockingham	2
14	Fifth	17B	Stokes, Surry	2
15	Fifth	18A	(part of Guilford, see subsection (b))	1
16				
17	Fifth	18B	(part of Guilford, see subsection (b))	1
18				
19	Fifth	18C	(part of Guilford, see subsection (b))	1
20				
21	Fifth	18D	(part of Guilford, see subsection (b))	1
22				
23	Fifth	18E	(part of Guilford, see subsection (b))	1
24				
25	Sixth	19A	Cabarrus	1
26	Fifth	19B	Montgomery, Randolph	1
27	Sixth	19C	Rowan	1
28	Fifth	19D	Moore	1
29	Sixth	20A	Anson, <u>Richmond</u>	1 2
30			Richmond <u>Stanly</u>	
31	Sixth	20B	Stanly , Union	2 1
32	Fifth	21A	(part of Forsyth, see subsection (b))	1
33				
34	Fifth	21B	(part of Forsyth, see subsection (b))	1
35				
36	Fifth	21C	(part of Forsyth, see subsection (b))	1
37				
38	Fifth	21D	(part of Forsyth, see subsection (b))	1
39				
40	Sixth	22	Alexander, Davidson, Davie, Iredell	3
41				
42	Fifth	23	Alleghany, Ashe, Wilkes, Yadkin	1
43				
44	Eighth	24	Avery, Madison, Mitchell, Watauga, Yancey	2
45				
46	Seventh	25A	Burke, Caldwell	2
47	Seventh	25B	Catawba	2
48	Seventh	26A	(part of Mecklenburg, see subsection (b))	2
49				
50	Seventh	26B	(part of Mecklenburg, see subsection (b))	3
51				
52	Seventh	26C	(part of Mecklenburg, see subsection (b))	2
53				
54	Seventh	27A	Gaston	2
55	Seventh	27B	Cleveland, Lincoln	2

1	Eighth	28	Buncombe	2
2	Eighth	29	Henderson,	2
3			McDowell, Polk, Rutherford,	
4			Transylvania	
5		<u>29A</u>	<u>McDowell, Rutherford</u>	<u>1</u>
6		<u>29B</u>	<u>Henderson, Polk, Transylvania</u>	<u>1</u>
7	Eighth	30A	Cherokee, Clay,	1
8			Graham, Macon, Swain	
9	Eighth	30B	Haywood, Jackson	1."

10 **SECTION 14.2.(b)** The superior court judgeship established for District
 11 20A by subsection (a) of this section shall be filled by the judge currently serving
 12 District 20B who resides in Stanly County. That judge's current term expires on
 13 December 31, 2006. No election shall be held in 2006 for that judge's seat, and that
 14 judge shall serve until a successor is elected in the 2008 general election, in order to
 15 provide for unstagged terms for multiple judgeships in the same district.

16 **SECTION 14.2.(c)** The superior court judgeship established for District 29A
 17 by subsection (a) of this section shall be filled by the superior court judge from current
 18 District 29 who resides in Rutherford County. That judge's term expires on December
 19 31, 2012, and a successor shall be elected in the 2012 general election.

20 **SECTION 14.2.(d)** The superior court judgeship established for District 29B
 21 by subsection (a) of this section shall be filled by the superior court judge from current
 22 District 29 who resides in Henderson County. That judge's term expires on December
 23 31, 2006, and a successor shall be elected in the 2006 general election.

24 **SECTION 14.2.(e)** The trial court administrator serving current District 29
 25 shall serve as trial court administrator for both District 29A and District 29B.

26 **SECTION 14.2.(f)** G.S. 7A-133(a) reads as rewritten:

27 "(a) Each district court district shall have the numbers of judges as set forth in the
 28 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 Pamlico Carteret
4	8	Sampson Duplin Jones Onslow
5	8	New Hanover Pender
6A	2	Halifax
6B	3	Northampton Bertie Hertford

1	7	7	Nash
2			Edgecombe
3			Wilson
4	8	6	Wayne
5			Greene
6			Lenoir
7	9	4	Granville
8			(part of Vance
9			see subsection (b))
10			Franklin
11	9A	2	Person
12			Caswell
13	9B	2	Warren
14			(part of Vance
15			see subsection (b))
16	10	15	Wake
17	11	8	Harnett
18			Johnston
19			Lee
20	12	9	Cumberland
21	13	6	Bladen
22			Brunswick
23			Columbus
24	14	6	Durham
25	15A	4	Alamance
26	15B	4	Orange
27			Chatham
28	16A	3	Scotland
29			Hoke
30	16B	5	Robeson
31	17A	2	Rockingham
32	17B	4	Stokes
33			Surry
34	18	12	Guilford
35	19A	4	Cabarrus
36	19B	6	Montgomery
37			Moore
38			Randolph
39	19C	4	Rowan
40	20 <u>20A</u>	7 <u>4</u>	Stanly
41			Union
42			Anson
43			Richmond
44	<u>20B</u>	<u>3</u>	<u>Union</u>
45	<u>21</u>	<u>9</u>	Forsyth
46	22	9	Alexander
47			Davidson
48			Davie
49			Iredell
50	23	4	Alleghany
51			Ashe
52			Wilkes
53			Yadkin
54	24	4	Avery
55			Madison

1			Mitchell
2			Watauga
3			Yancey
4	25	8	Burke
5			Caldwell
6			Catawba
7	26	17	Mecklenburg
8	27A	6	Gaston
9	27B	4	Cleveland
10			Lincoln
11	28	6	Buncombe
12	29	7	Henderson
13			McDowell
14			Polk
15			Rutherford
16			Transylvania
17	<u>29A</u>	<u>3</u>	<u>McDowell</u>
18			<u>Rutherford</u>
19	<u>29B</u>	<u>4</u>	<u>Henderson</u>
20			<u>Polk</u>
21			<u>Transylvania</u>
22	30	5	Cherokee
23			Clay
24			Graham
25			Haywood
26			Jackson
27			Macon
28			Swain."

29 **SECTION 14.2.(g)** The four district court judgeships established for District
30 20A by subsection (f) of this section shall be filled by the district court judges from
31 current District 20 who reside in Anson, Stanly, and Richmond Counties. The term of
32 the judge living in Anson County expires the first Monday in December 2008. That
33 judge's successor shall be elected in the 2008 election. The term of the judge living in
34 Stanly County expires the first Monday in December 2006. That judge's successor shall
35 be elected in the 2006 election. The term of one of the judges living in Richmond
36 County expires the first Monday in December 2006. That judge's successor shall be
37 elected in the 2006 election. The term of the other judge living in Richmond County
38 expires the first Monday in December 2008. That judge's successor shall be elected in
39 the 2008 election.

40 **SECTION 14.2.(h)** The three district court judgeships established for
41 District 20B by subsection (f) of this section shall be filled by the district court judges
42 from current District 20 who reside in Union County. The terms of the three judges
43 living in Union County expire the first Monday in December 2008. Those judges'
44 successors shall be elected in the 2008 election.

45 **SECTION 14.2.(i)** The three district court judgeships established for District
46 29A by subsection (f) of this section shall be filled by the district court judges from
47 current District 29 who reside in McDowell and Rutherford Counties and by the judge
48 established for District 29 to be appointed by the Governor pursuant to Section 14.6 of
49 S.L. 2004-124, as amended by subsection (j) of this section. The term of the judge
50 living in Rutherford County expires the first Monday in December 2006. That judge's
51 successor shall be elected in the 2006 general election. The term of the judge living in
52 McDowell County expires the first Monday in December 2006. That judge's successor
53 shall be elected in the 2006 election.

54 **SECTION 14.2.(j)** Section 14.6(f) of S.L. 2004-124 reads as rewritten:

1 **"SECTION 14.6.(f)** The Governor shall appoint the additional district court judges
 2 for Districts 5, 21, and ~~29~~ 29A authorized by subsection (e) of this section, and those
 3 judges' successors shall be elected in the 2006 general election for four-year terms
 4 commencing on the first Monday in December 2006.

5 The district court judge for the additional judgeship in District 17B, as authorized by
 6 subsection (e) of this section, shall be elected in the 2004 general election in the same
 7 manner as provided for in G.S. 163-329 to serve a four-year term beginning the first
 8 Monday in December 2004, and no vacancy exists before that date."

9 **SECTION 14.2.(k)** The four district court judgeships established for District
 10 29B by subsection (f) of this section shall be filled by the district court judges from
 11 current District 29 who reside in Henderson and Transylvania Counties. The term of the
 12 three judges living in Henderson County expires the first Monday in December 2008.
 13 Those judges' successors shall be elected in the 2008 general election. The term of the
 14 judge living in Transylvania County expires the first Monday in December 2008. That
 15 judge's successor shall be elected in the 2008 general election.

16 **SECTION 14.2.(l)** G.S. 7A-60(a1) reads as rewritten:

17 "(a1) The counties of the State are organized into prosecutorial districts, and each
 18 district has the counties and the number of full-time assistant district attorneys set forth
 19 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
13	Bladen, Brunswick, Columbus	11
14	Durham	13
15A	Alamance	8
15B	Orange, Chatham	7
16A	Scotland, Hoke	5
16B	Robeson	10
17A	Rockingham	5
17B	Stokes, Surry	5
18	Guilford	27
19A	Cabarrus	6
19B	Montgomery, Moore, Randolph	11
19C	Rowan	5

1	20 <u>20A</u>	Anson, Richmond,	15
2		Stanly, Union <u>Stanly</u>	8
3	<u>20B</u>	<u>Union</u>	7
4	<u>21</u>	Forsyth	17
5	<u>22</u>	Alexander, Davidson, Davie,	16
6		Iredell	
7	<u>23</u>	Alleghany, Ashe, Wilkes,	5
8		Yadkin	
9	<u>24</u>	Avery, Madison, Mitchell,	4
10		Watauga, Yancey	
11	<u>25</u>	Burke, Caldwell, Catawba	15
12	<u>26</u>	Mecklenburg	36
13	<u>27A</u>	Gaston	12
14	<u>27B</u>	Cleveland,	9
15		Lincoln	
16	<u>28</u>	Buncombe	11
17	29	Henderson, McDowell, Polk,	11
18		Rutherford, Transylvania	
19	<u>29A</u>	<u>McDowell, Rutherford</u>	<u>5</u>
20	<u>29B</u>	<u>Henderson, Polk, Transylvania</u>	<u>6</u>
21	<u>30</u>	Cherokee, Clay, Graham,	9
22		Haywood, Jackson, Macon,	
23		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 district 10 is entitled to two investigatorial assistants, to be appointed by the district attorney and to serve at his pleasure.

It shall be the duty of the investigatorial assistant to investigate cases preparatory to trial and to perform such other Duties as may be assigned by the district attorney. The investigatorial assistant is entitled to reimbursement for his subsistence and travel expenses to the same extent as State employees generally."

SECTION 14.2.(q) With respect to the realignment of Superior Court Districts 20A and 20B, subsections (a) through (e) of this section become effective December 1, 2005, or the date upon which subsection (a) of this section is approved under section 5 of the Voting Rights Act of 1965, whichever is later. With respect to the division of Superior Court District 29, subsections (a) through (e) of this section become effective December 1, 2005. With respect to the division of District Court District 20,

1 subsections (f) through (k) of this section become effective December 1, 2005, or the
2 date upon which subsection (f) of this section is approved under section 5 of the Voting
3 Rights Act of 1965, whichever is later. With respect to the division of District Court
4 District 29, subsections (f) through (k) of this section become effective December 1,
5 2005. With respect to the division of Prosecutorial District 20, subsections (l) through
6 (p) of this section become effective January 1, 2007, or the date upon which subsection
7 (l) of this section is approved under section 5 of the Voting Rights Act of 1965,
8 whichever is later, but the district attorneys for Prosecutorial Districts 20A and 20B
9 shall be elected in the 2006 general election. With respect to the division of
10 Prosecutorial District 29, subsections (l) through (p) of this section become effective
11 January 1, 2007, but the district attorneys for Prosecutorial Districts 29A and 29B shall
12 be elected in the 2006 general election.
13

14 Requested by: Senators Thomas, Garrou, Dalton, Hagan

15 **COLLECTION OF WORTHLESS CHECK FUNDS**

16 **SECTION 14.3.** Notwithstanding the provisions of G.S. 7A-308(c) and
17 except as otherwise provided in this act, the Judicial Department may use any balance
18 remaining in the Collection of Worthless Checks Fund on June 30, 2005, for the
19 purchase or repair of office or information technology equipment during the 2005-2006
20 fiscal year. Prior to using any funds under this section, the Judicial Department shall
21 report to the Joint Legislative Commission on Governmental Operations and the Chairs
22 of the Senate and House of Representatives Appropriations Subcommittees on Justice
23 and Public Safety on the equipment to be purchased or repaired and the reasons for the
24 purchases.
25

26 Requested by: Senators Thomas, Garrou, Dalton, Hagan

27 **TRANSFER OF EQUIPMENT AND SUPPLY FUNDS**

28 **SECTION 14.4.** Funds appropriated to the Judicial Department in the
29 2005-2007 biennium for equipment and supplies shall be certified in a reserve account.
30 The Administrative Office of the Courts may transfer these funds to the appropriate
31 programs and between programs as the equipment priorities and supply consumptions
32 occur during the operating year. These funds shall not be expended for any other
33 purpose.
34

35 Requested by: Senators Thomas, Garrou, Dalton, Hagan

36 **STUDY ELECTRONIC PAYMENT**

37 **SECTION 14.5.** The Judicial Department shall study the feasibility of
38 implementing electronic and online payment options for court fees and other funds
39 collected by the courts. The study shall address the estimated costs and time frame for
40 implementing electronic payment as well as any necessary legislative changes. The
41 Judicial Department shall report its findings as a result of the study to the Chairs of the
42 Senate and House of Representatives Appropriations Subcommittees on Justice and
43 Public Safety by May 1, 2006.
44

45 Requested by: Senators Thomas, Garrou, Dalton, Hagan

46 **GRANT FUNDS**

47 **SECTION 14.6.** The Judicial Department shall use up to the sum of one
48 million two hundred fifty thousand dollars (\$1,250,000) from funds available to the
49 Department to provide the State match needed in order to receive grant funds. Prior to
50 using funds for this purpose, the Department shall report to the Chairs of the Senate and
51 House of Representatives Appropriations Subcommittees on Justice and Public Safety
52 and the Joint Legislative Commission on Governmental Operations on the grants to be
53 matched using these funds.
54

55 Requested by: Senators Thomas, Garrou, Dalton, Hagan

1 **INCREASE CHARGES FOR APPELLATE DIVISION REPORTS TO ACTUAL**
2 **COST**

3 **SECTION 14.7.** The Judicial Department shall charge the full cost of
4 production for all copies of the appellate division reports that are sold.
5

6 Requested by: Senators Thomas, Garrou, Dalton, Hagan

7 **NORTH CAROLINA STATE BAR FUNDS**

8 **SECTION 14.8.** Of the funds appropriated in the continuation budget as a
9 grant-in-aid to the North Carolina State Bar for the 2005-2007 biennium, the North
10 Carolina State Bar may in its discretion use up to the sum of five hundred one thousand
11 five hundred dollars (\$501,500) for the 2005-2006 fiscal year and up to the sum of five
12 hundred one thousand five hundred dollars (\$501,500) for the 2006-2007 fiscal year to
13 contract with the Center for Death Penalty Litigation to provide training, consultation,
14 brief banking, and other assistance to attorneys representing indigent capital defendants.
15 The Office of Indigent Defense Services shall report by February 1, 2006, to the Chairs
16 of the Senate and House Appropriations Subcommittees on Justice and Public Safety on
17 the activities funded by the grant-in-aid authorized by this section.
18

19 Requested by: Senators Kinnaird, Garrou, Dalton, Hagan

20 **TRANSFER RESPONSIBILITY FOR PROVIDING LEGAL ASSISTANCE TO**
21 **INMATES FROM THE DEPARTMENT OF CORRECTION TO THE**
22 **OFFICE OF INDIGENT DEFENSE SERVICES**

23 The General Assembly of North Carolina enacts:

24 **SECTION 14.9.(a)** G.S. 7A-498.3 reads as rewritten:

25 **"§ 7A-498.3. Responsibilities of Office of Indigent Defense Services.**

26 (a) The Office of Indigent Defense Services shall be responsible for establishing,
27 supervising, and maintaining a system for providing legal representation and related
28 services in the following cases:

- 29 (1) Cases in which an indigent person is subject to a deprivation of liberty
30 or other constitutionally protected interest and is entitled by law to
31 legal representation;
32 (2) Cases in which an indigent person is entitled to legal representation
33 under G.S. 7A-451 and G.S. 7A-451.1; ~~and~~
34 (2a) Cases in which the State is legally obligated to provide legal assistance
35 and access to the courts to inmates in the custody of the Department of
36 Correction; and
37 (3) Any other cases in which the Office of Indigent Defense Services is
38 designated by statute as responsible for providing legal representation.

39 (b) The Office of Indigent Defense Services shall develop policies and
40 procedures for determining indigency in cases subject to this Article, and those policies
41 shall be applied uniformly throughout the State. The Except in cases under subdivision
42 (2a) of subsection (a) of this section, the court shall determine in each case whether a
43 person is indigent and entitled to legal representation, and counsel shall be appointed as
44 provided in G.S. 7A-452.

45 (c) In all cases subject to this Article, appointment of counsel, determination of
46 compensation, appointment of experts, and use of funds for experts and other services
47 related to legal representation shall be in accordance with rules and procedures adopted
48 by the Office of Indigent Defense Services.

49 (d) The Office of Indigent Defense Services shall allocate and disburse funds
50 appropriated for legal representation and related services in cases subject to this Article
51 pursuant to rules and procedures established by the Office."

52 **SECTION 14.9.(b)** Effective October 1, 2005, the State's responsibility for
53 providing inmates in the custody of the Department of Correction with legal assistance
54 and access to the courts shall be administered by the Office of Indigent Defense

1 Services. The existing contract between the Department of Correction and Prisoner
2 Legal Services, Inc., shall not be extended or renewed beyond that date.

3 The Director of Indigent Defense Services, in consultation with the
4 Commission on Indigent Defense Services and the Department of Justice, shall
5 determine which types of legal services can best be provided directly to inmates by staff
6 employed by the Office of Indigent Defense Services, which services should be
7 provided by counsel designated by the Office of Indigent Defense Services, and which
8 services should be provided by contract between the Office of Indigent Defense
9 Services and nonprofit organizations or other contract providers.

10 If the Director of Indigent Defense Services determines that, in order to
11 facilitate the transfer of responsibility provided for in this section, it is necessary for
12 Prisoner Legal Services, Inc., to continue providing legal services and access to the
13 courts to inmates beyond the termination of its contract with the Department of
14 Correction on September 30, 2005, the Director may contract with Prisoner Legal
15 Services, Inc., for a period of time to be determined by the Director.

16 **SECTION 14.9.(c)** The sum of one million eight hundred eighty-three
17 thousand eight hundred sixty-five dollars (\$1,883,865) for the 2005-2006 fiscal year and
18 the sum of two million five hundred eleven thousand eight hundred twenty dollars
19 (\$2,511,820) for the 2006-2007 fiscal year shall be transferred from the Department of
20 Correction to the Office of Indigent Defense Services to implement this section.

21 **SECTION 14.9.(d)** Subsections (a) and (b) of this section become effective
22 October 1, 2005. The remainder of this section becomes effective July 1, 2005.

23
24 Requested by: Senators Thomas, Garrou, Dalton, Hagan

25 **WAKE COUNTY PUBLIC DEFENDER OFFICE FUNDS**

26 **SECTION 14.10.** Of the funds appropriated to the Judicial Department,
27 Office of Indigent Defense Services, in this act, the Office of Indigent Defense Services
28 shall use up to the sum of two million three hundred thousand five hundred thirty-four
29 dollars (\$2,300,534) for the 2005-2006 fiscal year and the sum of two million one
30 hundred eighty-one thousand three hundred twenty-three dollars (\$2,181,323) for the
31 2006-2007 fiscal year to establish a public defender's office in the Tenth Defender
32 District, as authorized by Section 14.4(b) of S.L. 2004-126. The funds shall be used to
33 establish the public defender, 20 assistant public defenders, four investigators, one
34 administrative assistant II, and five legal assistants.

35
36 Requested by: Senators Thomas, Garrou, Dalton, Hagan

37 **OFFICE OF INDIGENT DEFENSE SERVICES EXPANSION FUNDS**

38 **SECTION 14.11.** The Judicial Department, Office of Indigent Defense
39 Services, may use up to the sum of one million sixty-nine thousand six hundred
40 forty-five dollars (\$1,069,645) in appropriated funds during the 2005-2006 fiscal year
41 and up to the sum of one million twenty-three thousand one hundred thirty-five dollars
42 (\$1,023,135) in appropriated funds during the 2006-2007 fiscal year for the expansion
43 of existing offices currently providing legal services to the indigent population under the
44 oversight of the Office of Indigent Defense Services by creating up to 10 new attorney
45 positions and five new support staff positions. These funds may be used for salaries,
46 benefits, equipment, and related expenses. Prior to using funds for this purpose, the
47 Office of Indigent Defense Services shall report to the Chairs of the House and the
48 Senate Appropriations Subcommittees on Justice and Public Safety on the proposed
49 expansion.

50
51 Requested by: Senators Thomas, Garrou, Dalton, Hagan

52 **OFFICE OF INDIGENT DEFENSE SERVICES REPORT**

53 **SECTION 14.12.** The Office of Indigent Defense Services shall report to the
54 Chairs of the Senate and House of Representatives Appropriations Committees and the

1 Chairs of the Senate and House of Representatives Appropriations Subcommittees on
2 Justice and Public Safety by March 1 of each year on:

- 3 (1) The volume and cost of cases handled in each district by assigned
4 counsel or public defenders;
- 5 (2) Actions taken by the Office to improve the cost-effectiveness and
6 quality of indigent defense, including the capital case program;
- 7 (3) Plans for changes in rules, standards, or regulations in the upcoming
8 year; and
- 9 (4) Any recommended changes in law or funding procedures that would
10 assist the Office in improving the management of funds expended for
11 indigent defense services.

12
13 Requested by: Senators Thomas, Garrou, Dalton, Hagan

14 **CLARIFY THAT FEES PAID TO ATTORNEYS REPRESENTING INDIGENT**
15 **CLIENTS SHALL BE FIXED IN ACCORDANCE WITH THE RULES**
16 **ADOPTED BY THE OFFICE OF INDIGENT DEFENSE SERVICES AND**
17 **MAY NOT BE SET AT HIGHER RATES WITHOUT THE APPROVAL OF**
18 **THE OFFICE OF INDIGENT DEFENSE SERVICES**

19 **SECTION 14.13.** G.S. 7A-458 reads as rewritten:

20 **"§ 7A-458. Counsel fees.**

21 The fee to which an attorney who represents an indigent person is entitled shall be
22 fixed in accordance with rules adopted by the Office of Indigent Defense Services. Fees
23 shall be based on the factors normally considered in fixing attorneys' fees, such as the
24 nature of the case, and the time, effort and responsibility involved. Fees shall not be set
25 or ordered at rates higher than those established by the rules adopted under this section
26 without the approval of the Office of Indigent Defense Services. Even if the trial,
27 appeal, hearing or other proceeding is never held, preparation therefor is nevertheless
28 compensable and, in capital cases and other extraordinary cases pending in superior
29 court, a fee for services rendered and payment for expenses incurred may be allowed
30 pending final determination of the case."
31

32 **PART XV. DEPARTMENT OF JUSTICE**
33

34 Requested by: Senators Thomas, Garrou, Dalton, Hagan

35 **USE OF SEIZED AND FORFEITED PROPERTY TRANSFERRED TO STATE**
36 **LAW ENFORCEMENT AGENCIES BY THE FEDERAL GOVERNMENT**

37 **SECTION 15.1.(a)** Assets transferred to the Departments of Justice,
38 Correction, and Crime Control and Public Safety during the 2005-2007 biennium
39 pursuant to applicable federal law shall be credited to the budgets of the respective
40 departments and shall result in an increase of law enforcement resources for those
41 departments. The Departments of Justice, Correction, and Crime Control and Public
42 Safety shall report to the Joint Legislative Commission on Governmental Operations
43 upon receipt of the assets and, before using the assets, shall report on the intended use of
44 the assets and the departmental priorities on which the assets may be expended.

45 **SECTION 15.1.(b)** The General Assembly finds that the use of assets
46 transferred pursuant to federal law for new personnel positions, new projects,
47 acquisition of real property, repair of buildings where the repair includes structural
48 change, and construction of or additions to buildings may result in additional expenses
49 for the State in future fiscal periods. Therefore, the Department of Justice, the
50 Department of Correction, and the Department of Crime Control and Public Safety are
51 prohibited from using these assets for such purposes without the prior approval of the
52 General Assembly.

53 **SECTION 15.1.(c)** Nothing in this section prohibits North Carolina law
54 enforcement agencies from receiving funds from the United States Department of

1 Justice, the United States Department of the Treasury, and the United States Department
2 of Health and Human Services.

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

5 **PRIVATE PROTECTIVE SERVICES AND ALARM SYSTEMS LICENSING**
6 **BOARDS PAY FOR USE OF STATE FACILITIES AND SERVICES**

7 **SECTION 15.2.** The Private Protective Services and Alarm Systems
8 Licensing Boards shall pay the appropriate State agency for the use of physical facilities
9 and services provided to those Boards by the State.

10
11 Requested by: Senators Thomas, Garrou, Dalton, Hagan

12 **CERTAIN LITIGATION EXPENSES TO BE PAID BY CLIENTS**

13 **SECTION 15.3.** Client departments, agencies, and boards shall reimburse
14 the Department of Justice for reasonable court fees, attorney travel and subsistence
15 costs, and other costs directly related to litigation in which the Department of Justice is
16 representing the department, agency, or board.

17
18 Requested by: Senators Thomas, Garrou, Dalton, Hagan

19 **REIMBURSEMENT FOR UNC BOARD OF GOVERNORS LEGAL**
20 **REPRESENTATION**

21 **SECTION 15.4.** The Department of Justice shall be reimbursed by the
22 Board of Governors of The University of North Carolina for two Attorney III positions
23 to provide legal representation to The University of North Carolina System.

24
25 Requested by: Senators Thomas, Garrou, Dalton, Hagan

26 **REPORT ON CRIMINAL RECORD CHECKS CONDUCTED FOR**
27 **CONCEALED HANDGUN PERMITS/STUDY FEE ADJUSTMENT FOR**
28 **CRIMINAL RECORD CHECKS**

29 **SECTION 15.5.(a)** The Department of Justice shall report by January 15
30 each year to the Joint Legislative Commission on Governmental Operations, the Chairs
31 of the Senate and House of Representatives Appropriations Committees, and the Chairs
32 of the Senate and House of Representatives Appropriations Subcommittees on Justice
33 and Public Safety on the receipts, costs for, and number of criminal record checks
34 performed in connection with applications for concealed weapons permits. The report
35 by the Department of Justice shall also include information on the number of
36 applications received and approved for firearms safety courses.

37 **SECTION 15.5.(b)** The Office of State Budget and Management, in
38 consultation with the Department of Justice, shall study the feasibility of adjusting the
39 fees charged for criminal record checks conducted by the Division of Criminal
40 Information of the Department of Justice as a result of the increase in receipts from
41 criminal record checks. The study shall include an assessment of the Division's
42 operational, personnel, and overhead costs related to providing criminal record checks
43 and how those costs have changed since the prior fiscal year. The Office of State Budget
44 and Management shall report its findings and recommendations to the Chairs of the
45 Senate and House of Representatives Appropriations Committees, the Chairs of the
46 Senate and House of Representatives Appropriations Subcommittees on Justice and
47 Public Safety, and the Fiscal Research Division on or before March 1, 2006.

48
49 Requested by: Senators Thomas, Garrou, Dalton, Hagan

50 **NC LEGAL EDUCATION ASSISTANCE FOUNDATION REPORT ON FUNDS**
51 **DISBURSED**

52 **SECTION 15.6.** The North Carolina Legal Education Assistance Foundation
53 shall report by March 1 of each year to the Joint Legislative Commission on
54 Governmental Operations on the expenditure of State funds, the purpose of the
55 expenditures, the number of attorneys receiving funds, the average award amount, the

1 average student loan amount, the number of attorneys on the waiting list, and the
2 average number of years for which attorneys receive loan assistance.

3
4 Requested by: Senators Hagan, Garrou, Dalton

5 **REDUCE BACKLOG OF RAPE KITS**

6 **SECTION 15.7.(a)** The Department of Justice shall contract with private
7 entities to reduce the backlog of rape kits in storage in local law enforcement agencies
8 as of July 1, 2004. The Department shall contract with private entities to analyze bodily
9 fluids, DNA evidence, as "DNA" is defined in G.S. 15A-266.2, or both, from rape kits
10 that are evidence in cases in which a suspect has not been identified. The Department
11 shall maximize the use of federal grant funds to expedite the elimination of the backlog.

12 **SECTION 15.7.(b)** The Department of Justice shall report, on or before
13 February 1, 2006, and annually thereafter to the Chairs of the House of Representatives
14 and Senate Appropriations Subcommittees on Justice and Public Safety on the number
15 of rape kits analyzed by private entities and how many of those analyses resulted in
16 arrests or convictions. The Department shall also report on the number of rape kits
17 analyzed by the SBI Crime Lab, the amount of the remaining backlog, and the estimated
18 time left to eliminate the backlog.

19 **SECTION 15.7.(c)** Except as provided otherwise by this subsection, the
20 Department of Justice shall hire only nonsworn personnel to fill vacant positions in the
21 State Bureau of Investigation laboratory. A position may be filled with a sworn agent in
22 any of the following circumstances: (i) the position is a promotion for a sworn agent
23 who was employed at the State Bureau of Investigation laboratory prior to July 1, 2005,
24 or (ii) the position is a forensic drug chemist position that has as a primary duty
25 "responding to clandestine methamphetamine laboratories."

26
27 Requested by: Senators Thomas, Garrou, Dalton, Hagan

28 **STUDY DNA TESTING AND ANALYSIS COSTS**

29 **SECTION 15.8.** The Office of State Budget and Management, in
30 consultation with the Department of Justice, shall study the cost of testing and analyzing
31 DNA samples. The study shall include all of the following: a determination of the unit
32 cost for analyzing a rape kit and a comparison of that cost with the unit cost for the
33 same analysis when performed by other labs, both public and private; a comparison of
34 the amount of funds and length of time required to eliminate the backlog of rape kits
35 using private labs versus the SBI crime lab; and a survey of the funding sources used by
36 other states for their DNA testing and analysis lab costs. The Office of State Budget and
37 Management shall report its findings and recommendations to the Chairs of the Senate
38 and House of Representatives Appropriations Committees, the Chairs of the Senate and
39 House of Representatives Appropriations Subcommittees on Justice and Public Safety,
40 and the Fiscal Research Division on or before March 1, 2006.

41
42 **PART XVI. DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY**
43 **PREVENTION**

44
45 Requested by: Senators Thomas, Garrou, Dalton, Hagan

46 **S.O.S. ADMINISTRATIVE COST LIMITS**

47 **SECTION 16.1.** Of the funds appropriated to the Department of Juvenile
48 Justice and Delinquency Prevention in this act, not more than four hundred fifty
49 thousand dollars (\$450,000) for the 2005-2006 fiscal year and not more than four
50 hundred fifty thousand dollars (\$450,000) for the 2006-2007 fiscal year may be used to
51 administer the S.O.S. Program, to provide technical assistance to applicants and to local
52 S.O.S. programs, and to evaluate the local S.O.S. programs. The Department may
53 contract with appropriate public or nonprofit agencies to provide the technical
54 assistance, including training and related services.
55

1 Requested by: Senators Thomas, Garrou, Dalton, Hagan

2 **JCPC GRANT REPORTING AND CERTIFICATION**

3 **SECTION 16.2.(a)** On or before May 1 each year, the Department of
4 Juvenile Justice and Delinquency Prevention shall submit to the Joint Legislative
5 Commission on Governmental Operations and the Appropriations Committees of the
6 Senate and House of Representatives a list of the recipients of the grants awarded, or
7 preapproved for award, from funds appropriated to the Department for local Juvenile
8 Crime Prevention Council grants. The list shall include for each recipient the amount of
9 the grant awarded, the membership of the local committee or council administering the
10 award funds on the local level, and a short description of the local services, programs, or
11 projects that will receive funds. The list shall also identify any programs that received
12 grant funds at one time but for which funding has been eliminated by the Department of
13 Juvenile Justice and Delinquency Prevention. A written copy of the list and other
14 information regarding the projects shall also be sent to the Fiscal Research Division of
15 the General Assembly.

16 **SECTION 16.2.(b)** Each county in which local programs receive Juvenile
17 Crime Prevention Council grant funds from the Department of Juvenile Justice and
18 Delinquency Prevention shall certify annually through its local council to the
19 Department that funds received are not used to duplicate or supplant other programs
20 within the county.

21
22 Requested by: Senators Thomas, Garrou, Dalton, Hagan

23 **REPORTS ON CERTAIN PROGRAMS**

24 **SECTION 16.3.(a)** Project Challenge North Carolina, Inc., shall report to
25 the Chairs of the Senate and House of Representatives Appropriations Subcommittees
26 on Justice and Public Safety by April 1 each year on the operation and the effectiveness
27 of its program in providing alternative dispositions and services to juveniles who have
28 been adjudicated delinquent or undisciplined. The report shall include information on:

- 29 (1) The source of referrals for juveniles.
- 30 (2) The types of offenses committed by juveniles participating in the
31 program.
- 32 (3) The amount of time those juveniles spend in the program.
- 33 (4) The number of juveniles who successfully complete the program.
- 34 (5) The number of juveniles who commit additional offenses after
35 completing the program.
- 36 (6) The program's budget and expenditures, including all funding sources.

37 **SECTION 16.3.(b)** The Juvenile Assessment Center shall report to the
38 Chairs of the Senate and House of Representatives Appropriations Subcommittees on
39 Justice and Public Safety on the effectiveness of the Center by April 1 each year. The
40 report shall include information on the number of juveniles served and an evaluation of
41 the effectiveness of juvenile assessment plans and services provided as a result of these
42 plans. In addition, the report shall include information on the Center's budget and
43 expenditures, including all funding sources.

44 **SECTION 16.3.(c)** Communities in Schools shall report to the Chairs of the
45 Senate and House of Representatives Appropriations Subcommittees on Justice and
46 Public Safety, the Joint Legislative Commission on Governmental Operations, the Joint
47 Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, and
48 the Joint Legislative Education Oversight Committee by April 1 each year on the
49 operation and effectiveness of its program. The report shall include information on:

- 50 (1) The number of children served.
- 51 (2) The number of volunteers used.
- 52 (3) The impact on children who have received services from Communities
53 in Schools.
- 54 (4) The program's budget and expenditures, including all funding sources.

1 Requested by: Senators Thomas, Garrou, Dalton, Hagan

2 **ANNUAL EVALUATION OF COMMUNITY PROGRAMS**

3 **SECTION 16.4.** The Department of Juvenile Justice and Delinquency
4 Prevention shall conduct an evaluation of the Eckerd and Camp Woodson wilderness
5 camp programs, the teen court programs, the program that grants funds to the local
6 organizations of the Boys and Girls Clubs established pursuant to Section 21.10 of S.L.
7 1999-237, the Save Our Students program, the Governor's One-on-One Programs, and
8 multipurpose group homes. The teen court report shall include statistical information on
9 the number of juveniles served, the number and type of offenses considered by teen
10 courts, referral sources for teen courts, and the number of juveniles that become
11 court-involved after participation in teen courts. The report on the Boys and Girls Clubs
12 program shall include information on:

- 13 (1) The expenditure of State appropriations on the program;
- 14 (2) The operations and the effectiveness of the program; and
- 15 (3) The number of juveniles served under the program.

16 In conducting the evaluation of each of these programs, the Department shall
17 consider whether participation in each program results in a reduction of court
18 involvement among juveniles. The Department shall also identify whether the programs
19 are achieving the goals and objectives of the Juvenile Justice Act, S.L. 1998-202. The
20 Department shall report the results of the evaluation to the Chairs of the House of
21 Representatives and Senate Appropriations Committees and the Chairs of the
22 Subcommittees on Justice and Public Safety of the House of Representatives and Senate
23 Appropriations Committees by March 1 of each year.

24
25 Requested by: Senators Thomas, Garrou, Dalton, Hagan

26 **STATE FUNDS MAY BE USED AS FEDERAL MATCHING FUNDS**

27 **SECTION 16.5.** Funds appropriated in this act to the Department of Juvenile
28 Justice and Delinquency Prevention for the 2005-2006 fiscal year may be used as
29 matching funds for the Juvenile Accountability Incentive Block Grants. If North
30 Carolina receives Juvenile Accountability Incentive Block Grants, or a notice of funds
31 to be awarded, the Office of State Budget and Management and the Governor's Crime
32 Commission shall consult with the Department of Juvenile Justice and Delinquency
33 Prevention regarding the criteria for awarding federal funds. The Office of State Budget
34 and Management, the Governor's Crime Commission, and the Department of Juvenile
35 Justice and Delinquency Prevention shall report to the Appropriations Committees of
36 the Senate and House of Representatives and the Joint Legislative Commission on
37 Governmental Operations prior to allocation of the federal funds. The report shall
38 identify the amount of funds to be received for the 2005-2006 fiscal year, the amount of
39 funds anticipated for the 2006-2007 fiscal year, and the allocation of funds by program
40 and purpose.

41
42 Requested by: Senators Thomas, Garrou, Dalton, Hagan

43 **IMPLEMENTATION OF TREATMENT STAFFING MODEL AT YOUTH**
44 **DEVELOPMENT CENTERS**

45 **SECTION 16.6.(a)** The Department of Juvenile Justice and Delinquency
46 Prevention shall report each December 31, March 31, June 30, and September 30 of the
47 2005-2007 biennium to the Chairs of the Senate and House of Representatives
48 Appropriations Subcommittees on Justice and Public Safety and to the Joint
49 Corrections, Crime Control, and Juvenile Justice Oversight Committee on the treatment
50 staffing model being piloted at Samarkand and Stonewall Jackson Youth Development
51 Centers. The report shall include a list of total positions at each facility by job class,
52 whether the position is vacant or filled, whether positions were filled from internal
53 employees or new employees, and the training and certification status of each position.
54 The report shall also describe the nature of the treatment program, the criteria for
55 evaluating the program, and how the program is performing in comparison to these

1 criteria. The report shall also describe the training approach to be used to train staff in
2 using treatment methods in youth development centers and provide information on
3 current staff training and staff training planned for the next quarter. The Department
4 shall also develop indicators for evaluating staff performance once the model has been
5 implemented.

6 **SECTION 16.6.(b)** The Department of Juvenile Justice and Delinquency
7 Prevention shall report each December 31, March 31, June 30, and September 30 of the
8 2005-2007 biennium to the Chairs of the Senate and House of Representatives
9 Appropriations Subcommittees on Justice and Public Safety on the implementation of
10 the treatment staffing model at Dobbs, Dillon, and Juvenile Evaluation Center Youth
11 Development Centers. The Department shall identify the number of positions
12 reallocated to the new treatment job classes and the source of funding for those
13 positions.

14
15 Requested by: Senators Thomas, Garrou, Dalton, Hagan

16 **PROGRESS REPORTS ON YOUTH DEVELOPMENT CENTER CAPITAL**
17 **PROJECTS**

18 **SECTION 16.7.** The Department of Juvenile Justice and Delinquency
19 Prevention shall report each December 31, March 31, June 30, and September 30 of the
20 2005-2007 biennium to the Chairs of the Senate and House of Representatives
21 Appropriations Subcommittees on Justice and Public Safety and to the Joint
22 Corrections, Crime Control, and Juvenile Justice Oversight Committee on the
23 Department's progress in the planning, design, and construction of new youth
24 development centers. The report shall include:

- 25 (1) An overall project schedule for each new youth development center
26 showing the original estimated date for construction completion and
27 the original estimated date for occupancy by juvenile offenders,
28 compared to the latest projected dates.
29 (2) An explanation of significant delays in the schedule or any potential
30 cost increase.

31 The Office of State Construction and the Capital Improvement Section of the
32 Office of State Budget and Management shall assist the Department of Juvenile Justice
33 and Delinquency Prevention in the preparation of the report required by this section.
34

35 **PART XVII. DEPARTMENT OF CORRECTION**

36
37 Requested by: Senators Thomas, Garrou, Dalton, Hagan

38 **FEDERAL GRANT REPORTING**

39 **SECTION 17.1.** The Department of Correction, the Department of Justice,
40 the Department of Crime Control and Public Safety, the Judicial Department, and the
41 Department of Juvenile Justice and Delinquency Prevention shall report by May 1 of
42 each year to the Joint Legislative Commission on Governmental Operations, the Chairs
43 of the Senate and House of Representatives Appropriations Committees, and the Chairs
44 of the Senate and House of Representatives Appropriations Subcommittees on Justice
45 and Public Safety on federal grant funds received or preapproved for receipt by those
46 departments. The report shall include information on the amount of grant funds received
47 or preapproved for receipt by each department, the use of the funds, the State match
48 expended to receive the funds, and the period to be covered by each grant. If the
49 department intends to continue the program beyond the end of the grant period, the
50 department shall report on the proposed method for continuing the funding of the
51 program at the end of the grant period. Each department shall also report on any
52 information it may have indicating that the State will be requested to provide future
53 funding for a program presently supported by a local grant.
54

55 Requested by: Senators Thomas, Garrou, Dalton, Hagan

1 **REIMBURSE COUNTIES FOR HOUSING AND EXTRAORDINARY**
2 **MEDICAL COSTS FOR INMATES, PAROLEES, AND POST-RELEASE**
3 **SUPERVISEES AWAITING TRANSFER TO STATE PRISON SYSTEM**

4 **SECTION 17.2.** The Department of Correction may use funds available to
5 the Department for the 2005-2007 biennium to pay the sum of forty dollars (\$40.00) per
6 day as reimbursement to counties for the cost of housing convicted inmates, parolees,
7 and post-release supervisees awaiting transfer to the State prison system, as provided in
8 G.S. 148-29. The Department shall report quarterly to the Joint Legislative Commission
9 on Governmental Operations, the Joint Legislative Corrections, Crime Control, and
10 Juvenile Justice Oversight Committee, the Chairs of the Senate and House of
11 Representatives Appropriations Committees, and the Chairs of the Senate and House of
12 Representatives Appropriations Subcommittees on Justice and Public Safety on the
13 expenditure of funds to reimburse counties for prisoners awaiting transfer and on its
14 progress in reducing the jail backlog.
15

16 Requested by: Senators Thomas, Garrou, Dalton, Hagan

17 **HOLIDAY PAY FOR DEPARTMENT OF CORRECTION STAFF**

18 **SECTION 17.3.** Holiday pay for Department of Correction staff entitled to
19 holiday pay shall be one hundred fifty percent (150%) of regular pay during the
20 2005-2007 biennium, except that the Department of Correction may use funds available
21 to pay up to one hundred seventy-five percent (175%) of regular pay for holiday pay
22 during the 2005-2007 biennium.
23

24 Requested by: Senators Thomas, Garrou, Dalton, Hagan

25 **DEPARTMENT OF CORRECTION SECURITY STAFFING FORMULAS**

26 **SECTION 17.4.(a)** G.S. 143B-262.5 reads as rewritten:

27 **"§ 143B-262.5. Security Staffing.**

28 (a) ~~The Department of Correction shall conduct security staffing post audits of~~
29 ~~each prison at least biannually, the first such audit to be completed during the~~
30 ~~2002-2003 fiscal year. The initial post audit shall be conducted jointly by Department~~
31 ~~staff and a consultant, external to the Department, and shall include analysis of the~~
32 ~~staffing levels assigned for supervision of correctional officers. conduct:~~

33 (1) On-site post-audits of every prison at least once every three years;

34 (2) Regular audits of post-audit charts through the automated post-audit
35 system; and

36 (3) Other staffing audits as necessary.

37 (b) ~~The Department of Correction shall update the security staffing relief formula~~
38 ~~biannually, the first update to be completed during the 2002-2003 fiscal year. at least~~
39 ~~every three years.~~ Each update shall include a review of all annual training requirements
40 for security staff to determine which of these requirements should be mandatory and the
41 appropriate frequency of the training. The Department shall survey other states to
42 determine which states use a vacancy factor in their staffing relief formulas."

43 **SECTION 17.4.(b)** The Department of Correction shall implement the
44 current post-audit by July 1, 2005, and report by October 1, 2005, to the Senate and
45 House of Representatives Appropriations Subcommittees on Justice and Public Safety
46 on the effect that the new post-audit has had on staffing at each prison.

47 **SECTION 17.4.(c)** The Department of Correction shall report on its
48 progress in implementing the staffing recommendations of the National Institute of
49 Corrections to the Senate and House of Representatives Appropriations Subcommittees
50 on Justice and Public Safety by April 1, 2006. The report shall include a status report on
51 the implementation of a centralized postaudit control system, the automation of leave
52 records, and the survey of other states' use of a vacancy factor in staffing relief
53 formulas.
54

55 Requested by: Senators Thomas, Garrou, Dalton, Hagan

USE OF CLOSED PRISON FACILITIES

SECTION 17.5. In conjunction with the closing of prison facilities, including small expensive prison units recommended for consolidation by the Government Performance Audit Committee, the Department of Correction shall consult with the county or municipality in which the unit is located, with the elected State and local officials, and with State agencies about the possibility of converting that unit to other use. The Department may also consult with any private for-profit or nonprofit firm about the possibility of converting the unit to other use. In developing a proposal for future use of each unit, the Department shall give priority to converting the unit to other criminal justice use. Consistent with existing law and the future needs of the Department of Correction, the State may provide for the transfer or the lease of any of these units to counties, municipalities, State agencies, or private firms wishing to convert them to other use. The Department of Correction may also consider converting some of the units recommended for closing from one security custody level to another, where that conversion would be cost-effective. A prison unit under lease to a county pursuant to the provisions of this section for use as a jail is exempt for the period of the lease from any of the minimum standards adopted by the Secretary of Health and Human Services pursuant to G.S. 153A-221 for the housing of adult prisoners that would subject the unit to greater standards than those required of a unit of the State prison system.

Prior to any transfer or lease of these units, the Department of Correction shall report on the terms of the proposed transfer or lease to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee. The Department of Correction shall also provide annual summary reports to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the conversion of these units to other use and on all leases or transfers entered into pursuant to this section.

Requested by: Senators Thomas, Garrou, Dalton, Hagan

INMATE COSTS/MEDICAL BUDGET FOR PRESCRIPTION DRUGS AND INMATE CLOTHING AND LAUNDRY SERVICES

SECTION 17.6.(a) If the cost of providing food and health care to inmates housed in the Division of Prisons is anticipated to exceed the continuation budget amounts provided for that purpose in this act, the Department of Correction shall report the reasons for the anticipated cost increase and the source of funds the Department intends to use to cover those additional needs to the Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and House of Representatives Appropriations Committees, and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety.

SECTION 17.6.(b) Notwithstanding the provisions of G.S. 143-23(a2), the Department of Correction may use funds available during the 2005-2006 fiscal year for the purchase of prescription drugs for inmates if expenditures are projected to exceed the Department's inmate medical continuation budget for prescription drugs. The Department shall consult with the Joint Legislative Commission on Governmental Operations prior to exceeding the continuation budget amount.

SECTION 17.6.(c) Notwithstanding the provisions of G.S. 143-23(a2), the Department of Correction may use funds available during the 2005-2006 fiscal year for the purchase of clothing and laundry services for inmates if expenditures are projected to exceed the Department's budget for clothing and laundry services. The Department shall consult with the Joint Legislative Commission on Governmental Operations prior to exceeding the continuation budget amount.

Requested by: Senators Thomas, Garrou, Dalton, Hagan

CONVERSION OF CONTRACTED MEDICAL POSITIONS

1 **SECTION 17.7.(a)** The Department of Correction may convert contract
2 medical positions to permanent State medical positions if the Department can document
3 that the total savings generated will exceed the total cost of the new positions for each
4 facility. Where practical, the Department shall convert contract positions to permanent
5 positions by using existing vacancies in medical positions.

6 **SECTION 17.7.(b)** The Department of Correction shall report by April 1,
7 2006, to the Joint Legislative Commission on Governmental Operations and the Chairs
8 of the Senate and House of Representatives Appropriations Subcommittees on Justice
9 and Public Safety on all conversions made pursuant to this section, by type of position
10 and location, and on the savings generated at each correctional facility.

11
12 Requested by: Senators Thomas, Garrou, Dalton, Hagan

13 **LIMIT USE OF OPERATIONAL FUNDS**

14 **SECTION 17.8.** Funds appropriated in this act to the Department of
15 Correction for operational costs for additional facilities shall be used for personnel and
16 operating expenses set forth in the budget approved by the General Assembly in this act.
17 These funds shall not be expended for any other purpose, except as provided for in this
18 act, and shall not be expended for additional prison personnel positions until the new
19 facilities are within 120 days of projected completion, except for certain management,
20 security, and support positions necessary to prepare the facility for opening, as
21 authorized in the budget approved by the General Assembly.

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

24 **FEDERAL GRANT MATCHING FUNDS**

25 **SECTION 17.9.** Notwithstanding the provisions of G.S. 148-2, the
26 Department of Correction may use up to the sum of seven hundred fifty thousand
27 dollars (\$750,000) from funds available to the Department to provide the State match
28 needed in order to receive federal grant funds. Prior to using funds for this purpose, the
29 Department shall report to the Chairs of the Senate and House of Representatives
30 Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative
31 Commission on Governmental Operations on the grants to be matched using these
32 funds.

33
34 Requested by: Senators Thomas, Garrou, Dalton, Hagan

35 **COMPUTER/DATA PROCESSING SERVICES FUNDS**

36 **SECTION 17.10.** Notwithstanding the provisions of G.S. 143-23(a2), the
37 Department of Correction may use funds available during the 2005-2006 fiscal year for
38 expenses for computer/data processing services if expenditures exceed the Department's
39 continuation budget amount for those services. The Department shall report to the Joint
40 Legislative Commission on Governmental Operations prior to exceeding the
41 continuation budget amount.

42
43 Requested by: Senators Thomas, Garrou, Dalton, Hagan

44 **MEDIUM CUSTODY ROAD CREW COMPENSATION/COMMUNITY WORK**
45 **CREWS**

46 **SECTION 17.11.(a)** Of funds appropriated to the Department of
47 Transportation by this act, the sum of ten million dollars (\$10,000,000) per year shall be
48 transferred by the Department of Transportation to the Department of Correction during
49 the 2005-2007 biennium for the actual costs of highway-related labor performed by
50 medium-custody prisoners, as authorized by G.S. 148-26.5. This transfer shall be made
51 quarterly in the amount of two million five hundred thousand dollars (\$2,500,000). The
52 Department of Transportation may use funds appropriated by this act to pay an
53 additional amount exceeding the ten million dollars (\$10,000,000), but those payments
54 shall be subject to negotiations among the Department of Transportation, the

1 Department of Correction, and the Office of State Budget and Management prior to
2 payment by the Department of Transportation.

3 **SECTION 17.11.(b)** The Department of Correction may use up to 39 work
4 crews for Department of Transportation litter control projects. The Department of
5 Transportation shall transfer at least one million three hundred thousand dollars
6 (\$1,300,000) per year from the Highway Fund to the Department of Correction during
7 the 2005-2007 biennium to cover the cost of those work crews. Should the two
8 departments determine that the actual cost of operating 39 work crews exceeds that
9 amount, the Department of Transportation shall transfer an additional amount as agreed
10 upon by the two departments and the Office of State Budget and Management.

11
12 Requested by: Senators Thomas, Garrou, Dalton, Hagan

13 **INMATE CUSTODY AND CLASSIFICATION SYSTEM**

14 **SECTION 17.12.(a)** The Department of Correction shall review the current
15 inmate custody and classification system, with the assistance of consultants from the
16 National Institute of Corrections. The review shall focus primarily on the custody
17 classification instrument used to assess inmate custody and the policies and practice of
18 overriding the assessed custody level. The review should focus particularly on
19 determining whether the instrument is effective in predicting custody classification,
20 analyzing the current override rate by custody level, and assessing any need for changes
21 in the override policy. The Department should request assistance from the National
22 Institute of Corrections in obtaining (i) a comparison between Department of Correction
23 override rates and policies and those of other states; (ii) suggestions on an acceptable
24 override rate for classification systems; and (iii) any recommendations the NIC may
25 have on the Department's custody classification instrument and override policy.

26 **SECTION 17.12.(b)** The Department shall report its findings and
27 recommendations to the Chairs of the House and Senate Appropriations Subcommittees
28 on Justice and Public Safety no later than April 15, 2006.

29
30 Requested by: Senators Garrou, Dalton, Hagan

31 **EXTEND LIMITS OF CONFINEMENT/TERMINALLY ILL AND**
32 **PERMANENTLY AND TOTALLY DISABLED INMATES**

33 **SECTION 17.13.** G.S. 148-4 reads as rewritten:

34 **"§ 148-4. Control and custody of prisoners; authorizing prisoner to leave place of**
35 **confinement.**

36 The Secretary of Correction shall have control and custody of all prisoners serving
37 sentence in the State prison system, and such prisoners shall be subject to all the rules
38 and regulations legally adopted for the government thereof. Any sentence to
39 imprisonment in any unit of the State prison system, or to jail to be assigned to work
40 under the State Department of Correction, shall be construed as a commitment, for such
41 terms of imprisonment as the court may direct, to the custody of the Secretary of
42 Correction or his authorized representative, who shall designate the places of
43 confinement within the State prison system where the sentences of all such persons shall
44 be served. The authorized agents of the Secretary shall have all the authority of peace
45 officers for the purpose of transferring prisoners from place to place in the State as their
46 duties might require and for apprehending, arresting, and returning to prison escaped
47 prisoners, and may be commissioned by the Governor, either generally or specially, as
48 special officers for returning escaped prisoners or other fugitives from justice from
49 outside the State, when such persons have been extradited or voluntarily surrendered.
50 Employees of departments, institutions, agencies, and political subdivisions of the State
51 hiring prisoners to perform work outside prison confines may be designated as the
52 authorized agents of the Secretary of Correction for the purpose of maintaining control
53 and custody of prisoners who may be placed under the supervision and control of such
54 employees, including guarding and transferring such prisoners from place to place in the
55 State as their duties might require, and apprehending and arresting escaped prisoners

1 and returning them to prison. The governing authorities of the State prison system are
2 authorized to determine by rules and regulations the manner of designating these agents
3 and placing prisoners under their supervision and control, which rules and regulations
4 shall be established in the same manner as other rules and regulations for the
5 government of the State prison system.

6 The Secretary of Correction may extend the limits of the place of confinement of a
7 prisoner, as to whom there is reasonable cause to believe he will honor his trust, by
8 authorizing him, under prescribed conditions, to leave the confines of that place
9 unaccompanied by a custodial agent for a prescribed period of time to

- 10 (1) Contact prospective employers; or
- 11 (2) Secure a suitable residence for use when released on parole or upon
12 discharge; or
- 13 (3) Obtain medical services not otherwise available; or
- 14 (4) Participate in a training program in the community; or
- 15 (5) Visit or attend the funeral of a spouse, child (including stepchild,
16 adopted child or child as to whom the prisoner, though not a natural
17 parent, has acted in the place of a parent), parent (including a person
18 though not a natural parent, has acted in the place of a parent), brother,
19 or sister; or
- 20 (6) Participate in community-based programs of rehabilitation, including,
21 but not limited to the existing community volunteer and home-leave
22 programs, pre-release and after-care programs as may be provided for
23 and administered by the Secretary of Correction and other programs
24 determined by the Secretary of Correction to be consistent with the
25 prisoner's rehabilitation and return to society; or
- 26 (7) Be on maternity leave, for a period of time not to exceed 60 days. The
27 county departments of social services are expected to cooperate with
28 officials at the North Carolina Correctional Center for Women to
29 coordinate prenatal care, financial services, and placement of the child;
30 or
- 31 (8) Receive palliative care, only in the case of a terminally ill inmate or a
32 permanently and totally disabled inmate that the Secretary finds no
33 longer poses ~~a threat to society~~, a significant public safety risk, and
34 only after consultation with any victims of the inmate or the victims'
35 families. For purposes of this subdivision, the term "terminally ill"
36 describes an inmate who, as determined by a licensed physician, has an
37 incurable condition caused by illness or disease that did not exist at the
38 time of sentencing, that will likely produce death within 12 months. six
39 months, and that is so debilitating that it is highly unlikely that the
40 inmate poses a significant public safety risk. For purposes of this
41 subdivision, the term "permanently and totally disabled" describes an
42 inmate who, as determined by a licensed physician, suffers from
43 permanent and irreversible physical incapacitation as a result of an
44 existing physical or medical ~~condition.~~ condition that did not exist at
45 the time of sentencing and that is so incapacitating that it is highly
46 unlikely that the inmate poses a significant public safety risk. The
47 Department's medical director shall notify the Secretary immediately
48 when an inmate has been classified as terminally ill and shall provide
49 regular reports on inmates classified as permanently and totally
50 disabled. The Secretary shall act expeditiously in determining whether
51 to extend the limits of confinement under this subdivision upon
52 receiving notice that an inmate has been classified as terminally ill or
53 permanently and totally disabled and, in the case of a terminally ill
54 inmate, the Secretary shall make a good faith effort to reach a

1 determination within 30 days of receiving notice of the inmate's
2 terminal condition.

3 The willful failure of a prisoner to remain within the extended limits of his confinement,
4 or to return within the time prescribed to the place of confinement designated by the
5 Secretary of Correction, shall be deemed an escape from the custody of the Secretary of
6 Correction punishable as provided in G.S. 148-45."

7
8 Requested by: Senators Thomas, Garrou, Dalton, Hagan

9 **PARTIAL REIMBURSEMENT/INMATE COMMUNITY WORK CREWS AND**
10 **INMATE LABOR CONTRACTS**

11 **SECTION 17.14.(a)** G.S. 148-26 is amended by adding a new subsection to
12 read:

13 "(e1) Departments, institutions, agencies, and political subdivisions of the State
14 using inmate community work crews or inmate labor contracts as authorized by this
15 section shall reimburse the Department of Correction for a portion of the costs of
16 operating inmate community work crews and a portion of the administrative expenses of
17 managing inmate labor contracts. In determining the amount of reimbursement to
18 require under this subsection, the Department may consider requiring a smaller amount
19 from entities that can demonstrate a limited ability to pay for inmate labor."

20 **SECTION 17.14.(b)** In determining reimbursement amounts required by
21 G.S. 148-26(e1), the Department of Correction shall attempt to recoup at least the sum
22 of six hundred thousand dollars (\$600,000) for each year of the 2005-2007 biennium in
23 inmate work crew costs and administrative expenses of managing inmate labor
24 contracts.

25 **SECTION 17.14.(c)** The Department of Correction shall report by March 1,
26 2006, to the Chairs of the Senate and House of Representatives Appropriations
27 Subcommittees on Justice and Public Safety and the Joint Legislative Corrections,
28 Crime Control, and Juvenile Justice Oversight Committee on the inmate labor contracts
29 and community work programs, identifying total project man-hours by client agency,
30 the total operating costs of these programs, the benefits of these programs, and the
31 potential for reimbursement that more closely reflects the actual cost of all projects.

32
33 Requested by: Senators Rand, Thomas, Garrou, Dalton, Hagan

34 **PROVIDER RATES FOR INMATE HEALTH SERVICES NOT TO EXCEED**
35 **PROVIDER RATES UNDER TEACHERS' AND STATE EMPLOYEES'**
36 **COMPREHENSIVE MAJOR MEDICAL PLAN**

37 **SECTION 17.15.(a)** G.S. 148-19 reads as rewritten:

38 **"§ 148-19. Health services.**

39 (a) The general policies, rules and regulations of the Department of Correction
40 shall prescribe standards for health services to prisoners, which shall include preventive,
41 diagnostic, and therapeutic measures on both an outpatient and a hospital basis, for all
42 types of patients. A prisoner may be taken, when necessary, to a medical facility outside
43 the State prison system. The Department of Correction shall seek the cooperation of
44 public and private agencies, institutions, officials and individuals in the development of
45 adequate health services to prisoners.

46 (b) Upon request of the Secretary of Correction, the Secretary of Health and
47 Human Services may detail personnel employed by the Department of Health and
48 Human Services to the Department of Correction for the purpose of supervising and
49 furnishing medical, psychiatric, psychological, dental, and other technical and scientific
50 services to the Department of Correction. The compensation, allowances, and expenses
51 of the personnel detailed under this section may be paid from applicable appropriations
52 to the Department of Health and Human Services, and reimbursed from applicable
53 appropriations to the Department of Correction. The Secretary of Correction may make
54 similar arrangements with any other agency of State government able and willing to aid
55 the Department of Correction to meet the needs of prisoners for health services.

1 Reimbursement rates to public and private agencies and health care providers for health
2 care services rendered to prisoners shall be established as provided in G.S. 148-22.

3 (c) Each prisoner committed to the State Department of Correction shall receive
4 a physical and mental examination by a health care professional authorized by the North
5 Carolina Medical Board to perform such examinations as soon as practicable after
6 admission and before being assigned to work. The prisoner's work and other
7 assignments shall be made with due regard for the prisoner's physical and mental
8 condition.

9 (d) The Commission for Mental Health, Developmental Disabilities, and
10 Substance Abuse Services shall adopt standards for the delivery of mental health and
11 mental retardation services to inmates in the custody of the Department of Correction.
12 The Commission for Mental Health, Developmental Disabilities, and Substance Abuse
13 Services shall give the Secretary of Correction an opportunity to review and comment
14 on proposed standards prior to promulgation of such standards; however, final authority
15 to determine such standards remains with the Commission. The Secretary of the
16 Department of Health and Human Services shall designate an agency or agencies within
17 the Department of Health and Human Services to monitor the implementation by the
18 Department of Correction of these standards and of substance abuse standards adopted
19 by the Department of Correction upon the advice of the Substance Abuse Advisory
20 Council established pursuant to G.S. 143B-270. The Secretary of Health and Human
21 Services shall send a written report on the progress which the Department of Correction
22 has made on the implementation of such standards to the Governor, the Lieutenant
23 Governor, and the Speaker of the House. Such reports shall be made on an annual basis
24 beginning January 1, 1978."

25 **SECTION 17.15.(b)** G.S. 148-22 reads as rewritten:

26 **"§ 148-22. Treatment programs.**

27 (a) The general policies, rules and regulations of the Department of Correction
28 shall provide for humane treatment of prisoners and for programs to effect their
29 correction and return to the community as promptly as practicable. Visits and
30 correspondence between prisoners and approved friends shall be authorized under
31 reasonable conditions, and family members shall be permitted and encouraged to
32 maintain close contact with the prisoners unless such contacts prove to be hurtful.
33 Casework, counseling, and psychotherapy services provided to prisoners may be
34 extended to include members of the prisoner's family if practicable and necessary to
35 achieve the purposes of such programs. Education, library, recreation, and vocational
36 training programs shall be developed so as to coordinate with corresponding services
37 and opportunities which will be available to the prisoner when he is released. Programs
38 may be established for the treatment and training of mentally retarded prisoners and
39 other special groups. These programs may be operated in segregated sections of
40 facilities housing other prisoners or in separate facilities.

41 (b) The Department of Correction may cooperate with and seek the cooperation
42 of public and private agencies, institutions, officials, and individuals in the development
43 and conduct of programs designed to give persons committed to the Department
44 opportunities for physical, mental and moral improvement. The Department may enter
45 into agreements with other agencies of federal, State or local government and with
46 private agencies to promote the most effective use of available resources.

47 Specifically the Secretary of Correction may enter into contracts or agreements with
48 appropriate public or private agencies or providers offering needed services including
49 health, mental health, mental retardation, substance abuse, rehabilitative or training
50 services for such inmates of the Department of Correction as the Secretary may deem
51 eligible. These agencies and providers shall be reimbursed from applicable
52 appropriations to the Department of Correction for health services rendered at a rate not
53 to exceed ~~that which such agencies normally receive for serving their regular clients~~ the
54 contract rate paid for the same or similar service or diagnostic-related grouping under
55 the Teachers' and State Employees' Comprehensive Major Medical Plan ("Plan") for

1 Plan members. Before paying the claim approved by the Secretary, the Secretary of
2 Correction shall submit the claim to the Plan for verification of the rate charged under
3 the claim in accordance with procedures established by the Executive Administrator and
4 Board of Trustees of the Plan. The Department of Correction shall, from State
5 appropriations and any other funds available for this purpose, transfer to the Teachers'
6 and State Employees' Comprehensive Major Medical Plan funds in the amount
7 determined by the Plan as necessary to cover the Plan's administrative costs for
8 verifying claim rates. The Secretary may contract for the housing of work-release
9 inmates at county jails and local confinement facilities. Inmates may be placed in the
10 care of such agencies but shall remain the responsibility of the Department and shall be
11 subject to the complete supervision of the Department. The Department may reimburse
12 such agencies for the support of such inmates at a rate not in excess of the average daily
13 cost of inmate care in the corrections unit to which the inmate would otherwise be
14 assigned."

15 **SECTION 17.15.(c)** Article 3 of Chapter 135 of the General Statutes is
16 amended by adding the following new Part to read:

17 "Part 6. Administrative Services to Other State Agencies.

18 "**§ 135-43. Verification of Plan rates for health services provided to prison inmates.**

19 As used in this Part, "Plan" means the North Carolina Teachers' and State
20 Employees' Comprehensive Major Medical Plan. Upon receipt of a claim for health
21 services approved by the Secretary of Correction, the Plan shall review the claim rates
22 and shall verify to the Secretary of Correction that the rates applied in the claim do not
23 exceed the rates applicable under the Plan for the same or similar services or
24 diagnostic-related grouping code for Plan members. Nothing in this section shall be
25 construed as providing Plan benefits to prison inmates. The Plan's self-insured
26 indemnity program shall not incur any financial obligations for claims submitted by the
27 Secretary of Correction for health services rendered to prison inmates."

28
29 Requested by: Senators Kerr, Thomas, Garrou, Dalton, Hagan

30 **REPLACEMENT OF UMSTEAD LAUNDRY**

31 **SECTION 17.16.** In preparation for the scheduled closing of Umstead
32 Hospital in 2007, the Department of Correction shall develop a plan for the replacement
33 of the Correction Enterprises laundry operation at Umstead Hospital and report that plan
34 to the Chairs of the Senate and House of Representatives Appropriations
35 Subcommittees on Justice and Public Safety by May 1, 2006.

36
37 Requested by: Senators Thomas, Garrou, Dalton, Hagan

38 **STAFFING STUDY OF UNIT MANAGEMENT**

39 **SECTION 17.17.** The Department of Correction shall conduct an
40 organization and staffing study of unit management in the State prison system, focusing
41 on the 18 prison facilities that use unit management. The Department shall review
42 workload and staffing at each of the prisons and make recommendations for staffing
43 changes and staffing efficiencies. The study shall consider the responsibilities and
44 workloads of custody supervisors in relation to unit managers and determine whether
45 certain functions should be the responsibility of custody supervisors or program staff.

46 The Department shall report its findings and recommendations to the Chairs
47 of the House and Senate Appropriations Subcommittees on Justice and Public Safety
48 and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight
49 Committee by March 1, 2006.

50
51 Requested by: Senators Thomas, Dalton, Garrou, Hagan

52 **STUDY EXPANSION AT CLEVELAND CORRECTIONAL CENTER**

53 **SECTION 17.18.** As part of its development and update of its long-range
54 prison housing plan, the Department of Correction shall consider the feasibility of
55 expanding minimum custody bed capacity at the Cleveland Correctional Center. The

1 study shall include an engineering analysis of the site and a cost analysis of either
2 expanding the current facility or building a stand-alone minimum custody prison. The
3 cost analysis shall include a determination of possible savings by using inmate labor to
4 assist with construction. The Department of Correction shall report its findings to the
5 Chairs of the Senate and House of Representatives Appropriations Committees and the
6 Chairs of the Senate and House of Representatives Appropriations Subcommittees on
7 Justice and Public Safety by April 1, 2006.

8
9 Requested by: Senators Thomas, Garrou, Dalton, Hagan

10 **REPORT ON ELECTRONIC MONITORING COSTS**

11 **SECTION 17.19.** The Department of Correction shall report by March 1 of
12 each year to the Chairs of the Senate and House of Representatives Appropriations
13 Committees and the Chairs of the Senate and House of Representatives Appropriations
14 Subcommittees on Justice and Public Safety on its efforts to increase the use of
15 electronic monitoring of sentenced offenders in the community as an alternative to the
16 incarceration of probation violators. The report shall also document the geographical
17 distribution of electronic monitoring use compared to other intermediate sanctions. The
18 Department shall also analyze the reasons for the underutilization of the electronic
19 monitoring program and include its findings in the report.

20
21 Requested by: Senators Thomas, Garrou, Dalton, Hagan

22 **REPORT ON PROBATION AND PAROLE CASELOADS**

23 **SECTION 17.20.(a)** The Department of Correction shall report by March 1
24 of each year to the Chairs of the Senate and House of Representatives Appropriations
25 Subcommittees on Justice and Public Safety and the Joint Legislative Corrections,
26 Crime Control, and Juvenile Justice Oversight Committee on caseload averages for
27 probation and parole officers. The report shall include:

- 28 (1) Data on current caseload averages for Probation Parole Officer I,
29 Probation Parole Officer II, and Probation Parole Officer III positions;
- 30 (2) An analysis of the optimal caseloads for these officer classifications;
- 31 (3) An assessment of the role of surveillance officers;
- 32 (4) The number and role of paraprofessionals in supervising low-risk
33 caseloads;
- 34 (5) An update on the Department's implementation of the
35 recommendations contained in the National Institute of Correction
36 study conducted on the Division of Community Corrections in 2004;
- 37 (6) The selection of a risk assessment and the resulting distribution of
38 offenders among risk levels; and
- 39 (7) Any position reallocations in the previous 12 months, and the reasons
40 for and fiscal impact of those reallocations.

41 **SECTION 17.20.(b)** The Department of Correction shall conduct a study of
42 probation/parole officer workload at least biannually. The study shall include analysis of
43 the type of offenders supervised, the distribution of the probation/parole officers' time
44 by type of activity, the caseload carried by the officers, and comparisons to practices in
45 other states. The study shall be used to determine whether the caseload goals established
46 by the Structured Sentencing Act are still appropriate, based on the nature of the
47 offenders supervised and the time required to supervise those offenders.

48 **SECTION 17.20.(c)** The Department of Correction shall report the results of
49 the study and recommendations for any adjustments to caseload goals to the Senate and
50 House of Representatives Appropriations Subcommittees on Justice and Public Safety
51 by January 1, 2007.

52
53 Requested by: Senators Thomas, Garrou, Dalton, Hagan

54 **COMMUNITY SERVICE WORK PROGRAM**

1 **SECTION 17.21.** The Department of Correction shall report to the Chairs of
2 the Senate and House of Representatives Appropriations Subcommittees on Justice and
3 Public Safety by February 1 of each year on the integration of the Community Service
4 Work Program into the Division of Community Corrections, including the Department's
5 ability to monitor the collection of offender payments from unsupervised offenders
6 sentenced to community service. The Department shall also report to the Chairs of the
7 Senate and House of Representatives Appropriations Subcommittees on Justice and
8 Public Safety by February 1 of each year on the average caseloads of Community
9 Service Work Program coordinators, by district, division, and statewide. The report
10 shall also include the money collected, the type and value of the work performed, and
11 the number of offenders in the Community Service Work Program, by type of referral
12 (i.e. parole, supervised probation, unsupervised probation or community punishment,
13 DWI, or any other agency referrals).
14

15 Requested by: Senators Thomas, Garrou, Dalton, Hagan

16 **REPORTS ON NONPROFIT PROGRAMS**

17 **SECTION 17.22.(a)** Funds appropriated in this act to the Department of
18 Correction to support the programs of Harriet's House may be used for program
19 operating costs, the purchase of equipment, and the rental of real property to serve
20 women released from prison with children in their custody. Harriet's House shall report
21 by February 1 of each year to the Joint Legislative Commission on Governmental
22 Operations on the expenditure of State appropriations and on the effectiveness of the
23 program, including information on the number of clients served, the number of clients
24 who successfully complete the Harriet's House program, and the number of clients who
25 have been rearrested within three years of successfully completing the program. The
26 report shall provide financial and program data for the complete fiscal year prior to the
27 year in which the report is submitted. The financial report shall identify all funding
28 sources and amounts.

29 **SECTION 17.22.(b)** Summit House shall report by February 1 of each year
30 to the Joint Legislative Commission on Governmental Operations on the expenditure of
31 State appropriations and on the effectiveness of the program, including information on
32 the number of clients served, the number of clients who have had their probation
33 revoked, the number of clients who successfully complete the program while housed at
34 Summit House, Inc., and the number of clients who have been rearrested within three
35 years of successfully completing the program. The report shall provide financial and
36 program data for the complete fiscal year prior to the year in which the report is
37 submitted. The financial report shall identify all funding sources and amounts.

38 **SECTION 17.22.(c)** Women at Risk shall report by February 1 of each year
39 to the Joint Legislative Commission on Governmental Operations on the expenditure of
40 State funds and on the effectiveness of the program, including information on the
41 number of clients served, the number of clients who have had their probation revoked,
42 the number of clients who have successfully completed the program, and the number of
43 clients who have been rearrested within three years of successfully completing the
44 program. The report shall provide financial and program data for the complete fiscal
45 year prior to the year in which the report is submitted. The financial report shall identify
46 all funding sources and amounts.
47

48 Requested by: Senators Thomas, Garrou, Dalton, Hagan

49 **CRIMINAL JUSTICE PARTNERSHIP PROGRAM**

50 **SECTION 17.23.(a)** It is the intent of the General Assembly that State
51 Criminal Justice Partnership Program funds not be used to fund case manager positions
52 when those services can be reasonably provided by Division of Community Corrections
53 personnel or by the Treatment Alternatives to Street Crime (TASC) Program in the
54 Department of Health and Human Services.

1 **SECTION 17.23.(b)** Notwithstanding the provisions of G.S. 143B-273.15
2 specifying that grants to participating counties are for the full fiscal year and that
3 unobligated funds are returned to the State-County Criminal Justice Partnership
4 Account at the end of the grant period, the Department of Correction may reallocate
5 unspent or unclaimed funds distributed to counties participating in the State-County
6 Criminal Justice Partnership Program in an effort to maintain the level of services
7 realized in previous fiscal years.

8 **SECTION 17.23.(c)** The Department of Correction may not deny funds to a
9 county to support both a residential program and a day reporting center if the
10 Department of Correction determines that the county has a demonstrated need and a
11 fully developed plan for each type of sanction.

12 **SECTION 17.23.(d)** The Department of Correction shall report by February
13 1 of each year to the Chairs of the Senate and House of Representatives Appropriations
14 Committees, the Senate and House of Representatives Appropriations Subcommittees
15 on Justice and Public Safety, and the Joint Legislative Corrections, Crime Control, and
16 Juvenile Justice Oversight Committee on the status of the State-County Criminal Justice
17 Partnership Program. The report shall include the following information:

- 18 (1) The amount of funds carried over from the prior fiscal year;
- 19 (2) The dollar amount and purpose of grants awarded to counties as
20 discretionary grants for the current fiscal year;
- 21 (3) Any counties the Department anticipates will submit requests for new
22 implementation grants;
- 23 (4) An update on efforts to ensure that all counties make use of the
24 electronic reporting system, including the number of counties
25 submitting offender participation data via the system;
- 26 (5) An analysis of offender participation data received, including data on
27 each program's utilization and capacity;
- 28 (6) An analysis of comparable programs, prepared by the Research and
29 Planning Division of the Department of Correction, and a summary of
30 the reports prepared by county Criminal Justice Partnerships Advisory
31 Boards; and
- 32 (7) An evaluation of Criminal Justice Partnership programs based upon
33 evaluation standards designed by the Division of Community
34 Corrections in consultation with the Fiscal Research Division and the
35 Department of Correction, Division of Research and Planning.

36 **SECTION 17.23.(e)** G.S. 143B-273.4 reads as rewritten:

37 **"§ 143B-273.4. Eligible population.**

38 (a) An eligible offender is an adult offender who ~~either is in confinement~~
39 ~~awaiting trial, or~~ was convicted of a misdemeanor or a felony offense and received a
40 nonincarcerative sentence of an intermediate punishment or is serving a term of parole
41 or post-release supervision after serving an active sentence of imprisonment.

42 (b) The priority populations for programs funded under this Article shall be:

- 43 (1) ~~Offenders be offenders~~ sentenced to intermediate ~~punishments; and~~
- 44 (2) ~~Offenders who are appropriate for release from jail prior to trial under~~
45 ~~the supervision of a pretrial monitoring program.~~ punishments."

46 **SECTION 17.23.(f)** G.S. 143B-273.15 reads as rewritten:

47 **"§ 143B-273.15. Funding formula.**

48 To determine the grant amount for which a county or counties may apply, the
49 granting authority shall apply the following formula:

- 50 (1) ~~Twenty percent (20%)~~ Twenty-five percent (25%) based on a fixed
51 equal dollar amount for each county;
- 52 (2) ~~Sixty percent (60%)~~ Fifty percent (50%) based on the county share of
53 the State population; and
- 54 (3) ~~Twenty percent (20%)~~ Twenty-five percent (25%) based on the
55 ~~supervised probation admissions~~ intermediate punishment entry rate

1 for the ~~county~~ county, using the total of the three most recent years of
 2 data available divided by the average county population for that same
 3 period.

4 The sum of the amounts in subdivisions (1), (2), and (3) is the total amount of the
 5 funding that a county may apply for under this subsection.

6 Grants to participating counties are for a period of one fiscal year with unobligated
 7 funds being returned to the Account at the end of the grant period. Funds are provided
 8 to participating counties on a reimbursement basis unless a county documents a need for
 9 an advance of grant funds."

10 **SECTION 17.23.(g)** For the 2005-2006 fiscal year, notwithstanding the
 11 formula in G.S. 143B-273.15, each county's formula allocation shall be capped at no
 12 less than ninety-five percent (95%) and no greater than one hundred twenty percent
 13 (120%) of the funds allocated to that county for the 2004-2005 fiscal year. After
 14 determining the capped formula allocations, funds that were used in the 2003-2004
 15 fiscal year for pretrial release programs shall be reallocated among all participating
 16 counties using the formula in G.S. 143B-273.15 and dedicated to sentenced offender
 17 programs. For the 2006-2007 fiscal year, the same procedures shall be used, except that
 18 the capped amounts shall be no less than ninety percent (90%) and no greater than one
 19 hundred thirty percent (130%) of the funds allocated to that county for the 2004-2005
 20 fiscal year.

21
 22 Requested by: Senators Thomas, Garrou, Dalton, Hagan

23 **REPORT ON INMATES ELIGIBLE FOR PAROLE**

24 **SECTION 17.24.** The Post-Release Supervision and Parole Commission
 25 shall report by January 15 and July 15 of each year to the Senate and House of
 26 Representatives Appropriations Subcommittees on Justice and Public Safety and the
 27 Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee
 28 on inmates eligible for parole. These reports shall include at least the following:

- 29 (1) The total number of Fair Sentencing and Pre-Fair Sentencing inmates
 30 that were parole-eligible during the current fiscal year and the total
 31 number of those inmates that were paroled. The report should group
 32 these inmates by offense type, custody classification, and type of
 33 parole. The report should also include a more specific analysis of those
 34 inmates who were parole-eligible and assigned to minimum custody
 35 classification but not released;
- 36 (2) The average time served, by offense class, of Fair Sentencing and
 37 Pre-Fair Sentencing inmates compared to inmates sentenced under
 38 Structured Sentencing; and
- 39 (3) The projected number of parole-eligible inmates to be paroled or
 40 released by the end of the 2007-2008 fiscal year and by the end of each
 41 of the next five fiscal years, beginning with the 2008-2009 fiscal year.

42
 43 Requested by: Senators Thomas, Garrou, Dalton, Hagan

44 **PROVIDE THAT THE TERMS OF THE MEMBERS OF THE POST-RELEASE**
 45 **SUPERVISION AND PAROLE COMMISSION SERVING ON JUNE 30,**
 46 **2005, EXPIRE ON THAT DATE AND RESTRUCTURE THE COMMISSION**
 47 **TO CONSIST OF ONE FULL-TIME MEMBER AND TWO HALF-TIME**
 48 **MEMBERS**

49 **SECTION 17.25.(a)** G.S. 143B-267 reads as rewritten:

50 **"§ 143B-267. Post-Release Supervision and Parole Commission – members;**
 51 **selection; removal; chairman; compensation; quorum; services.**

52 ~~The Effective July 1, 2005, the~~ Post-Release Supervision and Parole Commission
 53 shall consist of ~~three one~~ full-time ~~members.~~ member and two half-time members. The
 54 three ~~full-time~~ members shall be appointed by the Governor from persons whose
 55 recognized ability, training, experience, and character qualify them for service on the

1 Commission. The terms of office of ~~the five members presently~~ any members serving
2 on the Commission on June 30, 2005, shall expire on July 31, 1999. that date. The term
3 ~~of one of the members appointed effective August 1, 1999, shall be for one year. The~~
4 ~~term of one of the members appointed effective August 1, 1999, shall be for two years.~~
5 ~~The term of one of the members appointed effective August 1, 1999, shall be for three~~
6 ~~years. Thereafter, the~~ The terms of office of persons appointed by the Governor as
7 members of the Commission shall be for four years or until their successors are
8 appointed and qualify. Any appointment to fill a vacancy on the Commission created by
9 the resignation, removal, death or disability of a ~~full-time~~ member shall be for the
10 balance of the unexpired term only.

11 The Governor shall have the authority to remove any member of the Commission
12 from office for misfeasance, malfeasance or nonfeasance, pursuant to the provisions of
13 G.S. 143B-13. The Governor shall designate a ~~full-time~~ member of the Commission to
14 serve as ~~chairman~~ chair of the Commission at the pleasure of the Governor.

15 The granting, denying, revoking, or rescinding of parole, the authorization of
16 work-release privileges to a prisoner, or any other matters of business coming before the
17 Commission for consideration and action shall be decided by majority vote of the full
18 Commission.

19 The ~~full-time~~ members of the Commission shall receive the salary fixed by the
20 General Assembly in the Current Operations Appropriations Act and shall receive
21 necessary travel and subsistence expenses in accordance with the provisions of
22 G.S. 138-6.

23 All clerical and other services required by the Commission shall be supplied by the
24 Secretary of Correction."

25 **SECTION 17.25.(b)** This section becomes effective June 30, 2005.

26
27 Requested by: Senators Thomas, Garrou, Dalton, Hagan

28 **POST-RELEASE SUPERVISION AND PAROLE COMMISSION/REPORT ON**
29 **STAFFING REORGANIZATION AND REDUCTION**

30 **SECTION 17.26.** The Post-Release Supervision and Parole Commission
31 shall report by October 1 of each year to the Chairs of the Senate and House of
32 Representatives Appropriations Subcommittees on Justice and Public Safety on a plan
33 for restructuring the organization and operation of the Commission and implementing
34 staff reductions to reflect both declines and changes in workload.

35
36 Requested by: Senators Thomas, Garrou, Dalton, Hagan

37 **MUTUAL AGREEMENT PAROLE PROGRAM**

38 **SECTION 17.27.** The Department of Correction and the Post-Release
39 Supervision and Parole Commission shall make a good faith effort to enroll at least ten
40 percent (10%) of all program-eligible, pre-Structured Sentencing felons in the Mutual
41 Agreement Parole Program by January 1, 2006. The Department shall report to the
42 Senate and House of Representatives Appropriations Subcommittees on Justice and
43 Public Safety by March 1 of each year on the number of inmates actually enrolled in the
44 program, the number of inmates who have been paroled as a result of participation in
45 the program, and the number of inmates who have enrolled but terminated as a result of
46 unsuccessful participation in the program. If the ten percent (10%) participation goal
47 established by this section has not been reached, the report shall explain why the goal
48 was not realized.

49
50 **PART XVIII. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY**

51
52 Requested by: Senators Thomas, Garrou, Dalton, Hagan

53 **ANNUAL EVALUATION OF TARHEEL CHALLENGE PROGRAM**

54 **SECTION 18.1.** The Department of Crime Control and Public Safety shall
55 report to the Chairs of the House of Representatives and Senate Appropriations

1 Committees and the Chairs of the House of Representatives and Senate Appropriations
2 Subcommittees on Justice and Public Safety by April 1 of each year of the biennium on
3 the operations and effectiveness of the National Guard Tarheel Challenge Program. The
4 report should evaluate the program's effectiveness as an intervention method for
5 preventing juveniles from becoming undisciplined or delinquent. The report shall also
6 evaluate the Program's role in improving individual skills and employment potential for
7 participants and shall include:

- 8 (1) The source of referrals for individuals participating in the Program;
- 9 (2) The summary of types of actions or offenses committed by the
10 participants of the Program;
- 11 (3) An analysis outlining the cost of providing services for each
12 participant, including a breakdown of all expenditures related to the
13 administration and operation of the Program and the education and
14 treatment of the Program participants;
- 15 (4) The number of individuals who successfully complete the Program;
16 and
- 17 (5) The number of participants who commit offenses after completing the
18 Program.

19
20 Requested by: Senators Thomas, Garrou, Dalton, Hagan

21 **VICTIMS ASSISTANCE NETWORK REPORT**

22 **SECTION 18.2.** The Department of Crime Control and Public Safety shall
23 report on the expenditure of funds allocated pursuant to this section for the Victims
24 Assistance Network. The Department shall also report on the Network's efforts to
25 gather data on crime victims and their needs, act as a clearinghouse for crime victims'
26 services, provide an automated crime victims' bulletin board for subscribers, coordinate
27 and support activities of other crime victims' advocacy groups, identify the training
28 needs of crime victims' services providers and criminal justice personnel, and
29 coordinate training for these personnel. The Department shall submit its report to the
30 Chairs of the Appropriations Subcommittees on Justice and Public Safety of the Senate
31 and House of Representatives by December 1 of each year of the biennium.

32
33 Requested by: Senators Thomas, Garrou, Dalton, Hagan

34 **TRANSFER THE STATEWIDE FLOODPLAIN MAPPING UNIT**

35 **SECTION 18.3.** The Statewide Floodplain Mapping Unit is transferred from
36 the Department of Crime Control and Public Safety to the Department of Environment
37 and Natural Resources. This transfer has all of the elements of a Type I transfer as
38 defined in G.S. 143A-6.

39 40 **PART XIX. DEPARTMENT OF ADMINISTRATION**

41
42 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

43 **CONTINUATION OF THE STUDY OF ADVOCACY PROGRAMS IN THE** 44 **DEPARTMENT OF ADMINISTRATION**

45 **SECTION 19.1.** The Secretary of the Department of Administration, in
46 collaboration with appropriate entities that concentrate on public policy and business
47 management, shall continue the study that was completed during the 2003-2004 fiscal
48 year of the functions of the advocacy programs that are housed in the Department of
49 Administration to determine the appropriate organizational placement of the programs
50 within State government. The study shall include both the advocacy and service
51 functions of the Division of Veterans Affairs, the Council for Women and the Domestic
52 Violence Commission, the Commission of Indian Affairs, the Governor's Advocacy
53 Council for Persons with Disabilities, the Human Relations Commission, and the Youth
54 Advocacy and Involvement Office. The study shall also consider whether the functions
55 of the programs could be more efficiently and effectively performed by an appropriate

1 nonprofit organization. The Secretary shall report the findings and recommendations to
2 the Joint Legislative Commission on Governmental Operations and to the Chairs of the
3 Senate and House of Representatives Appropriations Committees by April 1, 2006.

4
5 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

6 **VETERANS SCHOLARSHIPS PARTIALLY FUNDED FROM ESCHEAT**
7 **FUND**

8 **SECTION 19.2.** In accordance with G.S. 116B-7(b), there is appropriated
9 from the Escheat Fund to the Department of Administration the sum of four million two
10 hundred ninety-seven thousand five hundred forty-four dollars (\$4,297,544) for the
11 2005-2006 fiscal year and four million three hundred fifty-eight thousand forty-six
12 dollars (\$4,358,046) for the 2006-2007 fiscal year.

13
14 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

15 **STATE VETERANS CEMETERIES**

16 **SECTION 19.3.** The Department of Administration may use funds credited
17 to the Veterans Burial Fund for the 2005-2007 biennium to cover costs incurred as a
18 result of burials on Saturday or Sunday.

19
20 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

21 **ALLOCATION OF PETROLEUM VIOLATION ESCROW FUNDS**

22 **SECTION 19.4.** The unallocated balance of the funds and interest thereon
23 received from the cases of United States v. Stripper Well, United States v. Exxon,
24 United States v. Diamond Shamrock, United States v. Amoco, United States v.
25 Chevron, and United States v. Occidental that remain in the Special Reserve for Oil
26 Overcharge Funds is appropriated to the Department of Administration for the
27 2005-2006 fiscal year to be allocated for projects approved by the State Energy Policy
28 Council.

29
30 Requested by: Senators Albertson, Jenkins, Dorsett, Garrou, Dalton, Hagan

31 **INCREASED FUEL EFFICIENCY OF STATE MOTOR FLEET**

32 **SECTION 19.5.(a)** The Department of Administration, Motor Fleet
33 Management, shall develop and implement a plan to improve and increase the overall
34 fuel efficiency of the State's motor fleet by twenty percent (20%). The Department shall
35 implement this plan and achieve the twenty percent (20%) increase in fuel efficiency by
36 July 1, 2006. Fuel efficiency goals may be met by petroleum displacement through the
37 use of biodiesel, ethanol, other alternative fuels, the purchase of hybrid electric vehicles
38 and other fuel-efficient vehicles.

39 **SECTION 19.5.(b)** The Department shall report to the Joint Legislative
40 Commission on Governmental Operations its plan for increasing and maintaining the
41 fuel efficiency of the State's motor fleet no later than January 1, 2006.

42
43 **PART XX. OFFICE OF THE GOVERNOR**

44
45 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

46 **HOUSING FINANCE AGENCY HOME MATCHING FUNDS**

47 **SECTION 20.1.(a)** Funds appropriated in this act to the Housing Finance
48 Agency for the federal HOME Program shall be used to match federal funds
49 appropriated for the HOME Program. In allocating State funds appropriated to match
50 federal HOME Program funds, the Agency shall give priority to HOME Program
51 projects, as follows:

- 52 (1) First priority to projects that are located in counties designated as Tier
53 One, Tier Two, or Tier Three Enterprise Counties under
54 G.S. 105-129.3; and

- 1 (2) Second priority to projects that benefit persons and families whose
2 incomes are fifty percent (50%) or less of the median family income
3 for the local area, with adjustments for family size, according to the
4 latest figures available from the United States Department of Housing
5 and Urban Development.

6 The Housing Finance Agency shall report to the Joint Legislative
7 Commission on Governmental Operations by April 1 of each year concerning the status
8 of the HOME Program and shall include in the report information on priorities met,
9 types of activities funded, and types of activities not funded.

10 **SECTION 20.1.(b)** If the United States Congress changes the HOME
11 Program such that matching funds are not required for a given program year, then the
12 Agency shall not spend the matching funds appropriated under this act for that program
13 year.

14 **SECTION 20.1.(c)** Funds appropriated in this act to match federal HOME
15 Program funds shall not revert to the General Fund on June 30, 2006, or on June 30,
16 2007.

17
18 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

19 **HOUSING FINANCE AGENCY SHALL CONTINUE THE NORTH CAROLINA**
20 **HOME PROTECTION PILOT PROGRAM AND LOAN FUND**

21 **SECTION 20.2.(a)** The North Carolina Housing Finance Agency shall
22 continue to administer a pilot program to assist North Carolina workers who have lost
23 jobs in Cabarrus, Cleveland, Cumberland, Edgecombe, Forsyth, Guilford, Rowan, and
24 Rutherford Counties as a result of changing economic conditions in North Carolina
25 when the workers are in need of assistance to avoid losing their homes to foreclosure.

26 **SECTION 20.2.(b)** Sections 20A.1(b), 20A.1(d), and 20A.1(e) of S.L.
27 2004-124 remain effective for the 2005-2006 fiscal year.

28 **SECTION 20.2.(c)** The agency shall, no later than May 1, 2006, report to
29 the General Assembly on the effectiveness of the Program in accomplishing its purposes
30 and provide any other information the Agency determines is pertinent or that the
31 General Assembly requests.

32
33 **PART XXI. DEPARTMENT OF INSURANCE**

34
35 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

36 **INSURANCE REGULATORY FUND TRANSFER TO GENERAL FUND**

37 **SECTION 21.1.** The Commissioner of Insurance shall transfer funds
38 quarterly from the Insurance Regulatory Fund to the General Fund to repay the funds
39 appropriated to the Department of Insurance from the General Fund for each fiscal year,
40 plus accrued interest at a rate determined by the State Treasurer.

41
42 **PART XXII. DEPARTMENT OF REVENUE**

43
44 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

45 **DEPARTMENT OF REVENUE DEBT FEE FOR TAXPAYER LOCATER**
46 **SERVICES AND COLLECTION**

47 **SECTION 22.1.(a)** G.S. 105-243.1(e) reads as rewritten:

48 "(e) Use. – The fee is a receipt of the Department and must be applied to the costs
49 of collecting overdue tax debts. The proceeds of the fee must be credited to a special
50 account within the Department and may be expended only as provided in this
51 subsection. The proceeds of the fee may not be used for any purpose that is not directly
52 and primarily related to collecting overdue tax debts. The Department may apply the
53 proceeds of the fee for the purposes listed in this subsection. The remaining proceeds of
54 the fee may be spent only pursuant to appropriation by the General Assembly. The fee
55 proceeds do not revert but remain in the special account until spent for the costs of

1 collecting overdue tax debts. The Department and the Office of State Budget and
2 Management must account for all expenditures using accounting procedures that clearly
3 distinguish costs allocable to collecting overdue tax debts from costs allocable to other
4 purposes and must demonstrate that none of the fee proceeds are used for any purpose
5 other than collecting overdue tax debts.

6 The Department may apply the fee proceeds for the following purposes:

- 7 (1) To pay contractors for collecting overdue tax debts under subsection
8 (b) of this section.
- 9 (2) To pay the fee the United States Department of the Treasury charges
10 for setoff to recover tax owed to North Carolina.
- 11 (3) To pay for taxpayer locator services, not to exceed one hundred
12 thousand dollars (\$100,000) a year.
- 13 (4) To pay for postage or other delivery charges for correspondence
14 directly and primarily relating to collecting overdue tax debts.
- 15 (5) To pay for operating expenses for Project Collection Tax and the
16 Taxpayer Assistance Call Center.
- 17 (6) To pay for expenses of the Examination and Collection Division
18 directly and primarily relating to collecting overdue tax debts."

19 **SECTION 22.1.(b)** G.S. 105-243.1(f) reads as rewritten:

20 "(f) Reports. – The Department must report semiannually to the Joint Legislative
21 Commission on Governmental Operations and to the Revenue Laws Study Committee
22 on its efforts to collect tax debts. Each report must include a breakdown of the amount
23 and age of tax debts collected by collection agencies on contract, the amount and age of
24 tax debts collected by the Department through warning letters, and the amount and age
25 of tax debts otherwise collected by Department personnel. The report must itemize
26 collections by type of tax. Each report must also include a long-term collection plan, a
27 timeline for implementing each step of the plan, a summary of steps taken since the last
28 report and their results, and any other data requested by the Commission or the
29 Committee.

30 The Department must report by April 1, 2006, and annually thereafter, to the
31 Revenue Laws Study Committee and the Fiscal Research Division of the General
32 Assembly on the use of the fee proceeds for collecting overdue tax debts."
33

34 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

35 **CHANGE PROPERTY TAX COMMISSION COMPENSATION**

36 **SECTION 22.2.** G.S. 105-288(d) reads as rewritten:

37 "(d) Expenses. – The members of the Property Tax Commission shall receive
38 travel and subsistence expenses in accordance with G.S. ~~138-5~~ and 138-5. ~~The members~~
39 ~~of the Property Tax Commission shall receive a salary of two hundred dollars (\$200.00)~~
40 ~~a day~~ when hearing cases, meeting to decide cases, and attending training or continuing
41 education classes on property taxes or judicial procedure. The salary is four hundred
42 fifty dollars (\$450.00) a day for the Chair of the Property Tax Commission and four
43 hundred dollars (\$400.00) a day for other members of the Property Tax Commission.
44 The Secretary of Revenue shall supply all the clerical and other services required by the
45 Commission. All expenses of the Commission and the Department of Revenue in
46 performing the duties enumerated in this Article shall be paid as provided in
47 G.S. 105-501."
48

49 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

50 **POSITIONS FOR REVENUE TAX EVASION PROJECT**

51 **SECTION 22.3.** The 10 time-limited positions established in the Fuel Tax
52 Compliance Division of the Department of Revenue for the Revenue Tax Evasion
53 Project in S.L. 2004-124 are converted to permanent positions.
54

55 **PART XXIII. SECRETARY OF STATE**

1
2 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

3 **SECRETARY OF STATE TO REASSIGN VACANT POSITION**

4 **SECTION 23.1.** The Secretary of State shall reassign position
5 3222-0000-0000-361 from the Uniform Commercial Code Division to its General
6 Administration Division to assist with investigations of trademark violations and
7 training for other law enforcement personnel in the State and with investigations of
8 violations of the Charitable Solicitation Licensing Act. The Secretary shall report to the
9 Chairs of the Appropriations Subcommittees on General Government of the Senate and
10 House of Representatives by December 1, 2005.

11
12 **PART XXIV. OFFICE OF STATE BUDGET AND MANAGEMENT**

13
14 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

15 **NC HUMANITIES COUNCIL**

16 **SECTION 24.1.** The North Carolina Humanities Council shall:

- 17 (1) By January 15, 2006, and more frequently as requested, report to the
18 Joint Legislative Commission on Governmental Operations and the
19 Fiscal Research Division the following information:
20 a. State fiscal year 2004-2005 program activities, objectives, and
21 accomplishments;
22 b. State fiscal year 2004-2005 itemized expenditures and fund
23 sources;
24 c. State fiscal year 2005-2006 planned activities, objectives, and
25 accomplishments, including actual results through December
26 31, 2005; and
27 d. State fiscal year 2005-2006 estimated itemized expenditures
28 and fund sources, including actual expenditures and fund
29 sources through December 31, 2005.
30 (2) By January 15, 2007, and more frequently as requested, report to the
31 Joint Legislative Commission on Governmental Operations and the
32 Fiscal Research Division the following information:
33 a. State fiscal year 2005-2006 program activities, objectives, and
34 accomplishments;
35 b. State fiscal year 2005-2006 itemized expenditures and fund
36 sources;
37 c. State fiscal year 2006-2007 planned activities, objectives, and
38 accomplishments, including actual results through December
39 31, 2006; and
40 d. State fiscal year 2006-2007 estimated itemized expenditures
41 and fund sources, including actual expenditures and fund
42 sources through December 31, 2006.
43 (3) Provide to the Fiscal Research Division a copy of the organization's
44 annual audited financial statement within 30 days of issuance of the
45 statement.

46
47 **PART XXV. OFFICE OF THE STATE CONTROLLER**

48
49 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

50 **OVERPAYMENTS AUDIT**

51 **SECTION 25.1.(a)** During the 2005-2007 biennium, receipts generated by
52 the collection of inadvertent overpayments by State agencies to vendors as a result of
53 pricing errors, neglected rebates and discounts, miscalculated freight charges, unclaimed
54 refunds, erroneously paid excise taxes, and related errors as required by
55 G.S. 147-86.22(c) are to be deposited in the Special Reserve Account 24172.

1 **SECTION 25.1.(b)** For each fiscal year of the 2005-2007 biennium, two
2 hundred thousand dollars (\$200,000) of the funds transferred from the Special Reserve
3 Account 24172 shall be used by the Office of the State Controller for data processing,
4 debt collection, or e-commerce costs.

5 **SECTION 25.1.(c)** All funds available in the Special Reserve Account
6 24172 on July 1 of each year of the 2005-2007 biennium are transferred to the General
7 Fund on that date.

8 **SECTION 25.1.(d)** Any unobligated funds in the Special Reserve Account
9 24172 that are realized above the allowance in subsection (b) of this section are subject
10 to appropriation by the General Assembly in the 2006 Regular Session of the 2005
11 General Assembly.

12 **SECTION 25.1.(e)** The State Controller shall report quarterly to the Joint
13 Legislative Commission on Governmental Operations and the Fiscal Research Division
14 on the revenue deposited into the Special Reserve Account 24172 and the disbursement
15 of that revenue.

16 17 **PART XXVI. OFFICE OF STATE PERSONNEL**

18
19 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

20 **STUDY CAREER-BANDING/FAIR PAY**

21 **SECTION 26.1.(a)** Of the funds appropriated to the Department of
22 Administration, the sum of one hundred thousand dollars (\$100,000) for the 2005-2006
23 fiscal year shall be allocated to the Office of State Personnel to conduct a study and to
24 determine whether to implement a career-banding personnel system for all State
25 employee job classifications.

26 **SECTION 26.1.(b)** In conducting the study, the Office of State Personnel
27 shall evaluate the following issues:

- 28 (1) Inequities and disparities in job classifications with respect to race and
29 gender.
- 30 (2) Whether the minimum annual salary for State employees is a livable
31 salary and the impact of inflationary forces on that salary.
- 32 (3) Whether there is fair pay for equivalent jobs in State government,
33 including the extent of wage disparities in State government
34 employment between men and women.
- 35 (4) Any other matters relating to pay disparities in State government
36 employment.

37 **SECTION 26.1.(c)** The Office of State Personnel shall report the findings
38 and recommendations of the study as well as the findings and recommendations on
39 inequities and disparities to the Chairs of the Appropriations Committees of the Senate
40 and the House of Representatives and the Chairs of the Joint Appropriations
41 Subcommittees on General Government by April 1, 2006.

42 43 **PART XXVII. DEPARTMENT OF THE STATE TREASURER**

44
45 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

46 **REPORT OF THE STATUS OF THE TECHNOLOGY INFRASTRUCTURE** 47 **ENHANCEMENTS**

48 **SECTION 27.1.** The Department of State Treasurer shall report to the Joint
49 Legislative Commission on Governmental Operations and to the Chairs of the
50 Appropriations Committees for the Senate and the House of Representatives on the
51 status of the replacement of the multitude of information technology systems with an
52 integrated system for all the retirement plans and other programs administered by the
53 Retirement Systems Division. The Department shall report semiannually by October 1
54 and April 1 until the enhancements are fully implemented.

1 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

2 **STAFFING ANALYSIS FOLLOW-UP**

3 **SECTION 27.2.(a)** The Office of State Budget and Management shall
4 conduct semiannual follow-up analyses to the Staffing Analysis that was completed in
5 April 2003 on the Retirement Systems Division within the Department of State
6 Treasurer by October 1 and April 1 of each year to assure that the staffing levels remain
7 appropriate. The semiannual analyses shall be conducted throughout the implementation
8 of the enhancements to the information technology infrastructure within the Retirement
9 Systems Division that were authorized by this act. The follow-up analyses shall also
10 continue for a reasonable time after the completion of the enhancements to ensure that
11 the staffing levels are adjusted based on the increased efficiency provided by the
12 enhancements.

13 **SECTION 27.2.(b)** The Retirement Systems Division shall maintain
14 monthly workload statistics and productivity data for the various functions within the
15 Division. The Department of State Treasurer shall report the workload statistics and
16 productivity data to the Fiscal Research Division and to the Office of State Budget and
17 Management on a quarterly basis.

18
19 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

20 **TREASURER REPORT ON STATE INVESTMENT OFFICER POSITION**
21 **INCENTIVE BONUS**

22 **SECTION 27.3.** G.S. 147-69.3 is amended by adding a new subsection to
23 read:

24 "(i1) The State Treasurer shall report the incentive bonus paid to the Chief
25 Investment Officer to the Joint Legislative Commission on Governmental Operations by
26 October 1 of each year."

27
28 **PART XXVIII. DEPARTMENT OF TRANSPORTATION**

29
30 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

31 **REMOVE GOV OPS CONSULTATION ON FEDERAL-AID ACTS**

32 **SECTION 28.1.** G.S. 136-44.2 reads as rewritten:

33 **"§ 136-44.2. Budget and appropriations.**

34 The Director of the Budget shall include in the "Current Operations Appropriations
35 Bill" an enumeration of the purposes or objects of the proposed expenditures for each of
36 the construction and maintenance programs for that budget period for the State primary,
37 secondary, urban, and State parks road systems. The State primary system shall include
38 all portions of the State highway system located outside municipal corporate limits
39 which are designated by N.C., U.S. or Interstate numbers. The State secondary system
40 shall include all of the State highway system located outside municipal corporate limits
41 that is not a part of the State primary system. The State urban system shall include all
42 portions of the State highway system located within municipal corporate limits. The
43 State parks system shall include all State parks roads and parking lots which are not also
44 part of the State highway system.

45 All construction and maintenance programs for which appropriations are requested
46 shall be enumerated separately in the budget. Programs that are entirely State funded
47 shall be listed separately from those programs involving the use of federal-aid funds.
48 Proposed appropriations of State matching funds for each of the federal-aid construction
49 programs shall be enumerated separately as well as the federal-aid funds anticipated for
50 each program in order that the total construction requirements for each program may be
51 provided for in the budget. Also, proposed State matching funds for the highway
52 planning and research program shall be included separately along with the anticipated
53 federal-aid funds for that purpose.

54 Other program categories for which appropriations are requested, such as, but not
55 limited to, maintenance, channelization and traffic control, bridge maintenance, public

1 service and access road construction, and ferry operations shall be enumerated in the
2 budget.

3 The Department of Transportation shall have all powers necessary to comply fully
4 with provisions of present and future federal-aid acts. ~~No federally eligible construction
5 project may be funded entirely with State funds unless the Department of Transportation
6 has first consulted with the Joint Legislative Commission on Governmental Operations.~~

7 For purposes of this section, "federally eligible construction project" means any
8 construction project except secondary road projects developed pursuant to
9 G.S. 136-44.7 and 136-44.8 eligible for federal funds under any federal-aid act, whether
10 or not federal funds are actually available.

11 The "Current Operations Appropriations Bill" shall also contain the proposed
12 appropriations of State funds for use in each county for maintenance and construction of
13 secondary roads, to be allocated in accordance with G.S. 136-44.5 and 136-44.6. State
14 funds appropriated for secondary roads shall not be transferred nor used except for the
15 construction and maintenance of secondary roads in the county for which they are
16 allocated pursuant to G.S. 136-44.5 and 136-44.6.

17 If the unreserved credit balance in the Highway Fund on the last day of a fiscal year
18 is greater than the amount estimated for that date in the Current Operations
19 Appropriations Act for the following fiscal year, the excess shall be used in accordance
20 with this paragraph. The Director of the Budget may allocate part or all of the excess
21 among reserves for access and public roads, for unforeseen events requiring prompt
22 action, or for other urgent needs. The amount not allocated to any of these reserves by
23 the Director of the Budget shall be credited to a reserve for maintenance. The Board of
24 Transportation shall report monthly to the Joint Legislative Transportation Oversight
25 Committee and the Fiscal Research Division on the use of funds in the maintenance
26 reserve.

27 The Department of Transportation may provide for costs incurred or accrued for
28 traffic control measures to be taken by the Department at major events which involve a
29 high degree of traffic concentration on State highways, and which cannot be funded
30 from regular budgeted items. This authorization applies only to events which are
31 expected to generate 30,000 vehicles or more per day. The Department of
32 Transportation shall provide for this funding by allocating and reserving up to one
33 hundred thousand dollars (\$100,000) before any other allocations from the
34 appropriations for State maintenance for primary, secondary, and urban road systems
35 are made, based upon the same proportion as is appropriated to each system."
36

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

38 **TRANSPORTATION SERVICES FOR TRADE SHOWS**

39 **SECTION 28.2.** The Department of Transportation, from funds available for
40 public transportation in this act, may use up to one million two hundred thousand
41 dollars (\$1,200,000) in each year of the biennium for transportation services for annual
42 or semiannual trade shows of international significance. The Department of
43 Transportation shall report to the Joint Legislative Transportation Oversight Committee,
44 annually on or before March 1, on the use of these funds.
45

46 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

47 **CASH-FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND**
48 **APPROPRIATIONS.**

49 **SECTION 28.3.(a)** The General Assembly authorizes and certifies
50 anticipated revenues of the Highway Fund as follows:

51	For Fiscal Year 2007-2008	\$1,551.1 million
52	For Fiscal Year 2008-2009	\$1,593.0 million
53	For Fiscal Year 2009-2010	\$1,647.9 million
54	For Fiscal Year 2010-2011	\$1,716.1 million

1 **SECTION 28.3.(b)** The General Assembly authorizes and certifies
2 anticipated revenues of the Highway Trust Fund as follows:

3 For Fiscal Year 2007-2008	\$1,136.9 million
4 For Fiscal Year 2008-2009	\$1,186.4 million
5 For Fiscal Year 2009-2010	\$1,229.6 million
6 For Fiscal Year 2010-2011	\$1,283.2 million

7
8 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

9 **SMALL CONSTRUCTION AND CONTINGENCY FUNDS**

10 **SECTION 28.4.** Of the funds appropriated in this act to the Department of
11 Transportation:

12 (1) Twenty-one million dollars (\$21,000,000) shall be allocated in each
13 fiscal year for small construction projects reviewed and approved by
14 the Division Engineer and the member of the Board of Transportation
15 representing the district in which the project is to be constructed.
16 These funds shall be allocated equally in each fiscal year of the
17 biennium among the 14 Highway Divisions for small construction
18 projects.

19 (2) Fifteen million dollars (\$15,000,000) in fiscal year 2005-2006 and
20 fifteen million dollars (\$15,000,000) in fiscal year 2006-2007 shall be
21 used statewide for rural or small urban highway improvements and
22 related transportation enhancements to public roads and public
23 facilities, industrial access roads, and spot safety projects, including
24 pedestrian walkways that enhance highway safety. Projects funded
25 pursuant to this subdivision shall be reviewed and approved by the
26 member of the Board of Transportation representing the district in
27 which the project is to be constructed.

28 None of these funds used for rural secondary road construction are subject to
29 the county allocation formulas in G.S. 136-44.5(b) and (c).

30 These funds are not subject to G.S. 136-44.7.

31 The Department of Transportation shall report to the members of the General
32 Assembly on projects funded pursuant to this section in each member's district prior to
33 the Board of Transportation's action. The Department shall make a quarterly
34 comprehensive report on the use of these funds to the Joint Legislative Transportation
35 Oversight Committee and the Fiscal Research Division.

36
37 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

38 **USE OF EXCESS OVERWEIGHT/OVERSIZE FEES**

39 **SECTION 28.5.** Chapter 20 of the General Statutes is amended by adding a
40 new section to read:

41 **"§ 20-119.1. Use of excess overweight and oversize fees.**

42 Funds generated by overweight and oversize permit fees in excess of the cost of
43 administering the program, as determined pursuant to G.S. 20-119(e), shall be used for
44 highway and bridge maintenance required as a result of damages caused from
45 overweight/oversize loads."

46
47 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

48 **FUNDS FOR UNSAFE OR OBSOLETE FIELD FACILITIES**

49 **SECTION 28.6.** Of the funds appropriated in this act to the Department of
50 Transportation, the Department may use funds not to exceed seventy-five hundredths of
51 one percent (.75%) for maintenance and construction programs for major repair,
52 renovation, or replacement of its field facilities that fail to meet safety standards or that
53 are obsolete for current or future use. Prior to expending these funds, the Department
54 shall submit its proposed budget for these expenditures to the Senate Appropriations
55 Subcommittee on Transportation, the House of Representatives Appropriations

1 Subcommittee on Transportation, and the Joint Legislative Transportation Oversight
2 Committee each year.

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

5 **STATE USE OF NORTH CAROLINA RAILROAD DIVIDENDS**

6 **SECTION 28.7.(a)** G.S. 124-5.1 is repealed.

7 **SECTION 28.7.(b)** The Department of Transportation shall use the annual
8 dividends received by the State from its ownership of the stock of the North Carolina
9 Railroad Company in each year of the biennium for track and signal improvements for
10 passenger service, in accordance with G.S. 136-16.6(b)(1).

11
12 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

13 **ANALYSIS AND APPROVAL OF RULES, POLICIES, OR GUIDELINES**
14 **AFFECTING DEPARTMENT OF TRANSPORTATION PROJECTS**

15 **SECTION 28.8.(a)** G.S. 150B-21.4 is amended by adding a new subsection
16 to read:

17 "(a1) DOT Analyses. – In addition to the requirements of subsection (a) of this
18 section, any agency that adopts a rule affecting environmental permitting of Department
19 of Transportation projects shall conduct an analysis to determine if the rule will result in
20 an increased cost to the Department of Transportation. The analysis shall be conducted
21 and submitted to the Board of Transportation before the agency publishes the proposed
22 text of the rule change in the North Carolina Register. The agency shall consider any
23 recommendations offered by the Board of Transportation prior to adopting the rule.
24 Once a rule subject to this subsection is adopted, the Board of Transportation may
25 submit any objection to the rule it may have to the Rules Review Commission. If the
26 Rules Review Commission receives an objection to a rule from the Board of
27 Transportation no later than 5:00 P.M. of the day following the day the Commission
28 approves the rule, then the rule shall only become effective as provided in
29 G.S. 150B-21.3(b1)."

30 **SECTION 28.8.(b)** Chapter 136 of the General Statutes is amended by
31 adding a new section to read:

32 **"§ 136-44.7C. Analysis and approval of Department of Transportation**
33 **environmental policies or guidelines affecting transportation projects.**

34 (a) Analysis Required. – The Department of Transportation shall conduct an
35 analysis of any proposed environmental policy or guideline adopted by the Department
36 that affects Department of Transportation projects to determine if the policy or guideline
37 will result in an increased cost to Department of Transportation projects.

38 (b) Report of Analysis; Approval of Policy or Guideline Required. – The analysis
39 of a proposed policy or guideline required by subsection (a) of this section shall be
40 reported to the Board of Transportation at least 30 days prior to the proposed effective
41 date of the policy or guideline, and shall not go into effect until approved by the Board
42 of Transportation."

43
44 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

45 **DEPARTMENT OF TRANSPORTATION PRODUCTIVITY PILOT**
46 **PROGRAMS**

47 **SECTION 28.9.(a)** The Department of Transportation may continue the
48 productivity pilot programs in the road oil and bridge inspection units implemented
49 under Section 29.3 of S.L. 2003-284.

50 **SECTION 28.9.(b)** The Department of Transportation may establish two
51 additional pilot programs to test incentive pay for employees as a means of increasing
52 efficiency and productivity.

53 One of the new pilot programs shall involve the Pavement Markings Unit.
54 The other pilot program may be selected by the Department of Transportation. Up to

1 one-quarter of one percent (.25%) of the budget allocation for these programs may be
2 used to provide employee incentive payments.

3 Incentive payments shall be based on quantifiable measures and production
4 schedules determined prior to the implementation of the pilot programs. Pilot programs
5 implemented under this subsection shall last no more than two years.

6 The Department of Transportation shall report to the Joint Legislative
7 Transportation Oversight Committee on the pilot programs developed under this
8 subsection at least 30 days prior to their implementation.

9
10 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

11 **DEPARTMENT OF TRANSPORTATION PERFORMANCE-BASED**
12 **CONTRACTS**

13 **SECTION 28.10.** The Department of Transportation may implement up to
14 two performance-based contracts for routine maintenance and operations, exclusive of
15 resurfacing. Selection of firms to perform this work shall be made using a best-value
16 procurement process.

17 Prior to any advertisement for a proposed project the Department shall report
18 to the Joint Legislative Transportation Oversight Committee on the contractor selection
19 criteria to be used.

20
21 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

22 **DEPARTMENT OF TRANSPORTATION REORGANIZATION**

23 **SECTION 28.11.(a)** The Secretary of Transportation shall transfer the
24 Program Development branch from the Deputy Secretary for Environmental, Planning
25 and Local Government Affairs to the Chief Financial Officer of the Department of
26 Transportation.

27 **SECTION 28.11.(b)** The Secretary of Transportation shall transfer the
28 Transportation Planning branch from the Deputy Secretary for Environmental, Planning
29 and Local Government Affairs to the State Highway Administrator.

30 **SECTION 28.11.(c)** The Secretary of Transportation shall transfer the
31 Project Development and Environmental Analysis branch from the Deputy Secretary for
32 Environmental, Planning and Local Government Affairs to the State Highway
33 Administrator.

34 **SECTION 28.11.(d)** The position of Deputy Secretary for Environmental,
35 Planning and Local Government Affairs shall be eliminated.

36 **SECTION 28.11.(e)** The position of Special Assistant for Environmental,
37 Planning and Local Government Affairs shall be eliminated.

38 **SECTION 28.11.(f)** All vacant positions in the Project Development and
39 Environmental Analysis Branch as of April 15, 2005, shall be eliminated except for any
40 vacant position associated with an employee on an approved leave without pay status.
41 Once these positions are eliminated, the Department of Transportation shall not reinstate
42 these positions without the authorization of the General Assembly.

43
44 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

45 **CONTINUING AVIATION APPROPRIATIONS**

46 **SECTION 28.12.** G.S. 136-16.4 reads as rewritten:

47 **"§ 136-16.4. Continuing aviation appropriations.**

48 ~~There is appropriated from the General Fund to the Department of Transportation~~
49 ~~the sum of eight million four hundred thousand dollars (\$8,400,000) for fiscal year~~
50 ~~1993-94 and the sum of eight million nine hundred thousand dollars (\$8,900,000) for~~
51 ~~fiscal year 1994-95. There is appropriated from the Highway Fund to the Department of~~
52 ~~Transportation the sum of eleven million two hundred eighty-four thousand one~~
53 ~~hundred ninety-eight dollars (\$11,284,198) for fiscal year 2005-2006 and the sum of~~
54 ~~twelve million nine hundred forty-five thousand sixty-six dollars (\$12,945,066) for~~
55 ~~fiscal year 2006-2007. Each subsequent fiscal year, there is appropriated from the~~

1 ~~General Fund Highway Fund~~ to the Department of Transportation the amount
2 appropriated by this section to the Department of Transportation for the preceding fiscal
3 year, plus or minus the percentage of the amount by which the collection of State sales
4 and use taxes increased or decreased during the preceding fiscal year. The Department
5 of Transportation may use funds appropriated under this section only for aviation
6 purposes."
7

8 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

9 **TRANSITIONAL TRAINING FOR MOTOR CARRIER ENFORCEMENT**
10 **OFFICERS**

11 **SECTION 28.13.(a)** The North Carolina State Highway Patrol is authorized
12 to complete transitional training for 149 Motor Carrier Enforcement Officers to become
13 State Troopers. This transition from Motor Carrier Enforcement Officer to State
14 Trooper shall not relieve the State Highway Patrol of the responsibility of ensuring that
15 all Motor Carrier Enforcement Officer positions and any positions that are transitioned
16 to State Trooper are dedicated to motor carrier enforcement duties including, but not
17 limited to, permanent weigh station operations, motor carrier inspections, and secondary
18 road checking stations and enforcement.

19 **SECTION 28.13.(b)** Any Motor Carrier Enforcement Officer position that is
20 not transitioned or approved for transition by section (a) of this Special Provision shall
21 not be transitioned to the status of a State Trooper.

22 **SECTION 28.13.(c)** Of the 59 vacant sworn Motor Carrier Enforcement
23 Officer positions as of April 28, 2005, all lapsed salary and benefits in the amount of
24 two million five hundred forty-eight thousand nine hundred eighty-three dollars
25 (\$2,548,983) shall not be spent nor shall any position currently vacant be reclassified by
26 any agency of the State.
27

28 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

29 **DEPARTMENT OF TRANSPORTATION AUTHORITY TO PROVIDE**
30 **WAY-FINDING SIGNS FOR THE ROANOKE VOYAGES CORRIDOR**
31 **COMMISSION**

32 **SECTION 28.14.** Chapter 1194 of the 1981 Session Laws is amended by
33 adding a new section that reads:

34 "Sec. 7.2. At the request of the Roanoke Voyages Corridor Commission, the
35 Department of Transportation is authorized to manufacture and install, on Roanoke
36 Island and up to 30 miles off the island, way-finding signs that, by color, design, and
37 lettering, do not comply with normal transportation signage standards. These signs shall
38 be used to identify and give directions to historic, educational, and cultural attractions
39 on the island. The Department of Transportation shall not erect any signage that would
40 be impracticable, unfeasible, or that would result in an unsafe or hazardous condition."
41

42 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

43 **REVENUE TAX EVASION PROJECT**

44 **SECTION 28.15.** Of funds appropriated to Highway Trust Fund
45 Administration, the sum of five hundred forty-eight thousand six hundred thirty-three
46 dollars (\$548,633) for the 2005-2006 fiscal year and the sum of four hundred seventy
47 thousand seven hundred one dollars (\$470,701) for the 2006-2007 fiscal year shall be
48 used to establish and support nine positions in the Department of Revenue, Motor Fuels
49 Tax Division, to fully implement the Revenue Tax Evasion Project.
50

51 Requested by: Senators Jenkins, Snow, Garrou, Dalton, Hagan

52 **VISITOR CENTER FUNDS**

53 **SECTION 28.16.** G.S. 20-79.7(c)(2) reads as rewritten:

54 "(c) Use of Funds in Special Registration Plate Account. –
55 ...

- 1 (2) From the funds remaining in the Special Registration Plate Account
 2 after the deductions in accordance with subdivision (1) of this
 3 subsection, there is annually appropriated from the Special
 4 Registration Plate Account the sum of ~~nine hundred thousand dollars~~
 5 ~~(\$900,000)~~ one million dollars (\$1,000,000) to provide operating
 6 assistance for the Visitor Centers:
 7 a. on U.S. Highway 17 in Camden County, (\$100,000);
 8 b. on U.S. Highway 17 in Brunswick County, (\$100,000);
 9 c. on U.S. Highway 441 in Macon County, (\$100,000);
 10 d. in the Town of Boone, Watauga County, (\$100,000);
 11 e. on U.S. Highway 29 in Caswell County, (\$100,000);
 12 f. on U.S. Highway 70 in Carteret County, (\$100,000);
 13 g. on U.S. Highway 64 in Tyrrell County, (\$100,000);
 14 h. at the intersection of U.S. Highway 701 and N.C. 904 in
 15 Columbus County, (\$100,000); ~~and~~
 16 i. on U.S. Highway 221 in McDowell County,
 17 ~~(\$100,000).~~ ~~(\$100,000); and~~
 18 j. on Staton Road in Transylvania County, (\$100,000)."
 19

20 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

21 **MODIFY GLOBAL TRANSPARK DEBT**

22 **SECTION 28.17.** G.S. 147-69.2(b)(11) reads as rewritten:

23 "(b) It shall be the duty of the State Treasurer to invest the cash of the funds
 24 enumerated in subsection (a) of this section in excess of the amount required to meet the
 25 current needs and demands on such funds, selecting from among the following:

- 26
 27 (11) With respect to assets of the Escheat Fund, obligations of the North
 28 Carolina Global TransPark Authority authorized by G.S. 63A-4(a)(22),
 29 not to exceed twenty-five million dollars (\$25,000,000), that have a
 30 final maturity not later than ~~July 1, 2005.~~ October 1, 2007. The
 31 obligations shall bear interest at the rate set by the State Treasurer. No
 32 commitment to purchase obligations may be made pursuant to this
 33 subdivision after September 1, 1993, and no obligations may be
 34 purchased after September 1, 1994. In the event of a loss to the
 35 Escheat Fund by reason of an investment made pursuant to this
 36 subdivision, it is the intention of the General Assembly to hold the
 37 Escheat Fund harmless from the loss by appropriating to the Escheat
 38 Fund funds equivalent to the loss.

39 If any part of the property owned by the North Carolina Global
 40 TransPark Authority now or in the future is divested, proceeds of the
 41 divestment shall be used to fulfill any unmet obligations on an
 42 investment made pursuant to this subdivision."
 43

44 Requested by: Senator Jenkins

45 **BEAVER DAMAGE CONTROL PROGRAM FUNDS**

46 **SECTION 28.18.** Of funds available to the Department of Transportation for
 47 maintenance, the sum of nine hundred thousand dollars (\$900,000) for the 2005-2006
 48 fiscal year and the sum of nine hundred thousand dollars (\$900,000) for the 2006-2007
 49 fiscal year shall be used to provide the State share necessary to support the beaver
 50 damage control program established in G.S. 113-291.10, provided the sum of at least
 51 twenty-five thousand dollars (\$25,000) in federal funds is available each fiscal year of
 52 the biennium to provide the federal share.
 53

54 **PART XXIX. SALARIES AND EMPLOYEE BENEFITS**
 55

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>
Secretary of Administration	\$106,765	\$109,968
Secretary of Correction	106,765	109,968
Secretary of Crime Control and Public Safety	106,765	109,968
Secretary of Cultural Resources	106,765	109,968
Secretary of Commerce	106,765	109,968
Secretary of Environment and Natural Resources	106,765	109,968
Secretary of Health and Human Services	106,765	109,968
Secretary of Juvenile Justice and Delinquency Prevention	106,765	109,968
Secretary of Revenue	106,765	109,968
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>

1	Chairman, Alcoholic Beverage		
2	Control Commission	\$97,175	\$100,091
3	State Controller	135,997	140,076
4	Commissioner of Motor Vehicles	97,175	100,091
5	Commissioner of Banks	109,279	112,557
6	Chairman, Employment Security Commission	135,824	139,899
7	State Personnel Director	106,765	109,968
8	Chairman, Parole Commission	88,733	91,395
9	Members of the Parole Commission	40,960	42,189
10	Chairman, Utilities Commission	121,701	125,352
11	Members of the Utilities Commission	109,279	112,557
12	Executive Director, Agency for		
13	Public Telecommunications	81,921	84,379
14	Director, Museum of Art	99,573	102,561
15	Executive Director, North Carolina		
16	Agricultural Finance Authority	94,587	97,424
17	State Chief Information Officer	135,915	139,992

18
19 Requested by: Senators Garrou, Dalton, Hagan

20 **JUDICIAL BRANCH OFFICIALS/SALARY INCREASES**

21 **SECTION 29.4.(a)** The annual salaries, payable monthly, for specified
22 Judicial Branch officials for the 2005-2006 and 2006-2007 fiscal years are:

23	<u>Judicial Branch Officials</u>	<u>Annual Salary</u>	
24		<u>2005-2006</u>	<u>2006-2007</u>
25	Chief Justice, Supreme Court	\$123,819	\$127,533
26	Associate Justice, Supreme Court	120,583	124,201
27	Chief Judge, Court of Appeals	117,568	121,095
28	Judge, Court of Appeals	115,559	119,026
29	Judge, Senior Regular Resident Superior Court	112,419	115,792
30	Judge, Superior Court	109,279	112,557
31	Chief Judge, District Court	99,231	102,208
32	Judge, District Court	96,091	98,974
33	Administrative Officer of the Courts	112,419	115,792
34	Assistant Administrative Officer of the Courts	102,684	105,765

35
36 **SECTION 29.4.(b)** The district attorney or public defender of a judicial
37 district, with the approval of the Administrative Officer of the Courts or the
38 Commission on Indigent Defense Services, respectively, shall set the salaries of
39 assistant district attorneys or assistant public defenders, respectively, in that district such
40 that the average salaries of assistant district attorneys or assistant public defenders in
41 that district do not exceed sixty-two thousand nine hundred thirty dollars (\$62,930), and
42 the minimum salary of any assistant district attorney or assistant public defender is at
43 least thirty-two thousand six hundred seventy-six dollars (\$32,676), effective July 1,
44 2005.

45 **SECTION 29.4.(b1)** The district attorney or public defender of a judicial
46 district, with the approval of the Administrative Officer of the Courts or the
47 Commission on Indigent Defense Services, respectively, shall set the salaries of
48 assistant district attorneys or assistant public defenders, respectively, in that district such
49 that the average salaries of assistant district attorneys or assistant public defenders in
50 that district do not exceed sixty-four thousand eight hundred eighteen dollars (\$64,818),
51 and the minimum salary of any assistant district attorney or assistant public defender is
52 at least thirty-three thousand six hundred fifty-six dollars (\$33,656), effective July 1,
53 2006.

54 **SECTION 29.4.(c)** Effective July 1, 2005, the annual salaries of permanent,
55 full-time employees of the Judicial Department whose salaries are not itemized in this

act shall be increased by the greater of five hundred dollars (\$500.00) or two percent (2%).

SECTION 29.4.(c1) Effective July 1, 2006, the annual salaries of permanent, full-time employees of the Judicial Department whose salaries are not itemized in this act shall be increased three percent (3%).

SECTION 29.4.(d) Effective July 1, 2005, the annual salaries of permanent, part-time employees of the Judicial Department whose salaries are not itemized in this act shall be increased by pro rata amounts of five hundred dollars (\$500.00) or two percent (2%), whichever is greater.

SECTION 29.4.(d1) Effective July 1, 2006, the annual salaries of permanent, part-time employees of the Judicial Department whose salaries are not itemized in this act shall be increased by three percent (3%).

Requested by: Senators Garrou, Dalton, Hagan
CLERK OF SUPERIOR COURT/SALARY INCREASES

SECTION 29.5.(a) Effective July 1, 2005, G.S. 7A-101(a) reads as rewritten:

"(a) The clerk of superior court is a full-time employee of the State and shall receive an annual salary, payable in equal monthly installments, based on the population of the county as determined in subsection (a1) of this section, according to the following 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>

The salary schedule in this subsection is intended to represent the following 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%.

When a county changes from one population group to another, the salary of the clerk shall be changed, on July 1 of the fiscal year for which the change is reported, to the salary appropriate for the new population group, except that the salary of an incumbent clerk shall not be decreased by any change in population group during his continuance in office."

SECTION 29.5.(b) Effective July 1, 2006, G.S. 7A-101(a), as amended by subsection (a) of this section, reads as rewritten:

"(a) The clerk of superior court is a full-time employee of the State and shall receive an annual salary, payable in equal monthly installments, based on the population of the county as determined in subsection (a1) of this section, according to the following 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>

The salary schedule in this subsection is intended to represent the following 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%

1 250,000 and above 100%.
 2 When a county changes from one population group to another, the salary of the clerk
 3 shall be changed, on July 1 of the fiscal year for which the change is reported, to the
 4 salary appropriate for the new population group, except that the salary of an incumbent
 5 clerk shall not be decreased by any change in population group during his continuance
 6 in office."
 7

8 Requested by: Senators Garrou, Dalton, Hagan
 9 **ASSISTANT AND DEPUTY CLERKS OF COURT/SALARY INCREASES**

10 **SECTION 29.6.(a)** Effective July 1, 2005, G.S. 7A-102(c1) reads as
 11 rewritten:

12 "(c1) A full-time assistant clerk or a full-time deputy clerk, and up to one full-time
 13 deputy clerk serving as head bookkeeper per county, shall be paid an annual salary
 14 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> ."

22 **SECTION 29.6.(b)** Effective July 1, 2006, G.S. 7A-102(c1), as amended by
 23 subsection (a) of this section, reads as rewritten:

24 "(c1) A full-time assistant clerk or a full-time deputy clerk, and up to one full-time
 25 deputy clerk serving as head bookkeeper per county, shall be paid an annual salary
 26 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> ."

35 Requested by: Senators Garrou, Dalton, Hagan
 36 **MAGISTRATES' SALARY INCREASES**

37 **SECTION 29.7.(a)** Effective July 1, 2005, G.S. 7A-171.1(a)(1) reads as
 38 rewritten:

39 "(1) A full-time magistrate shall be paid the annual salary indicated in the
 40 table set out in this subdivision. A full-time magistrate is a magistrate
 41 who is assigned to work an average of not less than 40 hours a week
 42 during the term of office. The Administrative Officer of the Courts
 43 shall designate whether a magistrate is full-time. Initial appointment
 44 shall be at the entry rate. A magistrate's salary shall increase to the
 45 next step every two years on the anniversary of the date the magistrate
 46 was originally appointed for increases to Steps 1 through 3, and every
 47 four years on the anniversary of the date the magistrate was originally
 48 appointed for increases to Steps 4 through 6.
 49

50 **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>

1	Step 3	36,523	37,253
2	Step 4	39,952	40,751
3	Step 5	43,789	44,665
4	Step 6	48,036.	48,997."

5 **SECTION 29.7.(a1)** Effective July 1, 2006, G.S. 7A-171.1(a)(1), as
 6 amended by subsection (a) of this section, reads as rewritten:

7 "(1) A full-time magistrate shall be paid the annual salary indicated in the
 8 table set out in this subdivision. A full-time magistrate is a magistrate
 9 who is assigned to work an average of not less than 40 hours a week
 10 during the term of office. The Administrative Officer of the Courts
 11 shall designate whether a magistrate is full-time. Initial appointment
 12 shall be at the entry rate. A magistrate's salary shall increase to the
 13 next step every two years on the anniversary of the date the magistrate
 14 was originally appointed for increases to Steps 1 through 3, and every
 15 four years on the anniversary of the date the magistrate was originally
 16 appointed for increases to Steps 4 through 6.

17
 18 **Table of Salaries of Full-Time Magistrates**

19			
20	Step Level	Annual Salary	
21	Entry Rate	\$28,477	<u>\$29,300</u>
22	Step 1	31,136	<u>32,070</u>
23	Step 2	34,061	<u>35,083</u>
24	Step 3	37,253	<u>38,371</u>
25	Step 4	40,751	<u>41,974</u>
26	Step 5	44,665	<u>46,005</u>
27	Step 6	48,997.	<u>50,467."</u>

28 **SECTION 29.7.(b)** Effective July 1, 2005, G.S. 7A-171.1(a1)(1) reads as
 29 rewritten:

30 "(1) The salaries of magistrates who on June 30, 1994, were paid at a salary
 31 level of less than five years of service under the table in effect that date
 32 shall be as follows:

33	Less than 1 year of service	\$22,325	<u>\$22,825</u>
34	1 or more but less than 3 years of service	23,389	<u>23,889</u>
35	3 or more but less than 5 years of service	25,530.	<u>26,041.</u>

36 Upon completion of five years of service, those magistrates shall
 37 receive the salary set as the Entry Rate in the table in subsection (a)."

38 **SECTION 29.7.(b1)** Effective July 1, 2006, G.S. 7A-171.1(a1)(1), as
 39 amended by subsection (b) of this section, reads as rewritten:

40 "(1) The salaries of magistrates who on June 30, 1994, were paid at a salary
 41 level of less than five years of service under the table in effect that date
 42 shall be as follows:

43	Less than 1 year of service	\$22,825	<u>\$23,510</u>
44	1 or more but less than 3 years of service	23,889	<u>24,606</u>
45	3 or more but less than 5 years of service	26,041.	<u>26,822.</u>

46 Upon completion of five years of service, those magistrates shall
 47 receive the salary set as the Entry Rate in the table in subsection (a)."

48
 49 Requested by: Senators Garrou, Dalton, Hagan
 50 **GENERAL ASSEMBLY PRINCIPAL CLERKS/SALARY INCREASES**

51 **SECTION 29.8.(a)** Effective July 1, 2005, G.S. 120-37(c), reads as
 52 rewritten:

53 "(c) The principal clerks shall be full-time officers. Each principal clerk shall be
 54 entitled to other benefits available to permanent legislative employees and shall be paid
 55 an annual salary of ~~ninety thousand five hundred fourteen dollars (\$90,514)~~ninety-two

1 thousand three hundred twenty-four dollars (\$92,324) payable monthly. The Legislative
2 Services Commission shall review the salary of the principal clerks prior to submission
3 of the proposed operating budget of the General Assembly to the Governor and
4 Advisory Budget Commission and shall make appropriate recommendations for
5 changes in those salaries. Any changes enacted by the General Assembly shall be by
6 amendment to this paragraph."

7 **SECTION 29.8.(b)** Effective July 1, 2006, G.S. 120-37(c), as amended by
8 subsection (a) of this section, reads as rewritten:

9 "(c) The principal clerks shall be full-time officers. Each principal clerk shall be
10 entitled to other benefits available to permanent legislative employees and shall be paid
11 an annual salary of ~~ninety two thousand three hundred twenty four dollars (\$92,324)~~
12 ninety-five thousand ninety-four dollars (\$95,094) payable monthly. The Legislative
13 Services Commission shall review the salary of the principal clerks prior to submission
14 of the proposed operating budget of the General Assembly to the Governor and
15 Advisory Budget Commission and shall make appropriate recommendations for
16 changes in those salaries. Any changes enacted by the General Assembly shall be by
17 amendment to this paragraph."
18

19 Requested by: Senators Garrou, Dalton, Hagan

20 **SERGEANTS-AT-ARMS AND READING CLERKS**

21 **SECTION 29.9.(a)** Effective July 1, 2005, G.S. 120-37(b) reads as
22 rewritten:

23 "(b) The sergeant-at-arms and the reading clerk in each house shall be paid a
24 salary of ~~three hundred eleven dollars (\$311.00)~~three hundred twenty-one dollars
25 (\$321.00) per week plus subsistence at the same daily rate provided for members of the
26 General Assembly, plus mileage at the rate provided for members of the General
27 Assembly for one round trip only from their homes to Raleigh and return. The
28 sergeants-at-arms shall serve during sessions of the General Assembly and at such time
29 prior to the convening of, and subsequent to adjournment or recess of, sessions as may
30 be authorized by the Legislative Services Commission. The reading clerks shall serve
31 during sessions only."

32 **SECTION 29.9.(b)** Effective July 1, 2006, G.S. 120-37(b), as amended by
33 subsection (a) of this section, reads as rewritten:

34 "(b) The sergeant-at-arms and the reading clerk in each house shall be paid a
35 salary of ~~three hundred twenty one dollars (\$321.00)~~three hundred thirty dollars
36 (\$330.00) per week plus subsistence at the same daily rate provided for members of the
37 General Assembly, plus mileage at the rate provided for members of the General
38 Assembly for one round trip only from their homes to Raleigh and return. The
39 sergeants-at-arms shall serve during sessions of the General Assembly and at such time
40 prior to the convening of, and subsequent to adjournment or recess of, sessions as may
41 be authorized by the Legislative Services Commission. The reading clerks shall serve
42 during sessions only."
43

44 Requested by: Senators Garrou, Dalton, Hagan

45 **LEGISLATIVE EMPLOYEES**

46 **SECTION 29.10.(a)** Effective July 1, 2005, the Legislative Services Officer
47 shall increase the salaries of nonelected employees of the General Assembly in effect
48 June 30, 2005, by the greater of five hundred dollars (\$500.00) or two percent (2%).
49 Nothing in this act limits any of the provisions of G.S. 120-32.

50 **SECTION 29.10.(b)** Effective July 1, 2006, the Legislative Services Officer
51 shall increase the salaries of nonelected employees of the General Assembly in effect
52 June 30, 2006, by three percent (3%). Nothing in this act limits any of the provisions of
53 G.S. 120-32.
54

55 Requested by: Senators Garrou, Dalton, Hagan

COMMUNITY COLLEGE PERSONNEL/SALARY INCREASES

SECTION 29.11.(a) The Director of the Budget shall transfer from the Reserve for Compensation Increases, created in this act for fiscal years 2005-2006 and 2006-2007, funds to the North Carolina Community Colleges System Office necessary to provide an annual salary increase of the greater of five hundred dollars (\$500.00) or two percent (2%), including funds for the employer's retirement and social security contributions, commencing July 1, 2005, for all community college employees supported by State funds.

SECTION 29.11.(b) The Director of the Budget shall transfer from the Reserve for Compensation Increases, created in this act for fiscal year 2006-2007, funds to the North Carolina Community Colleges System Office necessary to provide an annual salary increase of three percent (3%), including funds for the employer's retirement and social security contributions, commencing July 1, 2006, for all community college employees supported by State funds.

Requested by: Senators Garrou, Dalton, Hagan

UNIVERSITY OF NORTH CAROLINA SYSTEM/EPA COMPENSATION

SECTION 29.12.(a) The Director of the Budget shall transfer to the Board of Governors of The University of North Carolina sufficient funds from the Reserve for Compensation Increases, created in this act for fiscal years 2005-2006 and 2006-2007, to provide an average annual salary increase of the greater of five hundred dollars (\$500.00) or two percent (2%), including funds for the employer's retirement and social security contributions, commencing July 1, 2005, for all employees of The University of North Carolina, as well as employees other than teachers of the North Carolina School of Science and Mathematics, supported by State funds and whose salaries are exempt from the State Personnel Act (EPA). The percentage annual salary increase of two percent (2%) authorized by this section shall be made on an aggregated average basis, and these funds shall be allocated to individuals according to the rules adopted by the Board of Governors of The University of North Carolina or the Board of Trustees of the North Carolina School of Science and Mathematics, as appropriate, and may not be used for any purpose other than for salary increases and necessary employer contributions provided by this section.

SECTION 29.12.(a1) The Director of the Budget shall transfer to the Board of Governors of The University of North Carolina sufficient funds from the Reserve for Compensation Increases, created in this act for fiscal year 2006-2007, to provide an average annual salary increase of three percent (3%), including funds for the employer's retirement and social security contributions, commencing July 1, 2006, for all employees of The University of North Carolina, as well as employees other than teachers of the North Carolina School of Science and Mathematics, supported by State funds and whose salaries are exempt from the State Personnel Act (EPA). These funds shall be allocated to individuals according to the rules adopted by the Board of Governors of The University of North Carolina or the Board of Trustees of the North Carolina School of Science and Mathematics, as appropriate, and may not be used for any purpose other than for salary increases and necessary employer contributions provided by this section.

SECTION 29.12.(b) The Director of the Budget shall transfer to the Board of Governors of The University of North Carolina sufficient funds from the Reserve for Compensation Increases, created in this act for fiscal years 2005-2006 and 2006-2007, to provide an average annual salary increase of two percent (2%), including funds for the employer's retirement and social security contributions, commencing July 1, 2005, for all teaching employees of the North Carolina School of Science and Mathematics, supported by State funds and whose salaries are exempt from the State Personnel Act (EPA). These funds shall be allocated to individuals according to the rules adopted by the Board of Trustees of the North Carolina School of Science and Mathematics and

1 may not be used for any purpose other than for salary increases and necessary employer
2 contributions provided by this section.

3 **SECTION 29.12.(b1)** The Director of the Budget shall transfer to the Board
4 of Governors of The University of North Carolina sufficient funds from the Reserve for
5 Compensation Increases, created in this act for fiscal year 2006-2007, to provide an
6 average annual salary increase of three percent (3%), including funds for the employer's
7 retirement and social security contributions, commencing July 1, 2006, for all teaching
8 employees of the North Carolina School of Science and Mathematics, supported by
9 State funds and whose salaries are exempt from the State Personnel Act (EPA). These
10 funds shall be allocated to individuals according to the rules adopted by the Board of
11 Trustees of the North Carolina School of Science and Mathematics and may not be used
12 for any purpose other than for salary increases and necessary employer contributions
13 provided by this section.
14

15 Requested by: Senators Garrou, Dalton, Hagan

16 **MOST STATE EMPLOYEES/SALARY INCREASES**

17 **SECTION 29.13.(a)** The salaries in effect June 30, 2005, of all permanent
18 full-time State employees whose salaries are set in accordance with the State Personnel
19 Act and who are paid from the General Fund or the Highway Fund shall be increased,
20 effective July 1, 2005, by the greater of five hundred dollars (\$500.00) or two percent
21 (2%), unless otherwise provided by this act. The salaries in effect June 30, 2006, of all
22 permanent full-time State employees whose salaries are set in accordance with the State
23 Personnel Act and who are paid from the General Fund or the Highway Fund shall be
24 increased, effective July 1, 2006, by three percent (3%), unless otherwise provided by
25 this act.

26 **SECTION 29.13.(b)** Except as otherwise provided in this act, the salaries in
27 effect June 30, 2005, for permanent full-time State officials and persons in exempt
28 positions that are recommended by the Governor or the Governor and the Advisory
29 Budget Commission and set by the General Assembly shall be increased by the greater
30 of five hundred dollars (\$500.00) or two percent (2%), effective July 1, 2005, unless
31 otherwise provided by this act. Except as otherwise provided in this act, the salaries in
32 effect June 30, 2006, for permanent full-time State officials and persons in exempt
33 positions that are recommended by the Governor or the Governor and the Advisory
34 Budget Commission and set by the General Assembly shall be increased by three
35 percent (3%), effective July 1, 2006, unless otherwise provided by this act.

36 **SECTION 29.13.(c)** The salaries in effect June 30, 2005, for all permanent
37 part-time State employees shall be increased, effective July 1, 2005, by pro rata amounts
38 of five hundred dollars (\$500.00) or two percent (2%), whichever is greater. The
39 salaries in effect for June 30, 2006, for all permanent part-time State employees shall be
40 increased, effective July 1, 2006, by three percent (3%).

41 **SECTION 29.13.(d)** The Director of the Budget may allocate out of special
42 operating funds or from other sources of the employing agency, except tax revenues,
43 sufficient funds to allow a salary increase, effective July 1, 2005, and July 1, 2006, in
44 accordance with subsection (a), (b), or (c) of this section, including funds for the
45 employer's retirement and social security contributions, for the permanent full-time and
46 part-time employees of the agency, provided the employing agency elects to make
47 available the necessary funds.

48 **SECTION 29.13.(e)** Within regular Executive Budget Act procedures as
49 limited by this act, all State agencies and departments may increase on an equitable
50 basis the rate of pay of temporary and permanent hourly State employees, subject to
51 availability of funds in the particular agency or department, by pro rata amounts of the
52 greater of the five hundred dollar (\$500.00) or two percent (2%) increase provided for
53 permanent full-time employees covered by the provisions of subsection (a) of this
54 section, commencing July 1, 2005. Within regular Executive Budget Act procedures as
55 limited by this act, all State agencies and departments may increase on an equitable

1 basis the rate of pay of temporary and permanent hourly State employees, subject to
2 availability of funds in the particular agency or department, by the three percent (3%)
3 increase provided for permanent full-time employees covered by the provisions of
4 subsection (a) of this section, commencing July 1, 2006.

5
6 Requested by: Senators Garrou, Dalton, Hagan

7 **ALL STATE-SUPPORTED PERSONNEL/SALARY INCREASES**

8 **SECTION 29.14.(a)** Salaries and related benefits for positions that are
9 funded partially from the General Fund or Highway Fund and partially from sources
10 other than the General Fund or Highway Fund shall be increased from the General Fund
11 or Highway Fund appropriation only to the extent of the proportionate part of the
12 salaries paid from the General Fund or Highway Fund.

13 **SECTION 29.14.(b)** The granting of the salary increases under this act does
14 not affect the status of eligibility for salary increments for which employees may be
15 eligible unless otherwise required by this act.

16 **SECTION 29.14.(c)** The salary increases provided in this act to be effective
17 July 1, 2005, do not apply to persons separated from State service due to resignation,
18 dismissal, reduction in force, death, or retirement, or whose last workday is prior to July
19 1, 2005. The salary increases provided in this act to be effective July 1, 2006, do not
20 apply to persons separated from State service due to resignation, dismissal, reduction in
21 force, death, or retirement, or whose last workday is prior to July 1, 2006.

22 Payroll checks issued to employees after July 1, 2005, which represent
23 payment of services provided prior to July 1, 2005, shall not be eligible for salary
24 increases provided for in this act. This subsection shall apply to all employees, subject
25 to or exempt from the State Personnel Act, paid from State funds, including public
26 schools, community colleges, and The University of North Carolina. Payroll checks
27 issued to employees after July 1, 2006, which represent payment of services provided
28 prior to July 1, 2006, shall not be eligible for salary increases provided for in this act.
29 This subsection shall apply to all employees, subject to or exempt from the State
30 Personnel Act, paid from State funds, including public schools, community colleges,
31 and The University of North Carolina.

32 **SECTION 29.14.(d)** The Director of the Budget shall transfer from the
33 Reserve for Compensation Increases in this act for fiscal years 2005-2006 and
34 2006-2007 all funds necessary for the salary increases provided by this act, including
35 funds for the employer's retirement and social security contributions.

36 **SECTION 29.14.(e)** Nothing in this act authorizes the transfer of funds
37 between the General Fund and the Highway Fund for salary increases.

38 **SECTION 29.14.(f)** For fiscal year 2005-2006, permanent full-time
39 employees who work a nine-, ten-, or eleven-month work year schedule shall receive
40 the five hundred dollars (\$500.00) or two percent (2%) annual increase provided by this
41 act, whichever is greater.

42 For fiscal year 2006-2007, permanent full-time employees who work a nine-,
43 ten-, or eleven-month work year schedule shall receive the three percent (3%) annual
44 increase provided by this act.

45
46 Requested by: Senators Garrou, Dalton, Hagan

47 **SALARY ADJUSTMENT FUND**

48 **SECTION 29.15.(a)** Any remaining appropriations in the Reserve for
49 Compensation Increases authorized for employee salary increases not required for that
50 purpose may be used to supplement the Salary Adjustment Fund.

51 **SECTION 29.15.(b)** Funds appropriated or otherwise transferred to the
52 Salary Adjustment Fund by this act or any other provision of law shall be used to fund
53 agency requests for the following purposes:

- 54 (1) Salary range revisions to provide competitive salary rates for affected
55 job classifications in response to changes in labor market salary rates

1 as documented through data collection and analysis according to
2 accepted human resource professional practices and standards.

- 3 (2) Reallocation of positions to higher-level job classifications to
4 compensate employees for more difficult duties at competitive salary
5 rates as documented through data collection and analysis according to
6 accepted human resource professional practices and standards.

7 Priority funding shall be given to those salary range revisions previously
8 approved by the State Personnel Commission and reallocations previously approved by
9 the Office of State Personnel or designee.

10 **SECTION 29.15.(c)** The Director of the Budget shall consult with the Joint
11 Legislative Commission on Governmental Operations prior to transferring any salary
12 adjustment funds for any State agency.

13 **SECTION 29.15.(d)** The Director of the Budget may transfer to General
14 Fund budget codes from the General Fund Salary Adjustment Fund and may transfer to
15 Highway Fund budget codes from the Highway Fund Salary Adjustment Fund amounts
16 required to support salary adjustments authorized by this section.

17 **SECTION 29.15.(e)** The Judicial Department is eligible for the funding
18 authorized in subsection (a) of this section.

19
20 Requested by: Senators Garrou, Dalton, Hagan

21 **TEMPORARY SALES TAX TRANSFER FOR WILDLIFE RESOURCES**
22 **COMMISSION SALARY INCREASES**

23 **SECTION 29.16.** For the 2005-2006 and 2006-2007 fiscal years, the
24 Secretary of Revenue shall transfer at the end of each quarter from the State sales and
25 use tax net collections received by the Department of Revenue under Article 5 of
26 Chapter 105 of the General Statutes to the State Treasurer for the Wildlife Resources
27 Fund to fund the cost of any legislative salary increase for employees of the Wildlife
28 Resources Commission.

29
30 Requested by: Senators Garrou, Dalton, Hagan

31 **STATE AGENCY TEACHERS' COMPENSATION**

32 **SECTION 29.17.** Funds in the Reserve for Compensation Increases shall be
33 used for experience step increases for employees of schools operated by the Department
34 of Health and Human Services, the Department of Correction, or the Department of
35 Juvenile Justice and Delinquency Prevention, who are paid on the Teacher Salary
36 Schedule or the School Based Administrator Salary Schedule.

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

39 **STATE GOVERNMENT EMPLOYMENT FAIR MINIMUM WAGE**

40 **SECTION 29.18.(a)** All permanent, full-time employees subject to the State
41 Personnel Act shall be paid a minimum salary of at least twenty thousand one hundred
42 twelve dollars (\$20,112) per year. Permanent, full-time employees subject to the State
43 Personnel Act working on a schedule requiring less than 12 months' service per year
44 shall be paid the minimum salary pro rata.

45 **SECTION 29.18.(b)** Of the funds appropriated in this act from the General
46 Fund to the Reserve for Compensation Increases, the sum of one hundred fifty-six
47 thousand dollars (\$156,000) for the 2005-2006 fiscal year and the sum of one hundred
48 fifty-six thousand dollars (\$156,000) for the 2006-2007 fiscal year shall be used to
49 provide a fairer minimum wage to employees subject to the State Personnel Act.

50 **SECTION 29.18.(c)** In order to lessen salary compression and potential pay
51 inequities, State agencies, departments, and institutions, and The University of North
52 Carolina may, when increasing salaries pursuant to this section, make adjustments to the
53 salaries of supervisors and other employees who have, when considering classification,
54 significantly more experience and length of service compared to the employees

1 receiving this pay increase. These salary compression and pay equity determinations
2 shall be made in consultation with the Office of State Personnel.

3 Of the funds appropriated in this act from the General Fund to the Reserve for
4 Compensation Increases, the Office of State Budget and Management shall use funds in
5 an amount not to exceed seven hundred fifty thousand dollars (\$750,000) for the
6 2005-2006 fiscal year and not to exceed seven hundred fifty thousand dollars
7 (\$750,000) for the 2006-2007 fiscal year to implement this subsection. The Director of
8 the Budget shall consult with the Joint Legislative Commission on Governmental
9 Operations prior to the transfer of any funds pursuant to this subsection.

10 **SECTION 29.18.(d)** The fair minimum wage salary adjustment provided by
11 this section shall be calculated and awarded after any across-the-board salary increases
12 authorized by this act.

13
14 Requested by: Senators Garrou, Dalton, Hagan

15 **SALARY SUPPLEMENTS FOR PERSONNEL EMPLOYED IN CERTAIN**
16 **STATE AGENCIES**

17 **SECTION 29.19.(a)** G.S. 143B-146.21 is amended by adding the following
18 new subsection to read:

19 "(e) The Secretary of Health and Human Services, in consultation with the Office
20 of State Personnel, shall set the salary supplement paid to personnel who are employed
21 in the programs operated by the Department of Health and Human Services and are
22 licensed by the State Board of Education. The salary supplement shall be at least five
23 percent (5%), but not more than the percentage supplement they would receive if they
24 were employed in the LEA where the job site is located. Nothing in this subsection shall
25 be construed to include "merit pay" under the term "salary supplement"."

26 **SECTION 29.19.(b)** G.S. 143B-516(b) is amended by adding the following
27 new subdivision to read:

28 "(b) The Secretary shall have the following powers and duties:

29
30 (17a) Set, in consultation with the Office of State Personnel, the salary
31 supplement paid to personnel who are employed at juvenile facilities
32 and are licensed by the State Board of Education. The salary
33 supplement shall be at least five percent (5%), but not more than the
34 percentage supplement they would receive if they were employed in
35 the LEA where the job site is located. Nothing in this subdivision shall
36 be construed to include "merit pay" under the term "salary
37 supplement".

38
39 **SECTION 29.19.(c)** G.S. 148-22.1 is amended by adding the following new
40 subsection to read:

41 **"§ 148-22.1. Educational facilities and programs for selected inmates.**

42
43 (c) The Secretary of Correction, in consultation with the Office of State
44 Personnel, shall set the salary supplement paid to personnel who are Division of Prison
45 employees that serve in youth facilities and are licensed by the State Board of
46 Education. The salary supplement shall be at least five percent (5%), but not more than
47 the percentage supplement they would receive if they were employed in the LEA where
48 the job site is located. Nothing in this subsection shall be construed to include "merit
49 pay" under the term "salary supplement".

50
51 Requested by: Senators Garrou, Dalton, Hagan, Kerr, Hoyle, Berger of Franklin

52 **INDUSTRIAL COMMISSION IN-RANGE SALARY ADJUSTMENTS**

53 **SECTION 29.20.** Of the revenue generated by implementing a fee for the
54 required review of Form 21 Agreements, the Industrial Commission may use up to one
55 hundred seventy-one thousand nine hundred dollars (\$171,900) in fiscal years

1 2005-2006 and 2006-2007 to provide in-range salary adjustments for Industrial
2 Commission staff.

3
4 Requested by: Senators Garrou, Dalton, Hagan

5 **COASTAL MANAGEMENT DIVISION SALARY INCREASES**

6 **SECTION 29.21.** The Department of Environment and Natural Resources is
7 authorized to, and shall, provide to the employees of the Division of Coastal
8 Management an increase in annual salary of five percent (5%). This increase shall be in
9 addition to any other increase authorized by this act.

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

12 **NCSU SALARY INCREASES FOR AGRICULTURAL PROGRAM**
13 **EMPLOYEES**

14 **SECTION 29.22.** Of the funds appropriated in this act to the Board of
15 Governors of The University of North Carolina, the sum of two million dollars
16 (\$2,000,000) for the 2005-2006 fiscal year and the sum of two million dollars
17 (\$2,000,000) for the 2006-2007 fiscal year shall be used to support salary increases for
18 Agricultural Program employees of North Carolina State University who are exempt
19 from the State Personnel Act. These funds shall be allocated to individuals according to
20 rules adopted by the Board of Governors of The University of North Carolina and may
21 not be used for any other purpose other than for salary increases and the necessary
22 employer contributions provided by this section.

23
24 Requested by: Senators Garrou, Dalton, Hagan, Clodfelter

25 **LONGEVITY SERVICE DEFINITION**

26 **SECTION 29.23.(a)** G.S. 7A-10(c) reads as rewritten:

27 "(c) In lieu of merit and other increment raises paid to regular State employees,
28 the Chief Justice and each of the Associate Justices shall receive as longevity pay an
29 annual amount equal to four and eight-tenths percent (4.8%) of the annual salary set
30 forth in the Current Operations Appropriations Act payable monthly after five years of
31 service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and
32 four-tenths percent (14.4%) after 15 years of service, and nineteen and two-tenths
33 percent (19.2%) after 20 years of service. "Service" means service as a justice or judge
34 of the General Court of Justice or as a member of the Utilities Commission. Service
35 shall also mean service as a district attorney or as a clerk of superior ~~court~~court, or
36 service as a member of the General Assembly."

37 **SECTION 29.23.(b)** G.S. 7A-18(b) reads as rewritten:

38 "(b) In lieu of merit and other increment raises paid to regular State employees, a
39 judge of the Court of Appeals shall receive as longevity pay an annual amount equal to
40 four and eight-tenths percent (4.8%) of the annual salary set forth in the Current
41 Operations Appropriations Act payable monthly after five years of service, nine and
42 six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent
43 (14.4%) after 15 years of service, and nineteen and two-tenths percent (19.2%) after 20
44 years of service. "Service" means service as a justice or judge of the General Court of
45 Justice or as a member of the Utilities Commission. Service shall also mean service as a
46 district attorney or as a clerk of superior ~~court~~court, or service as a member of the
47 General Assembly."

48 **SECTION 29.23.(c)** G.S. 7A-44(b) reads as rewritten:

49 "(b) In lieu of merit and other increment raises paid to regular State employees, a
50 judge of the superior court, regular or special, shall receive as longevity pay an annual
51 amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the
52 Current Operations Appropriations Act payable monthly after five years of service, nine
53 and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent
54 (14.4%) after 15 years of service, and nineteen and two-tenths percent (19.2%) after 20
55 years of service. "Service" means service as a justice or judge of the General Court of

1 Justice or as a member of the Utilities Commission or as director or assistant director of
2 the Administrative Office of the Courts. Service shall also mean service as a district
3 attorney or as a clerk of superior ~~court~~, court, or service as a member of the General
4 Assembly."

5 **SECTION 29.23.(d)** G.S. 7A-144(b) reads as rewritten:

6 "(b) Notwithstanding merit, longevity and other increment raises paid to regular
7 State employees, a judge of the district court shall receive as longevity pay an annual
8 amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the
9 Current Operations Appropriations Act payable monthly after five years of service, nine
10 and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent
11 (14.4%) after 15 years of service, and nineteen and two-tenths percent (19.2%) after 20
12 years of service. "Service" means service as a justice or judge of the General Court of
13 Justice or as a member of the Utilities Commission or as director or assistant director of
14 the Administrative Office of the Courts. Service shall also mean service as a district
15 attorney or as a clerk of superior ~~court~~, court, or service as a member of the General
16 Assembly."

17
18 Requested by: Senators Garrou, Dalton, Hagan

19 **SALARY-RELATED CONTRIBUTIONS/EMPLOYER**

20 **SECTION 29.24.(a)** Required employer salary-related contributions for
21 employees whose salaries are paid from department, office, institution, or agency
22 receipts shall be paid from the same source as the source of the employees' salary. If an
23 employee's salary is paid in part from the General Fund or Highway Fund and in part
24 from department, office, institution, or agency receipts, required employer salary-related
25 contributions may be paid from the General Fund or Highway Fund only to the extent of
26 the proportionate part paid from the General Fund or Highway Fund in support of the
27 salary of the employee, and the remainder of the employer's requirements shall be paid
28 from the source that supplies the remainder of the employee's salary. The requirements
29 of this section as to source of payment are also applicable to payments on behalf of the
30 employee for hospital-medical benefits, longevity pay, unemployment compensation,
31 accumulated leave, workers' compensation, severance pay, separation allowances, and
32 applicable disability income benefits.

33 **SECTION 29.24.(b)** Effective July 1, 2005, the State's employer
34 contribution rates budgeted for retirement and related benefits as percentage of covered
35 salaries for the 2005-2006 fiscal year are: (i) six and eighty-three hundredths percent
36 (6.83%) – Teachers and State Employees; (ii) eleven and eighty-three hundredths
37 percent (11.83%) – State Law Enforcement Officers; (iii) eleven and sixteen hundredths
38 percent (11.16%) – University Employees' Optional Retirement System; (iv) eleven and
39 sixteen hundredths percent (11.16%) – Community College Optional Retirement
40 Program; (v) sixteen and thirty-nine hundredths percent (16.39%) – Consolidated
41 Judicial Retirement System; and (vi) three and eight-tenths percent (3.8%) – Legislative
42 Retirement System. Each of the foregoing contribution rates includes three and
43 eight-tenths percent (3.8%) for hospital and medical benefits. The rate for Teachers and
44 State Employees, State Law Enforcement Officers, Community College Optional
45 Retirement Program, and for the University Employees' Optional Retirement Program
46 includes fifty-two hundredths percent (0.52%) for the Disability Income Plan. The rates
47 for Teachers and State Employees and State Law Enforcement Officers include
48 sixteen-hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law
49 Enforcement Officers includes five percent (5%) for Supplemental Retirement Income.

50 **SECTION 29.24.(c)** Effective July 1, 2006, the State's employer
51 contribution rates budgeted for retirement and related benefits as percentage of covered
52 salaries for the 2006-2007 fiscal year are: (i) six and eighty-three hundredths percent
53 (6.83%) – Teachers and State Employees; (ii) eleven and eighty-three hundredths
54 percent (11.83%) – State Law Enforcement Officers; (iii) eleven and sixteen hundredths
55 percent (11.16%) – University Employees' Optional Retirement System; (iv) eleven and

1 sixteen hundredths percent (11.16%) – Community College Optional Retirement
2 Program; (v) sixteen and thirty-nine hundredths percent (16.39%) – Consolidated
3 Judicial Retirement System; and (vi) three and eight-tenths percent (3.8%) – Legislative
4 Retirement System. Each of the foregoing contribution rates includes three and
5 eight-tenths percent (3.8%) for hospital and medical benefits. The rate for Teachers and
6 State Employees, State Law Enforcement Officers, Community College Optional
7 Retirement Program, and for the University Employees' Optional Retirement Program
8 includes fifty-two hundredths percent (0.52%) for the Disability Income Plan. The rates
9 for Teachers and State Employees and State Law Enforcement Officers include
10 sixteen-hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law
11 Enforcement Officers includes five percent (5%) for Supplemental Retirement Income.

12 **SECTION 29.24.(d)** The maximum annual employer contributions, payable
13 monthly, by the State for each covered employee or retiree for the 2005-2006 fiscal year
14 to the Teachers' and State Employees' Comprehensive Major Medical Plan are: (i)
15 Medicare-eligible employees and retirees – two thousand nine hundred ten dollars
16 (\$2,910) and (ii) non-Medicare-eligible employees and retirees – three thousand eight
17 hundred twenty-two dollars (\$3,822).

18 **SECTION 29.24.(e)** The maximum annual employer contributions, payable
19 monthly, by the State for each covered employee or retiree for the 2006-2007 fiscal year
20 to the Teachers' and State Employees' Comprehensive Major Medical Plan are: (i)
21 Medicare-eligible employees and retirees – three thousand ten dollars (\$3,010) and (ii)
22 non-Medicare-eligible employees and retirees – three thousand nine hundred fifty-four
23 dollars (\$3,954).

24
25 Requested by: Senators Garrou, Dalton, Hagan

26 **PROVIDE COST-OF-LIVING INCREASES FOR RETIREES OF THE**
27 **TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE**
28 **JUDICIAL RETIREMENT SYSTEM, THE LOCAL RETIREMENT**
29 **SYSTEM, AND THE LEGISLATIVE RETIREMENT SYSTEM**

30 **SECTION 29.25.(a)** G.S. 135-5 is amended by adding a new subsection to
31 read:

32 "(nnn) From and after July 1, 2005, the retirement allowance to or on account of
33 beneficiaries whose retirement commenced on or before July 1, 2004, shall be increased
34 by two percent (2%) of the allowance payable on June 1, 2005, in accordance with
35 G.S. 135-5(o). Furthermore, from and after July 1, 2005, the retirement allowance to or
36 on account of beneficiaries whose retirement commenced after July 1, 2004, but before
37 June 30, 2005, shall be increased by a prorated amount of two percent (2%) of the
38 allowance payable as determined by the Board of Trustees based upon the number of
39 months that a retirement allowance was paid between July 1, 2004, and June 30, 2005."

40 **SECTION 29.25.(b)** G.S. 135-65 is amended by adding a new subsection to
41 read:

42 "(z) From and after July 1, 2005, the retirement allowance to or on account of
43 beneficiaries whose retirement commenced on or before July 1, 2004, shall be increased
44 by two percent (2%) of the allowance payable on June 1, 2005. Furthermore, from and
45 after July 1, 2005, the retirement allowance to or on account of beneficiaries whose
46 retirement commenced after July 1, 2004, but before June 30, 2005, shall be increased
47 by a prorated amount of two percent (2%) of the allowance payable as determined by
48 the Board of Trustees based upon the number of months that a retirement allowance was
49 paid between July 1, 2004, and June 30, 2005."

50 **SECTION 29.25.(c)** G.S. 120-4.22A is amended by adding a new subsection
51 to read:

52 "(t) In accordance with subsection (a) of this section, from and after July 1, 2005,
53 the retirement allowance to or on account of beneficiaries whose retirement commenced
54 on or before January 1, 2005, shall be increased by two percent (2%) of the allowance
55 payable on June 1, 2005. Furthermore, from and after July 1, 2005, the retirement

1 allowance to or on account of beneficiaries whose retirement commenced after January
2 1, 2005, but before June 30, 2005, shall be increased by a prorated amount of two
3 percent (2%) of the allowance payable as determined by the Board of Trustees based
4 upon the number of months that a retirement allowance was paid between January 1,
5 2005, and June 30, 2005."

6 **SECTION 29.25.(d)** G.S. 128-27 is amended by adding a new subsection to
7 read:

8 "~~(ggg)~~ 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, in accordance with
11 subsection (k) of this section. Furthermore, from and after July 1, 2005, the retirement
12 allowance to or on account of beneficiaries whose retirement commenced after July 1,
13 2004, but before June 30, 2005, shall be increased by a prorated amount of two percent
14 (2%) of the allowance payable as determined by the Board of Trustees based upon the
15 number of months that a retirement allowance was paid between July 1, 2004, and June
16 30, 2005."

17 **SECTION 29.25.(e)** It is the intent of the General Assembly to provide a
18 cost-of-living increase, effective July 1, 2006, to retirees of the Teachers' and State
19 Employees' Retirement System, the Judicial Retirement System, the Local
20 Governmental Employees' Retirement System, and the Legislative Retirement System
21 that is comparable to the increases given to State employees in this act, subject to
22 available actuarial gains within each system.

23
24 Requested by: Senators Hoyle, Garrou, Dalton, Hagan, Kerr, Malone, Rand,
25 Snow, Swindell, Thomas, Weinstein

26 **INCREASE THE MONTHLY PENSION FOR MEMBERS OF THE FIREMEN'S**
27 **AND RESCUE SQUAD WORKERS' PENSION FUND**

28 **SECTION 29.26.** G.S. 58-86-55 reads as rewritten:

29 **"§ 58-86-55. Monthly pensions upon retirement.**

30 Any member who has served 20 years as an "eligible fireman" or "eligible rescue
31 squad worker" in the State of North Carolina, as provided in G.S. 58-86-25 and
32 G.S. 58-86-30, and who has attained the age of 55 years is entitled to be paid a monthly
33 pension from this fund. The monthly pension shall be in the amount of ~~one hundred~~
34 ~~sixty one dollars (\$161.00)~~ one hundred sixty-three dollars (\$163.00) per month. Any
35 retired fireman receiving a pension shall, effective ~~July 1, 2004,~~ July 1, 2005, receive a
36 pension of ~~one hundred sixty one dollars (\$161.00)~~ one hundred sixty-three dollars
37 (\$163.00) per month.

38 Members shall pay ten dollars (\$10.00) per month as required by G.S. 58-86-35 and
39 G.S. 58-86-40 for a period of no longer than 20 years. No "eligible rescue squad
40 member" shall receive a pension prior to July 1, 1983. No member shall be entitled to a
41 pension hereunder until the member's official duties as a fireman or rescue squad
42 worker for which the member is paid compensation shall have been terminated and the
43 member shall have retired as such according to standards or rules fixed by the board of
44 trustees.

45 A member who is totally and permanently disabled while in the discharge of the
46 member's official duties as a result of bodily injuries sustained or as a result of extreme
47 exercise or extreme activity experienced in the course and scope of those official duties
48 and who leaves the fire or rescue squad service because of this disability shall be
49 entitled to be paid from the fund a monthly benefit in an amount of ~~one hundred~~
50 ~~sixty one dollars (\$161.00)~~ one hundred sixty-three dollars (\$163.00) per month
51 beginning the first month after the member's fifty-fifth birthday. All applications for
52 disability are subject to the approval of the board who may appoint physicians to
53 examine and evaluate the disabled member prior to approval of the application, and
54 annually thereafter. Any disabled member shall not be required to make the monthly
55 payment of ten dollars (\$10.00) as required by G.S. 58-86-35 and G.S. 58-86-40.

1 A member who is totally and permanently disabled for any cause, other than line of
 2 duty, who leaves the fire or rescue squad service because of this disability and who has
 3 at least 10 years of service with the pension fund, may be permitted to continue making
 4 a monthly contribution of ten dollars (\$10.00) to the fund until the member has made
 5 contributions for a total of 240 months. The member shall upon attaining the age of 55
 6 years be entitled to receive a pension as provided by this section. All applications for
 7 disability are subject to the approval of the board who may appoint physicians to
 8 examine and evaluate the disabled member prior to approval of the application and
 9 annually thereafter.

10 A member who, because his residence is annexed by a city under Part 2 or Part 3 of
 11 Article 4 of Chapter 160A of the General Statutes, or whose department is closed
 12 because of an annexation by a city under Part 2 or Part 3 of Article 4 of Chapter 160A
 13 of the General Statutes, or whose volunteer department is taken over by a city or county,
 14 and because of such annexation or takeover is unable to perform as a fireman or rescue
 15 squad worker of any status, and if the member has at least 10 years of service with the
 16 pension fund, may be permitted to continue making a monthly contribution of ten
 17 dollars (\$10.00) to the fund until the member has made contributions for a total of 240
 18 months. The member upon attaining the age of 55 years and completion of such
 19 contributions shall be entitled to receive a pension as provided by this section. Any
 20 application to make monthly contributions under this section shall be subject to a
 21 finding of eligibility by the Board of Trustees upon application of the member.

22 The pensions provided shall be in addition to all other pensions or benefits under any
 23 other statutes of the State of North Carolina or the United States, notwithstanding any
 24 exclusionary provisions of other pensions or retirement systems provided by law."
 25

26 Requested by: Senators Thomas, Garrou, Dalton, Hagan, Hoyle, Jenkins, Rand,
 27 Swindell, Weinstein

28 **INCREASE THE MAXIMUM MONTHLY PENSION BENEFITS FOR**
 29 **RETIRED MEMBERS OF THE NORTH CAROLINA NATIONAL GUARD**

30 **SECTION 29.27.** G.S. 127A-40(a) reads as rewritten:

31 "(a) Every member and former member of the North Carolina national guard who
 32 meets the requirements hereinafter set forth shall receive, commencing at age 60, a
 33 pension of ~~fifty dollars (\$50.00)~~ seventy-five dollars (\$75.00) per month for 20 years'
 34 creditable military service with an additional ~~five dollars (\$5.00)~~ seven dollars and fifty
 35 cents (\$7.50) per month for each additional year of such service; provided, however,
 36 that the total pension shall not exceed ~~one hundred dollars (\$100.00)~~ one hundred fifty
 37 dollars (\$150.00) per month. The requirements for such pension are that each member
 38 shall:

- 39 (1) Have served and qualified for at least 20 years' creditable military
 40 service, including national guard, reserve and active duty, under the
 41 same requirement specified for entitlement to retired pay for
 42 nonregular service under Chapter 67, Title 10, United States Code.
- 43 (2) Have at least 15 years of the aforementioned service as a member of
 44 the North Carolina national guard.
- 45 (3) Have received an honorable discharge from the North Carolina
 46 national guard."
 47

48 Requested by: Senators Garrou, Dalton, Hagan

49 **CONFORM RETIREE RETURN TO TEACHING BENEFIT TO IRS**
 50 **GUIDELINES/CLARIFY DEFINITION OF RETIREMENT**

51 **SECTION 29.28.(a)** Subsection (d) of Section 28.24 of S.L. 1998-212, as
 52 amended by Section 31.18A of S.L. 2004-124, reads as rewritten:

53 "(d) This section becomes effective January 1, 1999, and expires June 30, ~~2005.~~
 54 2006."

1 **SECTION 29.28.(b)** The introductory language of Section 67 of S.L.
2 1998-217, as amended by Section 31.18A of S.L. 2004-124, reads as rewritten:

3 "**SECTION 67.** Effective January 1, 1999, through June 30, ~~2005~~, 2006,
4 G.S. 135-3(8)c., as rewritten by Section 28.24(a) of S.L. 1998-212 reads as rewritten:".

5 **SECTION 29.28.(c)** Subsection (b) of Section 67.1 of S.L. 1998-217, as
6 amended by Section 31.18A of S.L. 2004-124, reads as rewritten:

7 "(b) This section becomes effective January 1, 1999, and expires June 30, ~~2005~~-
8 2006."

9 **SECTION 29.28.(d)** Subsection (c) of Section 32.25 of S.L. 2001-424, as
10 amended by Section 31.18A of S.L. 2004-124, reads as rewritten:

11 "**SECTION 32.25.(c)** This section becomes effective July 1, 2001, and expires June
12 30, ~~2005~~. 2006."

13 **SECTION 29.28.(e)** G.S. 135-3(8)c. reads as rewritten:

14 c. Should a beneficiary who retired on an early or service
15 retirement allowance under this Chapter be reemployed, or
16 otherwise engaged to perform services, by an employer
17 participating in the Retirement System on a part-time,
18 temporary, interim, or on a fee-for-service basis, whether
19 contractual or otherwise, and if such beneficiary earns an
20 amount during the 12-month period immediately following the
21 effective date of retirement or in any calendar year which
22 exceeds fifty percent (50%) of the reported compensation,
23 excluding terminal payments, during the 12 months of service
24 preceding the effective date of retirement, or twenty thousand
25 dollars (\$20,000), whichever is greater, as hereinafter indexed,
26 then the retirement allowance shall be suspended as of the first
27 day of the month following the month in which the
28 reemployment earnings exceed the amount above, for the
29 balance of the calendar year. The retirement allowance of the
30 beneficiary shall be reinstated as of January 1 of each year
31 following suspension. The amount that may be earned before
32 suspension shall be increased on January 1 of each year by the
33 ratio of the Consumer Price Index to the Index one year earlier,
34 calculated to the nearest tenth of a percent (1/10 of 1%).

35 The computation of postretirement earnings of a beneficiary
36 under this sub-subdivision, G.S. 135-3(8)c., who has been
37 retired at least six months and has not been employed in any
38 ~~capacity, except as a substitute teacher or a part time tutor,~~
39 capacity with a public school for at least six months
40 immediately preceding the effective date of reemployment,
41 shall not include earnings while the beneficiary is employed to
42 teach on a ~~substitute, interim, or~~ permanent basis in a public
43 school. The Department of Public Instruction shall certify to the
44 Retirement System that a beneficiary is employed to teach by a
45 local school administrative unit under the provisions of this
46 sub-subdivision and as a retired teacher as the term is defined
47 under the provisions of G.S. 115C-325(a)(5a).

48 Beneficiaries employed under this sub-subdivision are not
49 entitled to any benefits otherwise provided under this Chapter
50 as a result of this period of employment."

51 **SECTION 29.28.(f)** G.S. 115C-325(a)(5a) reads as rewritten:

52 "(5a) "Retired teacher" means a beneficiary of the Teachers' and State
53 Employees' Retirement System of North Carolina who has been retired
54 at least six months, has not been employed in any ~~capacity, other than~~
55 ~~as a substitute teacher or a part time tutor, with a local board of~~

1 education or a charter school capacity for at least six months,
 2 immediately preceding the effective date of reemployment, is
 3 determined by a local board of education or a charter school to have
 4 had satisfactory performance during the last year of employment by a
 5 local board of education or a charter school, and who is employed to
 6 teach as provided in G.S. 135-3(8)c. A retired teacher at a school other
 7 than a charter school shall be treated the same as a probationary
 8 teacher except that (i) a retired teacher is not eligible for career status
 9 and (ii) the performance of a retired teacher who had attained career
 10 status prior to retirement shall be evaluated in accordance with a local
 11 board of education's policies and procedures applicable to career
 12 teachers."

13 **SECTION 29.28.(g)** Notwithstanding any other provision of law, each local
 14 school administrative unit shall pay to the Teachers' and State Employees' Retirement
 15 System a Reemployed Teacher Contribution Rate of eleven and seventy-hundredths
 16 percent (11.70%) as a percentage of covered salaries that the retired teachers, who are
 17 exempt from the earnings cap, are being paid. Each local school administrative unit
 18 shall report monthly to the Retirement Systems Division on payments made pursuant to
 19 this subsection.

20 Notwithstanding any other provision of law, any portion of the payment made
 21 by a local school administrative unit to a reemployed teacher who is exempt from the
 22 earnings cap, consisting of salary plus the Reemployed Teacher Contribution Rate, that
 23 exceeds the State-supported salary level for that position, shall be paid from local funds.

24 **SECTION 29.28.(h)** G.S. 135-1(20) reads as rewritten:

25 "(20) "Retirement" ~~shall mean~~ means the termination of employment and the
 26 withdrawal- complete separation from active service with no intent or
 27 agreement, express or implied, to return to service. a A retirement
 28 allowance granted under the provisions of this Chapter. Chapter may
 29 only be granted upon retirement of a member. In order for a member's
 30 retirement to become effective in any month, the member must render
 31 no ~~service~~ service, including part-time, temporary, substitute, or
 32 contractor service, at any time during that month. the six months
 33 immediately following the effective date of retirement."

34 **SECTION 29.28.(i)** Subsection (h) of this section becomes effective July 1,
 35 2005, but does not apply to participants in The University of North Carolina Phased
 36 Retirement Program until June 30, 2007. The remainder of this section becomes
 37 effective June 30, 2005.

38
 39 Requested by: Senators Garrou, Dalton, Hagan

40 **OPTIONAL RETIREMENT PROGRAM VESTING**

41 **SECTION 29.29.** G.S. 135-5.1(b) reads as rewritten:

42 "(b) Participation in the Optional Retirement Program shall be governed as
 43 follows:

- 44 (1) Those participating in the Optional Retirement Program immediately
 45 prior to July 1, 1985, under the provisions of Chapter 338, Session
 46 Laws of 1971, are deemed automatically enrolled in the Program as
 47 established by this section.
 48 (2) Eligible employees initially appointed on or after July 1, 1985, shall at
 49 the same time of entering upon eligible employment elect (i) to join
 50 the Retirement System in accordance with the provisions of law
 51 applicable thereto or (ii) to participate in the Optional Retirement
 52 Program. This election shall be in writing and filed with the
 53 Retirement System and with the employing institution and shall be
 54 effective as of the date of entry into eligible service.

- 1 (3) An election to participate in the Optional Retirement Program shall be
 2 irrevocable. An eligible employee failing to elect to participate in the
 3 Optional Retirement Program at the time of entry into eligible service
 4 shall automatically be enrolled as a member of the Retirement System.
 5 (4) No election by an eligible employee of the Optional Retirement
 6 Program shall be effective unless it is accompanied by an appropriate
 7 application for the issuance of a contract or contracts or trust
 8 participation under the Program.
 9 (5) If any participant having less than ~~five years~~ one year of coverage
 10 under the Optional Retirement Program leaves the employ of The
 11 University of North Carolina and either retires or commences
 12 employment with an employer not having a retirement program with
 13 the same company underwriting the participant's annuity contract,
 14 regardless of whether the annuity contract is held by the participant, a
 15 trust, or the Retirement System, the participant's interest in the
 16 Optional Retirement Program attributable to contributions of The
 17 University of North Carolina shall be forfeited and shall either (i) be
 18 refunded to The University of North Carolina and forthwith paid by it
 19 to the Retirement System and credited to the pension accumulation
 20 fund or (ii) be paid directly to the Retirement System and credited to
 21 the pension accumulation fund."
 22

23 Requested by: Senators Thomas, Rand, Dalton, Garrou, Hagan

24 **INCREASE BENEFIT/SHERIFFS' SUPPLEMENTAL PENSION FUND**

25 **SECTION 29.30.(a)** G.S. 143-166.85(a) reads as rewritten:

26 "(a) An eligible retired sheriff shall be entitled to and receive an annual pension
 27 benefit, payable in equal monthly installments, equal to one share for each full year of
 28 eligible service as sheriff multiplied by his total number of years of eligible service. The
 29 amount of each share shall be determined by dividing the total number of years of
 30 eligible service for all eligible retired sheriffs on December 31 of each calendar year
 31 into the amount to be disbursed as monthly pension payments in accordance with the
 32 provisions of G.S., 143 166.83(b). In no event however shall a monthly pension under
 33 this Article exceed an amount, which when added to a retired allowance at retirement
 34 from the Local Governmental Employees' Retirement System or to the amount he
 35 would have been eligible to receive if service had not been forfeited by the withdrawal
 36 of accumulated contributions, is greater than seventy -five percent (75%) of a sheriff's
 37 equivalent annual salary immediately preceding retirement computed on the latest
 38 monthly base rate, to a maximum amount of ~~one thousand two hundred dollars (\$1,200).~~
 39 one thousand five hundred dollars (\$1,500)."

40 **SECTION 29.30.(b)** G.S. 7A-304(a)(3a) reads as rewritten:

41 "(3a) For the supplemental pension benefits of sheriffs, the sum of
 42 ~~seventy five cents (75¢)~~ one dollar twenty-five cents (\$1.25) to be
 43 remitted to the Department of Justice and administered under the
 44 provisions of Article 12G of Chapter 143 of the General Statutes."
 45

46 Requested by: Senators Garrou, Dalton, Hagan, Rand

47 **STATE HEALTH PLAN CHANGES**

48 **SECTION 29.31.(a)** G.S. 135-40.5 reads as rewritten:

49 **"§ 135-40.5. Benefits not subject to deductible or coinsurance.**

50 (a) Repealed by Session Laws 1985, c. 192, s. 5.

51 (b) Repealed by Session Laws 1991, c. 427, s. 20.

52 (c) Preadmission Testing. – The Plan will pay one hundred percent (100%) of
 53 reasonable and customary charges for diagnostic, laboratory and x-ray examinations
 54 performed on an outpatient basis.

55 (d) Repealed by Session Laws 2001-253, s. 1(d), effective July 1, 2001.

1 (e) Routine Diagnostic Examinations. – The Plan will pay one hundred percent
2 (100%) of allowable charges for routine diagnostic examinations and tests, including
3 breast, colon, rectal, and prostate exams, X rays, ~~mammograms~~, blood and blood
4 pressure checks, urine tests, tuberculosis tests, and general health checkups that are
5 medically necessary for the maintenance and improvement of individual health but no
6 more often than once every three years for covered individuals to age 40 years, once
7 every two years for covered individuals to age 50 years, and once a year for covered
8 individuals age 50 years and older, unless a more frequent occurrence is warranted by a
9 medical condition when such charges are incurred in a medically supervised facility.
10 The Plan will pay one hundred percent (100%) of allowable charges for mammograms
11 once per year for covered individuals age 40 years and over, and not more often than
12 once every three years for covered individuals to age 40 years, when such charges are
13 incurred in a medically supervised facility. Routine diagnostic examinations and tests
14 covered under this subsection also include examinations and tests for the screening for
15 the early detection of cervical cancer. The coverage shall be in accordance with the
16 most recently published American Cancer Society guidelines or guidelines adopted by
17 the North Carolina Advisory Committee on Cancer Coordination and Control for any
18 covered female. For the purposes of this subsection, "examinations and laboratory tests
19 for the screening for the early detection of cervical cancer" means conventional PAP
20 smear screening, liquid-based cytology, and human papilloma virus (HPV) detection
21 methods for women with equivocal findings on cervical cytologic analysis that are
22 subject to the approval of and have been approved by the United States Food and Drug
23 Administration. Provided, however, that charges for such examinations and tests are not
24 covered by the Plan when they are incurred to obtain or continue employment, to secure
25 insurance coverage, to comply with legal proceedings, to attend schools or camps, to
26 meet travel requirements, to participate in athletic and related activities, or to comply
27 with governmental licensing requirements. The maximum amount payable under this
28 subsection for a covered individual is one hundred fifty dollars (\$150.00) per fiscal
29 year.

30 (f) Immunizations. – The Plan will pay one hundred percent (100%) of allowable
31 charges for immunizations for the prevention of contagious diseases as generally
32 accepted medical practices would dictate when directed by an attending physician.

33 (g) Prescription Drugs. – The Plan's allowable charges for prescription legend
34 drugs to be used outside of a hospital or skilled nursing facility are to be determined by
35 the Plan's Executive Administrator and Board of Trustees. The Plan will pay allowable
36 charges for each outpatient prescription drug less a copayment to be paid by each
37 covered individual equal to the following amounts: pharmacy charges up to ten dollars
38 (\$10.00) for each generic prescription, ~~twenty five dollars (\$25.00)~~ thirty dollars
39 (\$30.00) for each branded prescription, and ~~thirty five dollars (\$35.00)~~ forty dollars
40 (\$40.00) for each branded prescription with a generic equivalent drug, and ~~forty dollars~~
41 ~~(\$40.00)~~ fifty dollars (\$50.00) for each branded or generic prescription not on a
42 formulary used by the Plan. Allowable charges shall not be greater than a pharmacy's
43 usual and customary charge to the general public for a particular prescription.
44 Prescriptions shall be for no more than a 34-day supply for the purposes of the
45 copayments paid by each covered individual. By accepting the copayments and any
46 remaining allowable charges provided by this subsection, pharmacies shall not balance
47 bill an individual covered by the Plan. A prescription legend drug is defined as an article
48 the label of which, under the Federal Food, Drug, and Cosmetic Act, is required to bear
49 the legend: "Caution: Federal Law Prohibits Dispensing Without Prescription." Such
50 articles may not be sold to or purchased by the public without a prescription order.
51 Benefits are provided for insulin even though a prescription is not required. The Plan
52 may use a pharmacy benefit manager to help manage the Plan's outpatient prescription
53 drug coverage. In managing the Plan's outpatient prescription drug benefits, the Plan
54 and its pharmacy benefit manager shall not provide coverage for erectile dysfunction,
55 growth hormone, antiwrinkle, weight loss, and hair growth drugs unless such coverage

1 is medically necessary to the health of the member. The Plan and its pharmacy benefit
2 manager shall not provide coverage for growth hormone and weight loss drugs and
3 antifungal drugs for the treatment of nail fungus and botulinum toxin without approval
4 in advance by the pharmacy benefit manager. Any formulary used by the Plan's
5 Executive Administrator and pharmacy benefit manager shall be an open formulary.
6 Plan members shall not be assessed more than two thousand five hundred dollars
7 (\$2,500) per person per fiscal year in copayments required by this subsection.

8 **SECTION 29.31.(b)** The first paragraph of G.S. 135-40.6 reads as rewritten:

9 **"§ 135-40.6. Benefits subject to deductible and coinsurance (comprehensive**
10 **benefits).**

11 The benefits provided in this section are subject to a deductible of three hundred
12 fifty dollars (\$350.00) per covered individual to an aggregate maximum of one thousand
13 fifty dollars (\$1,050) per employee and child(ren) or employee and family coverage
14 contract per fiscal year and are payable on the basis of eighty percent (80%) by the Plan
15 and twenty percent (20%) by the covered individual up to a maximum of ~~one thousand~~
16 ~~five hundred dollars (\$1,500)~~ two thousand dollars (\$2,000) out-of-pocket per fiscal
17 year. The aggregate maximum out-of-pocket required of individuals covered by this
18 section shall not be more than ~~four thousand five hundred dollars (\$4,500)~~ six thousand
19 dollars (\$6,000) per employee and child(ren) or employee and family coverage contract
20 per fiscal year.

21 ..."

22 **SECTION 29.31.(c)** G.S. 135-40.6(8)n. reads as rewritten:

23 **"§ 135-40.6. Benefits subject to deductible and coinsurance (comprehensive**
24 **benefits).**

25 ...
26 (8) Other Covered Charges. –

27 ...

28 n. Chiropractic Services: Limited to the alignment of the spine and
29 releasing of pressure by manipulation in accordance with the
30 definitions in G.S. 90-143. Covered services shall be provided
31 only to Plan members over the age of five years. Maximum
32 benefits for x-rays, manipulations, and modalities shall be two
33 thousand dollars (\$2,000) per fiscal year."

34 **SECTION 29.31.(d)** G.S. 135-40.8 reads as rewritten:

35 **"§ 135-40.8. Out-of-pocket expenditures.**

36 (a) For the balance of any fiscal year after each eligible employee, retired
37 employee, or dependent satisfies the cash deductible, the Plan pays eighty percent
38 (80%) of the eligible expenses outlined in G.S. 135-40.6. The remaining twenty percent
39 (20%) is paid by the covered individual until ~~one thousand five hundred dollars (\$1,500)~~
40 two thousand dollars (\$2,000) per covered individual up to an aggregate of ~~four~~
41 ~~thousand five hundred dollars (\$4,500)~~ six thousand dollars (\$6,000) per employee and
42 child(ren) or employee and family coverage contract per fiscal year in excess of the
43 deductible has been paid out of pocket. The Plan then pays one hundred percent (100%)
44 of the remaining covered expenses.

45 (b) Repealed by Session Laws 2001-253, s. 1(m), effective July 1, 2001.

46 (c) Notwithstanding any other provision of this Article, on the first day of each
47 confinement the Plan does not pay the first one hundred ~~dollars (\$100.00)~~ fifty dollars
48 (\$150.00) of the room accommodation charge allowable under G.S. 135-40.6(1). Any
49 readmission within 60 days after discharge for the same reason shall be considered the
50 same confinement for the purpose of this subsection. The exclusion made under this
51 subsection shall not count toward the deductible nor toward the maximum amount of
52 coinsurance out-of-pocket costs.

53 (c1) Notwithstanding any other provision of this Article, the Plan does not pay the
54 first ~~fifty dollars (\$50.00)~~ one hundred fifty dollars (\$150.00) of the facility fees and
55 ancillary charges for allowable charges exceeding five hundred dollars (\$500.00) per

1 episode of care for hospital outpatient departments and ambulatory surgical facilities
2 under G.S. 135-40.6(4). Readmission within 30 days after discharge for the same reason
3 shall be considered the same episode of care for the purpose of this subsection. The
4 exclusion made under this subsection shall not count toward the deductible nor toward
5 the maximum amount of coinsurance out-of-pocket costs.

6 (c2) Notwithstanding any other provision of this Article, the Plan does not pay the
7 ~~first one hundred dollars (\$100.00)~~ one hundred fifty dollars (\$150.00) of allowable
8 emergency room charges when admission to a hospital pursuant to the emergency room
9 use does not immediately follow. This subsection shall apply only when less costly
10 alternative means of emergency medical care are reasonably available as determined by
11 the Executive Administrator and Board of Trustees. The exclusion made under this
12 subsection shall not count toward the deductible nor toward the maximum amount of
13 coinsurance out-of-pocket costs.

14 (c3) Notwithstanding any other provision of this Article, the Plan does not pay for
15 the first fifteen dollars (\$15.00) of allowable charges for each home, office, or skilled
16 nursing facility visit under the provisions of G.S. 135-40.6(7)a. and b.,
17 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
18 co-payment assessed by this subsection shall be assessed only once per person per
19 provider per day and shall not apply to laboratory, pathology, and radiology services, or
20 to charges for injected medications. The exclusion made under this subsection shall not
21 count toward the deductible nor toward the maximum amount of coinsurance
22 out-of-pocket costs.

23 (c4) Notwithstanding any other provision of this Article, the Plan does not pay for
24 the first twenty-five dollars (\$25.00) of allowable charges for services provided by
25 medical specialists. The co-payment assessed by this subsection shall be assessed only
26 once per person per provider per day and shall not apply to laboratory, pathology, and
27 radiology services, or to charges for injected medications. The exclusion made under
28 this subsection shall not count toward the deductible nor toward the maximum amount
29 of coinsurance out-of-pocket costs.

30 (d) Where a network of qualified preferred providers of inpatient and outpatient
31 hospital care is reasonably available for use by those individuals covered by the Plan,
32 use of providers outside of the preferred network shall be subject to a twenty percent
33 (20%) coinsurance rate up to five thousand dollars (\$5,000) per fiscal year per covered
34 individual up to an aggregate of fifteen thousand dollars (\$15,000) per employee and
35 child(ren) or employee and family coverage contract per fiscal year in addition to the
36 general coinsurance percentage and maximum fiscal year amount specified by
37 G.S. 135-40.4 and G.S. 135-40.6. The Plan then pays one hundred percent (100%) of
38 the remaining covered expenses.

39 (e) Where qualified out-of-state preferred providers of medical care are not
40 reasonably available in medical emergencies, the Plan pays the amounts covered by
41 subsection (a) of this section. Any amount of charges for services under this section that
42 exceeds the amount allowed by the Plan for the services of qualified preferred providers
43 under this section shall be negotiated between the Plan and the provider of medical
44 services, and the Plan shall ensure that the Plan member is not held financially
45 responsible for the amount of these excess charges. If a Plan member is not capable of
46 making a decision about choosing an in-State qualified preferred provider and
47 emergency services personnel transport the Plan member to a provider outside of the
48 Plan network, then the coverage under this subsection shall apply. As used in this
49 section, a "medical emergency" is the sudden and unexpected onset of a condition
50 manifesting itself by acute symptoms of sufficient severity that, in the absence of
51 immediate medical care, could imminently result in injury or danger to self or others."
52

53 Requested by: Senators Dalton, Garrou, Hagan
54 **FOREST CITY EMPLOYEES IN STATE HEALTH PLAN**

55 **SECTION 29.32.** Section 31.26(j) of S.L. 2004-124 reads as rewritten:

"SECTION 31.26.(j) This section applies to:

- (1) Bladen, Cherokee, Rutherford, Washington, and Wilkes Counties ~~only, only, and~~
- (2) The Town of Forest City only."

PART XXX. CAPITAL APPROPRIATIONS.

Requested by: Senators Garrou, Dalton, Hagan

GENERAL FUND CAPITAL APPROPRIATIONS/INTRODUCTION

SECTION 30.1. The appropriations made by the 2005 General Assembly for capital improvements are for constructing, repairing, or renovating State buildings, utilities, and other capital facilities, for acquiring sites for them where necessary, and acquiring buildings and land for State government purposes.

Requested by: Senators Garrou, Dalton, Hagan

CAPITAL APPROPRIATIONS/GENERAL FUND

SECTION 30.2. There is appropriated from the General Fund for the 2005-2006 fiscal year the following amount for capital improvements:

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
Winston-Salem State University – Laboratory Facility Planning Funds	750,000
TOTAL CAPITAL IMPROVEMENTS – GENERAL FUND	\$ 26,110,000

Requested by: Senators Garrou, Dalton, Hagan

WATER RESOURCES DEVELOPMENT PROJECT FUNDS

SECTION 30.3.(a) The Department of Environment and Natural Resources shall allocate the funds appropriated in this act for water resources development projects to the following projects whose costs are as indicated:

Name of Project	2005-2006
(1) Wilmington Harbor Deepening	\$1,300,000
(2) Manteo (Shallowbag) Bay Channel Maintenance	50,000
(3) Wilmington Harbor Maintenance Dredging	500,000
(4) B. Everett Jordan Water Supply Storage	100,000
(5) John H. Kerr Reservoir Operations Evaluation	600,000
(6) Bogue Banks Shore Protection Study (Carteret County)	75,000
(7) Surf City/North Topsail Beach Protection Study	250,000
(8) West Onslow Beach (Topsail)	100,000
(9) Wrightsville Beach Nourishment	580,000
(10) Hurricane Stream Restoration – Western North Carolina	2,000,000
(11) Swan Quarter (Hyde County) Flood Control Dikes	100,000

1	(12)	Ocracoke NCCAT Estuarine Shoreline Protection	1,500,000
2	(13)	Far Creek Maintenance Dredging	120,000
3	(14)	Belhaven Harbor Environmental Improvements	250,000
4	(15)	Lower Lockwoods Folly River	286,000
5	(16)	Walters Slough Maintenance Dredging	122,000
6	(17)	Hurricane Isabel Emergency Stream Cleanup – Northeast NC	1,370,000
7	(18)	State-Local Projects	2,000,000
8	(19)	Princeville Flood Control	250,000
9	(20)	Currituck Sound Water Management Study	300,000
10	(21)	Aquatic Weed Control, Lake Gaston and Statewide	375,000
11	(22)	Tar River and Pamlico Sound Feasibility Study	100,000
12	(23)	Deep Creek (Yadkin County) Water Management	2,000,000
13	(24)	North Carolina Oyster Habitat Restoration	50,000
14	(25)	Emergency Flood Control Projects	187,000
15	(26)	Projected Feasibility Studies	100,000
16	(27)	Planning Assistance to Communities	95,000

TOTALS**\$14,760,000**

SECTION 30.3.(b) Where the actual costs are different from the estimated costs under subsection (a) of this section, the Department may adjust the allocations among projects as needed. If any projects funded under subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 2005-2006 fiscal year, or if the projects funded under subsection (a) of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund any of the following:

- (1) U.S. Army Corps of Engineers project feasibility studies.
- (2) U.S. Army Corps of Engineers projects whose schedules have advanced and require State-matching funds in fiscal year 2005-2006.
- (3) State-local water resources development projects.

Funds not expended or encumbered for these purposes shall revert to the General Fund at the end of the 2006-2007 fiscal year.

SECTION 30.3.(c) The Department shall make semiannual reports on the use of these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Office of State Budget and Management. Each report shall include all of the following:

- (1) All projects listed in this section.
- (2) The estimated cost of each project.
- (3) The date that work on each project began or is expected to begin.
- (4) The date that work on each project was completed or is expected to be completed.
- (5) The actual cost of each project.

The semiannual reports shall also show those projects advanced in schedule, those projects delayed in schedule, and an estimate of the amount of funds expected to revert to the General Fund.

Requested by: Senators Garrou, Dalton, Hagan

PROCEDURES FOR DISBURSEMENT OF CAPITAL FUNDS

SECTION 30.4. The appropriations made by the 2005 General Assembly for capital improvements shall be disbursed for the purposes provided by this act. Expenditure of funds shall not be made by any State department, institution, or agency until an allotment has been approved by the Governor as Director of the Budget. The allotment shall be approved only after full compliance with the Executive Budget Act, Article 1 of Chapter 143 of the General Statutes. Prior to the award of construction contracts for projects to be financed in whole or in part with self-liquidating

1 appropriations, the Director of the Budget shall approve the elements of the method of
2 financing of those projects including the source of funds, interest rate, and liquidation
3 period. Provided, however, that if the Director of the Budget approves the method of
4 financing a project, the Director shall report that action to the Joint Legislative
5 Commission on Governmental Operations at its next meeting.

6 Where direct capital improvement appropriations include the purpose of
7 furnishing fixed and movable equipment for any project, those funds for equipment
8 shall not be subject to transfer into construction accounts except as authorized by the
9 Director of the Budget. The expenditure of funds for fixed and movable equipment and
10 furnishings shall be reviewed and approved by the Director of the Budget prior to
11 commitment of funds.

12 Capital improvement projects authorized by the 2005 General Assembly shall
13 be completed, including fixed and movable equipment and furnishings, within the limits
14 of the amounts of the direct or self-liquidating appropriations provided, except as
15 otherwise provided in this act. Capital improvement projects authorized by the 2005
16 General Assembly for the design phase only shall be designed within the scope of the
17 project as defined by the approved cost estimate filed with the Director of the Budget,
18 including costs associated with site preparation, demolition, and movable and fixed
19 equipment.

20
21 Requested by: Senators Garrou, Dalton, Hagan

22 **ENCUMBERED APPROPRIATIONS AND PROJECT RESERVE FUNDS**

23 **SECTION 30.5.** When each capital improvement project appropriated by the
24 2005 General Assembly, other than those projects under the Board of Governors of The
25 University of North Carolina, is placed under a construction contract, direct
26 appropriations shall be encumbered to include all costs for construction, design,
27 investigation, administration, movable equipment, and a reasonable contingency.
28 Unencumbered direct appropriations remaining in the project budget shall be placed in a
29 project reserve fund credited to the Office of State Budget and Management. Funds in
30 the project reserve may be used for emergency repair and renovation projects at State
31 facilities with the approval of the Director of the Budget. The project reserve fund may
32 be used, at the discretion of the Director of the Budget, to allow for award of contracts
33 where bids exceed appropriated funds, if those projects supplemented were designed
34 within the scope intended by the applicable appropriation or any authorized change in it,
35 and if, in the opinion of the Director of the Budget, all means to award contracts within
36 the appropriation were reasonably attempted. At the discretion of the Director of the
37 Budget, any balances in the project reserve fund shall revert to the original source.

38 39 **REPAIR AND RENOVATION RESERVE ALLOCATION**

40 **SECTION 30.6.** Of the funds in the Reserve for Repairs and Renovations
41 for the 2005-2006 fiscal year, forty-six percent (46%) shall be allocated to the Board of
42 Governors of The University of North Carolina for repairs and renovations pursuant to
43 G.S. 143-15.3A, in accordance with guidelines developed in The University of North
44 Carolina Funding Allocation Model for Reserve for Repairs and Renovations, as
45 approved by the Board of Governors of The University of North Carolina, and fifty-four
46 percent (54%) shall be allocated to the Office of State Budget and Management for
47 repairs and renovations pursuant to G.S. 143-15.3A.

48 Notwithstanding G.S. 143-15.3A, the Board of Governors may allocate funds
49 for the repair and renovation of facilities not supported from the General Fund if the
50 Board determines that sufficient funds are not available from other sources and that
51 conditions warrant General Fund assistance. Any such finding shall be included in the
52 Board's submission to the Joint Legislative Commission on Governmental Operations
53 on the proposed allocation of funds.

1 The Board of Governors and the Office of State Budget and Management
2 shall consult with the Joint Legislative Commission on Governmental Operations prior
3 to the allocation or reallocation of these funds.
4

5 Requested by: Senators Garrou, Dalton, Hagan

6 **PROJECT COST INCREASE**

7 **SECTION 30.7.** Upon the request of the administration of a State agency,
8 department, or institution, the Director of the Budget may, when in the Director's
9 opinion it is in the best interest of the State to do so, increase the cost of a capital
10 improvement project. Provided, however, that if the Director of the Budget increases
11 the cost of a project, the Director shall report that action to the Joint Legislative
12 Commission on Governmental Operations at its next meeting. The increase may be
13 funded from gifts, federal or private grants, special fund receipts, excess patient receipts
14 above those budgeted at the University of North Carolina Hospitals at Chapel Hill, or
15 direct capital improvement appropriations to that department or institution.
16

17 Requested by: Senators Garrou, Dalton, Hagan

18 **NEW PROJECT AUTHORIZATION**

19 **SECTION 30.8.** Upon the request of the administration of any State agency,
20 department, or institution, the Director of the Budget may authorize the construction of
21 a capital improvement project not specifically authorized by the General Assembly if
22 such project is to be funded by gifts, federal or private grants, special fund receipts,
23 excess patient receipts above those budgeted at the University of North Carolina
24 Hospitals at Chapel Hill, or self-liquidating indebtedness. Prior to authorizing the
25 construction of a capital improvement project pursuant to this section, the Director shall
26 consult with the Joint Legislative Commission on Governmental Operations.
27

28 Requested by: Senators Garrou, Dalton, Hagan

29 **ADVANCE PLANNING OF CAPITAL IMPROVEMENT PROJECTS**

30 **SECTION 30.9.** Funds that become available by gifts, excess patient
31 receipts above those budgeted at the University of North Carolina Hospitals at Chapel
32 Hill, federal or private grants, receipts becoming a part of special funds by act of the
33 General Assembly, or any other funds available to a State department or institution may
34 be utilized for advance planning through the working drawing phase of capital
35 improvement projects, upon approval of the Director of the Budget.
36

37 Requested by: Senators Garrou, Dalton, Hagan

38 **APPROPRIATIONS LIMITS/REVERSION OR LAPSE**

39 **SECTION 30.10.** Except as permitted in previous sections of this act, the
40 appropriations for capital improvements made by the 2005 General Assembly may be
41 expended only for specific projects set out by the 2005 General Assembly and for no
42 other purpose. Construction of all capital improvement projects enumerated by the
43 2005 General Assembly shall be commenced, or self-liquidating indebtedness with
44 respect to them shall be incurred, within 12 months following the first day of the fiscal
45 year in which the funds are available. If construction contracts on those projects have
46 not been awarded or self-liquidating indebtedness has not been incurred within that
47 period, the direct appropriation for those projects shall revert to the original source, and
48 the self-liquidating appropriation shall lapse; except that direct appropriations may be
49 placed in a reserve fund as authorized in this act. This deadline with respect to both
50 direct and self-liquidating appropriations may be extended with the approval of the
51 Director of the Budget up to an additional 12 months if circumstances and conditions
52 warrant such extension.

53 **PART XXXI. LOTTERY.**

54 **LOTTERY**
55

1 **SECTION 31.1.(a)** If House Bill 1023, 2005 Regular Session, becomes law,
2 then the title of House Bill 1023, 2005 Regular Session, is amended by deleting the
3 following phrase "TO FUND COLLEGE AND UNIVERSITY SCHOLARSHIPS,".

4 **SECTION 31.1.(b)** If House Bill 1023, 2005 Regular Session, becomes law,
5 then G.S. 18C-103(4), as enacted by that act, reads as rewritten:

6 **"§ 18C-103. Definitions.**

7 As used in this Chapter, unless the context requires otherwise:

- 8
9 (4) 'Game' or 'lottery game' means any procedure or amusement
10 authorized by the Commission where prizes are distributed among
11 persons who have paid, or unconditionally agreed to pay, for tickets or
12 shares that provide the opportunity to win those prizes. prizes and does
13 not utilize a video gaming machine as defined in G.S. 14-306.1(c).

14 "

15 **SECTION 31.1.(c)** If House Bill 1023, 2005 Regular Session, becomes law,
16 then G.S. 18C-110, as enacted by that act, reads as rewritten:

17 **"§ 18C-110. Establishment of the North Carolina State Lottery Commission to be
18 a self-supporting agency of the State.**

19 There is created the North Carolina State Lottery Commission to establish and
20 oversee the operation of a Lottery. The Commission shall be located in the Department
21 of ~~Commerce Administration~~ for budgetary purposes only; otherwise, the Commission
22 shall be an independent, self-supporting, and revenue-raising agency of the State. The
23 Commission shall reimburse other governmental entities that provide services to the
24 Commission."

25 **SECTION 31.1.(d)** If House Bill 1023, 2005 Regular Session, becomes law,
26 then G.S. 18C-111, as enacted by that act, reads as rewritten:

27 **"§ 18C-111. Commission membership; appointment; selection of chair; vacancies;
28 removal; meetings; compensation.**

29 (a) The Commission shall consist of nine members, ~~three~~ five of whom shall be
30 appointed by the Governor, ~~three~~ two of whom shall be appointed by the General
31 Assembly upon the recommendation of the President Pro Tempore of the Senate, and
32 ~~three~~ two of whom shall be appointed by the General Assembly upon the
33 recommendation of the Speaker of the House of Representatives. The Governor shall
34 select the initial chair of the Commission from among its membership, who shall serve
35 as chair for one year from the date of appointment. Thereafter, the Commission shall
36 select a chair from among its membership to serve at the pleasure of the Commission.

37 (b) Of the initial appointees of the Governor, ~~one member~~ three members shall
38 serve a term of one year, one member shall serve a term of two years, and one member
39 shall serve a term of three years. Of the initial appointees of the General Assembly upon
40 the recommendation of the President Pro Tempore of the Senate, ~~one member shall~~
41 ~~serve a term of one year~~, one member shall serve a term of two years, and one member
42 shall serve a term of three years. Of the initial appointees of the General Assembly upon
43 the recommendation of the Speaker of the House of Representatives, ~~one member shall~~
44 ~~serve a term of one year~~, one member shall serve a term of two years, and one member
45 shall serve a term of three years. All succeeding appointments shall be for terms of five
46 years. Members shall not serve for more than two successive terms.

47 (c) Vacancies shall be filled by the appointing authority for the unexpired portion
48 of the term in which they occur.

49 (d) The Commission shall meet at least quarterly upon the call of the chair. A
50 majority of the total membership of the Commission shall constitute a quorum.

51 (e) Members of the Commission shall receive per diem, subsistence, and travel
52 as provided in G.S. 138-5 and G.S. 138-6."

53 **SECTION 31.1.(e)** If House Bill 1023, 2005 Regular Session, becomes law,
54 then G.S. 18C-112, as enacted by that act, reads as rewritten:

55 **"§ 18C-112. Qualifications of Commissioners.**

1 (a) Of the members of the Commission appointed by the Governor, at least one
 2 member shall have a minimum of five years' experience in law enforcement, and no
 3 more than two members shall be from the same political party as the
 4 Governor.enforcement.

5 (b) Of the members appointed by the General Assembly upon the
 6 recommendation of the President Pro Tempore of the Senate, one member shall be a
 7 certified public accountant, and no more than two members shall be from the same
 8 political party as the President Pro Tempore of the Senate.accountant.

9 (c) Of the members of the Commission appointed by the General Assembly upon
 10 the recommendation of the Speaker of the House of Representatives, one member shall
 11 have retail sales experience, and no more than two members shall be from the same
 12 political party as the Speaker of the House of Representatives.at least five years retail
 13 sales experience as an owner or manager.

14 (d) In making appointments to the Commission, the appointing authorities shall
 15 consider the composition of the State with regard to geographic representation and
 16 gender, ethnic, racial, and age composition."

17 **SECTION 31.1.(f)** If House Bill 1023, 2005 Regular Session, becomes law,
 18 then G.S. 18C-114(a)(8) and G.S. 18C-114(a)(11), as enacted by that act, read as
 19 rewritten:

20 "(a) The Commission shall have the following powers and duties:

21 ...
 22 ~~(8) To determine the salary of the Director and the terms and conditions~~
 23 ~~for employment contracts for the Director.~~To charge a fee of lottery
 24 vendors not to exceed the cost of the criminal record check of the
 25 lottery vendor.

26 ...
 27 (11) ~~To approve and authorize the Director to enter into contracts with~~
 28 ~~lottery game retailers upon terms and conditions as specified by the~~
 29 ~~Commission. To specify the authority, selection, and role of the~~
 30 ~~Director and other employees of the Commission. All of the following~~
 31 ~~apply to all employees of the Commission:~~

32 a. No employee of the Commission may have a financial interest
 33 in any lottery vendor or lottery contractor.

34 b. No employee of the Commission with decision-making
 35 authority shall participate in any decision involving the retailer
 36 or vendor with whom the employee has a financial interest.

37 c. No employee of the Commission who leaves the employment of
 38 the Commission may represent any vendor or retailer before the
 39 Commission for a period of two years following termination of
 40 employment with the Commission.

41 d. A background investigation shall be conducted on each
 42 applicant for employment with the Commission.

43 e. The Commission shall bond all employees with access to lottery
 44 funds or revenue and security."

45 **SECTION 31.1.(g)** If House Bill 1023, 2005 Regular Session, becomes law,
 46 then G.S. 18C-120(b)(3) and G.S. 18C-120(b)(6), as enacted by that act, read as
 47 rewritten:

48 "(b) The Director shall have the following powers and duties, under the
 49 supervision of the Commission:

50 ...
 51 (3) To set the salaries of all Commission employees, subject to the
 52 approval of the Commission, and to employ all personnel of the
 53 Commission. Commission. Except for the provisions of Articles 6 and
 54 7 of Chapter 126 of the General Statutes, all employees of the
 55 Commission shall be exempt from the State Personnel Act.

1
2 ...
3 (6) ~~To receive reports of alleged violations of the law relating to the~~
4 ~~operation of the Lottery and report those violations to coordinate and~~
5 ~~collaborate with the appropriate law enforcement authority-authorities~~
6 ~~regarding investigations of violations of the laws relating to the~~
7 ~~operation of the Lottery and make reports to the Commission~~
8 ~~regarding those investigations.~~

9 "

10 ..."

11 **SECTION 31.1.(h)** If House Bill 1023, 2005 Regular Session, becomes law,
12 then G.S. 18C-121, as enacted by that act, reads as rewritten:

13 "**§ 18C-121. Accountability; books and records.**

14 The Director shall ~~make and keep~~ have made and kept books and records that
15 accurately and completely reflect each day's transactions, including the distribution of
16 tickets or shares to lottery game retailers, receipt of funds, prize claims, prizes paid
17 directly by the Commission, expenses, and all other financial transactions involving
18 lottery funds necessary to permit preparation of financial statements that conform with
19 generally accepted accounting principles."

20 **SECTION 31.1.(i)** If House Bill 1023, 2005 Regular Session, becomes law,
21 then G.S. 18C-122, as enacted by that act, reads as rewritten:

22 "**§ 18C-122. Independent audits.**

23 (a) At the beginning of each calendar year, the ~~Director-Commission~~ shall
24 engage an independent firm experienced in security procedures, including computer
25 security and systems security, to conduct a comprehensive study and evaluation of all
26 aspects of security in the operation of the Commission and of the Lottery. At a
27 minimum, such a security assessment should include a review of network vulnerability,
28 application vulnerability, application code review, wireless security, security policy and
29 processes, security/privacy program management, technology infrastructure and
30 security controls, security organization and governance, and operational effectiveness.

31 ...
32 (d) Biennially at the end of the fiscal year, the ~~Director-Commission~~ shall engage
33 an independent auditing firm that has experience in evaluating the operation of lotteries
34 to perform an audit of the Lottery. The results of this audit shall be presented to the
35 Commission, to the Governor, and to the General Assembly."

36 **SECTION 31.1.(j)** If House Bill 1023, 2005 Regular Session, becomes law,
37 then G.S. 18C-130(e), as enacted by that act, reads as rewritten:

38 "~~(e) The only advertising of the Lottery that shall be permitted is point of sale~~
39 ~~advertising and advertising on the premises of lottery retailers.~~ Lottery advertising shall
40 be designed and presented in a manner to minimize the appeal of lottery games to
41 minors. The use of cartoon characters or of false, misleading, or deceptive information
42 in lottery advertising is prohibited. All advertising promoting the sale of lottery tickets
43 or shares for a particular game shall include the actual or estimated overall odds of
44 winning the game."

45 **SECTION 31.1.(k)** If House Bill 1023, 2005 Regular Session, becomes law,
46 then G.S. 18C-132, as enacted by that act, is amended by adding the following new
47 subsection to read:

48 "(l) All prizes are subject to the State income tax."

49 **SECTION 31.1.(l)** If House Bill 1023, 2005 Regular Session, becomes law,
50 then G.S. 18C-140, as enacted by that act, reads as rewritten:

51 "**§ 18C-140. Contracting with lottery game retailers.**

52 The Commission may contract with lottery game retailers to sell tickets or shares for
53 lottery games upon such terms and conditions as it considers appropriate. The contract
54 entered into between the Commission and the lottery game retailer shall be considered a
permit for purposes of Chapter 18B of the General Statutes. No contract to act as a
lottery game retailer is assignable or transferable. All contracts with lottery game

1 retailers shall provide that the Director may terminate the contract if the lottery game
2 retailer knowingly violates a provision of this Chapter."

3 **SECTION 31.1.(m)** If House Bill 1023, 2005 Regular Session, becomes
4 law, then G.S. 18C-141(b), as enacted by that act, reads as rewritten:

5 "(b) The Director may not recommend contracting with any of the following:

6 (1) A natural person under 21 years of age. This minimum age shall not
7 prohibit employees of a lottery game retailer who are under 21 years of
8 age from selling lottery tickets or shares during their employment.

9 (2) A person who would be engaged exclusively in the business of selling
10 lottery tickets or shares or operating electronic computer terminals or
11 other devices solely for entertainment.

12 (3) A person who is not current in filing all applicable tax returns to the
13 State and in payment of all taxes, interest, and penalties owed to the
14 State, excluding items under formal appeal under applicable statutes.
15 Upon request of the Director, the Department of Revenue shall provide
16 this information about a specific person to the Commission.

17 (4) A person who resides in the same household as a member of the
18 Commission, the Director, or any other employee of the Commission."

19 **SECTION 31.1.(n)** If House Bill 1023, 2005 Regular Session, becomes law,
20 then G.S. 18C-142, as enacted by that act, reads as rewritten:

21 "**§ 18C-142. Compensation for lottery game retailers.**

22 The amount of compensation paid to lottery game retailers for their sales of lottery
23 tickets or shares shall be ~~six percent (6%)~~ seven percent (7%) of the retail price of the
24 tickets or shares sold for each lottery game. The Commission shall ~~authorize an~~
25 ~~incentive bonus of up to one percent (1%) of the retail price of the tickets or shares sold~~
26 ~~based on~~ require submission of reports and remission of lottery revenues to the
27 Commission on a timely basis."

28 **SECTION 31.1.(o)** If House Bill 1023, 2005 Regular Session, becomes law,
29 then G.S. 18C-143, as enacted by that act, reads as rewritten:

30 "**§ 18C-143. Responsibilities of lottery game retailers.**

31 (a) A lottery game retailer shall comply with all provisions of this Article and the
32 contract with the Commission.

33 (b) A lottery game retailer shall sell no lottery tickets or shares unless the retailer
34 conspicuously displays a certificate of authority, signed by the Director, to sell lottery
35 tickets or shares. The Commission shall issue a certificate of authority to each lottery
36 game retailer for purposes of display for each retail outlet owned or operated by the
37 lottery game retailer. No certificate is assignable or transferable.

38 (c) A lottery game retailer shall furnish an appropriate bond or letter of credit, if
39 so requested by the Director. The Commission may authorize the Director to purchase
40 blanket bonds covering the activities of any or all lottery game retailers.

41 (d) The Commission shall adopt rules to establish procedures governing how the
42 lottery game retailers:

43 (1) Account for all tickets or shares in their custody, including tickets and
44 shares sold.

45 (2) Account for the money collected from the sale of tickets and shares.

46 (3) Remit funds to the Commission, provided that all payments shall be in
47 the form of electronic fund transfers or other recorded financial
48 instruments as authorized by the Commission and approved by the
49 Director.

50 (e) No lottery retailer or applicant to be a lottery retailer shall pay, give, or make
51 any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality, or
52 service, excluding food and beverages having an aggregate value not exceeding one
53 hundred dollars (\$100.00) in any calendar year, to the Director, to any member or
54 employee of the Commission, or to any member of the immediate family residing in the
55 same household as one of these individuals."

1 **SECTION 31.1.(p)** If House Bill 1023, 2005 Regular Session, becomes law,
2 then G.S. 18C-151, as enacted by that act, reads as rewritten:

3 **"§ 18C-151. Contracts.**

4 (a) Except as otherwise provided in this subsection for contracts for the purchase
5 of services, apparatus, supplies, materials, or equipment requiring an estimated
6 expenditure of public money in an amount equal to or more than seventy-five thousand
7 dollars (\$75,000), Article 8 of Chapter 143 of the General Statutes shall apply to all
8 contracts entered into by the Commission, including the provisions relating to minority
9 participation goals, and the Commission shall be considered a political subdivision of
10 the State for those purposes of contracting under Article 8 of Chapter 143 of the General
11 Statutes. Commission. Contracts for the provision of services to the Commission shall be
12 treated as a contract for the purchase of apparatus, supplies, materials, or equipment.
13 The bonding requirements of G.S. 143-129(b) for construction contracts shall apply to
14 all contracts of the Commission and may be waived at the discretion of the
15 Commission. In recognition of the particularly sensitive nature of the Lottery and the
16 competence, quality of product, experience, and timeliness, fairness, and integrity in the
17 operation and administration of the Lottery and maximization of the objective of raising
18 revenues, a contract for the purchase of services, apparatus, supplies, materials, or
19 equipment requiring an estimated expenditure of public money in an amount equal to or
20 more than seventy-five thousand dollars (\$75,000) may be awarded by the Commission
21 only after the following have occurred:

- 22 (1) The Commission has invited proposals to be submitted by
23 advertisement by electronic means or advertisement in a newspaper
24 having general circulation in the State of North Carolina and
25 containing the following information:
26 a. The time and place where a complete description of the
27 services, apparatus, supplies, materials, or equipment may be
28 had.
29 b. The time and place for opening of the proposals.
30 c. A statement reserving to the Commission the right to reject any
31 or all proposals.
32 (2) Proposals may be rejected for any reason determined by the
33 Commission to be in the best interest of the Lottery.
34 (3) All proposals shall be accompanied by a bond or letter of credit in an
35 amount equal to not less than five percent (5%) of the proposal and the
36 fee to cover the cost of the criminal record check conducted under
37 G.S. 114-19.6.
38 (4) The Commission has complied with G.S. 143-128.2 and
39 G.S. 143-128.3.
40 (5) The Commission may not award a contract to a lottery vendor who has
41 been convicted of a felony or any gambling offense in any state or
42 federal court of the United States within 10 years of entering into the
43 contract, or employs officers and directors who have been convicted of
44 a felony or any gambling offense in any state or federal court of the
45 United States within 10 years of entering into the contract.
46 (6) The Commission shall investigate and compare the overall business
47 practices, ethical reputation, criminal record, civil litigation,
48 competence, integrity, background, and regulatory compliance record
49 of lottery vendors.
50 (7) The Commission may engage an independent firm experienced in
51 evaluating government procurement proposals to aid in evaluating
52 proposals for a major procurement.
53 (8) The Commission shall award the contract to the responsible lottery
54 vendor who submits the best proposal that maximizes the benefits to
55 the State.

1 (b) Upon the completion of the bidding process, a contract may be awarded to a
2 lottery contractor with whom the Commission has previously contracted for the same
3 purposes.

4 (c) Before a contract ~~required to be let under G.S. 143-129~~ is awarded, the
5 Director shall conduct ~~an a thorough background~~ investigation of all of the following:

6 (1) The vendor to whom the contract is to be awarded.

7 (2) Any parent or subsidiary corporation of the vendor to whom the
8 contract is to be awarded.

9 (3) All shareholders with a five percent (5%) or more interest in the
10 vendor or parent or subsidiary corporation of the vendor to whom the
11 contract is to be awarded.

12 (4) All officers and directors of the vendor or parent or subsidiary
13 corporation of the vendor to whom the contract is to be awarded.

14 (d) The Commission may terminate the contract, without penalty, of a lottery
15 contractor that fails to comply with the Commission's instruction to implement the
16 recommendations of the State Auditor or an independent auditor in an audit conducted
17 of Lottery security or operations.

18 (e) After entering into a contract with a lottery contractor, the Commission shall
19 require the lottery contractor to periodically update the information required to be
20 disclosed under G.S. 18C-149. Any contract with a lottery contractor who does not
21 periodically update the required disclosures may be terminated by the Commission.

22 (f) No lottery system vendor nor any applicant for a major procurement contract
23 may pay, give, or make any economic opportunity, gift, loan, gratuity, special discount,
24 favor, hospitality, or service, excluding food and beverages having an aggregate value
25 not exceeding one hundred dollars (\$100.00) in any calendar year, to the Director, any
26 member or employee of the corporation, or a member of the immediate family residing
27 in the same household as any of these individuals."

28 **SECTION 31.1.(q)** If House Bill 1023, 2005 Regular Session, becomes law,
29 then G.S. 18C-152, as enacted by that act, reads as rewritten:

30 "**§ 18C-152. Investigation of lottery vendors.**

31 (a) Lottery vendors shall cooperate with the Director in completing any
32 investigation required under G.S. 18C-151(c), including any appropriate investigation
33 authorizations needed to facilitate these investigations.

34 (b) The Commission shall adopt rules that provide for disclosures of information
35 required to be disclosed under subsection (c) of this section by lottery vendors to ensure
36 that the vendors provide all the information necessary to allow for a full and complete
37 evaluation by the Director and Commission of the competence, integrity, background,
38 and character of the lottery vendors. Information shall be disclosed for the following:

39 (1) If the vendor is a corporation, the officers, directors, and each
40 stockholder in that corporation; however, in the case of owners of
41 equity securities of a publicly traded corporation, only the names and
42 addresses of those known to the corporation to own beneficially five
43 percent (5%) or more of the securities need be disclosed.

44 (2) If the vendor is a trust, the trustee and all persons entitled to receive
45 income or benefits from the trust.

46 (3) If the vendor is an association, the members, officers, and directors.

47 (4) If the vendor is a partnership or joint venture, all of the general
48 partners, limited partners, or joint venturers.

49 (5) For any vendor, any person who can exercise control or authority, or
50 both, on behalf of the vendor.

51 (c) For purposes of this subsection, the term "vendor" shall include the vendor
52 and each of the persons applicable under subsection (b) of this section. At a minimum,
53 the vendor required to disclose information for a thorough background investigation
54 under G.S. 18C-151 shall disclose all of the following:

55 (1) A disclosure of the vendor's name, phone number, and address.

- 1 (2) A disclosure of all the states and jurisdictions in which the vendor does
 2 business and the nature of the business for each state or jurisdiction.
 3 (3) A disclosure of all the states and jurisdictions in which the vendor has
 4 contracts to supply gaming goods or services, including lottery goods
 5 and services, and the nature of the goods or services involved for each
 6 state or jurisdiction.
 7 (4) A disclosure of all the states and jurisdictions in which the vendor has
 8 applied for, has sought renewal of, has received, has been denied, has
 9 pending, or has had revoked a lottery or gaming license or permit of
 10 any kind or had fines or penalties assessed on a license, permit,
 11 contract, or operation and the disposition of such in each such state or
 12 jurisdiction. If any lottery or gaming license, permit, or contract has
 13 been revoked or has not been renewed or any lottery or gaming
 14 license, permit, or application has been either denied or is pending and
 15 has remained pending for more than six months, all of the facts and
 16 circumstances underlying the failure to receive that license shall be
 17 disclosed.
 18 (5) A disclosure of the details of any finding or plea, conviction, or
 19 adjudication of guilt in a state or federal court of the vendor for any
 20 felony or any other criminal offense other than a minor traffic
 21 violation.
 22 (6) A disclosure of the details of any bankruptcy, insolvency,
 23 reorganization, or corporate or individual purchase or takeover of
 24 another corporation, including bonded indebtedness, or any pending
 25 litigation of the vendor.
 26 (7) If at least twenty-five percent (25%) of the cost of a vendor's contract
 27 is subcontracted, the vendor shall disclose all of the information
 28 required by this section for the subcontractor as if the subcontractor
 29 were itself a vendor.
 30 (8) Any additional disclosures and information the Commission
 31 determines to be appropriate for the contract involved.

32 ~~(e)~~(d) All documents compiled by the Director in conducting the investigation of
 33 the lottery vendors shall be held as confidential information under Chapter 132."

34 **SECTION 31.1.(r)** If House Bill 1023, 2005 Regular Session, becomes law,
 35 then G.S. 18C-162, as enacted by that act, reads as rewritten:

36 "**§ 18C-162. Allocation of revenues.**

37 (a) To the extent practicable, the Commission shall allocate revenues to the
 38 North Carolina State Lottery Fund in the following manner:

- 39 (1) At least fifty percent (50%) of the total annual revenues, as described
 40 in this Chapter, shall be returned to the public in the form of prizes.
 41 (2) At least ~~thirty-four percent (34%)~~ thirty-five percent (35%) of the total
 42 annual revenues, as described in this Chapter, shall be transferred as
 43 provided in G.S. 18C-164.
 44 (3) No more than ~~sixteen percent (16%)~~ eight percent (8%) of the total
 45 annual revenues, as described in this Chapter, shall be allocated for
 46 payment of expenses of the Lottery.
 47 (4) No more than seven percent (7%) of the total annual revenues, as
 48 described in this Chapter, shall be allocated for compensation paid to
 49 lottery game retailers.

50 (b) Unclaimed prize money held by the Commission in the North Carolina State
 51 Lottery Fund may be used by the Commission to enhance prizes in other lottery games.

52 (c) To the extent that the expenses of the Commission are less than ~~sixteen~~
 53 ~~percent (16%)~~ eight percent (8%) of total annual revenues, the Commission may
 54 allocate any surplus funds:

- 55 (1) To increase prize payments; or

1 (2) To the benefit of the public purposes as described in this Chapter."
2 **SECTION 31.1.(s)** If House Bill 1023, 2005 Regular Session, becomes law,
3 then G.S. 18C-163(3), as enacted by that act, is repealed.

4 **SECTION 31.1.(t)** If House Bill 1023, 2005 Regular Session, becomes law,
5 then G.S. 18C-164(b), as enacted by that act, reads as rewritten:

6 "(b) ~~On June 30 of each year, the~~The Commission shall distribute the net revenue
7 of the North Carolina State Lottery Fund as follows:

8 (1) ~~Fifty percent (50%)~~During the 2005-2006 fiscal year, seventy million
9 dollars (\$70,000,000) shall be transferred to the Public School
10 Building Capital and Technology Fund created in Article 38A of
11 Chapter 115C of the General Statutes and is appropriated for
12 expenditure in accordance with that Article. The amounts transferred
13 under this subdivision shall be transferred in four equal installments,
14 one during each fiscal quarter.~~It is the purpose of this subdivision for~~
15 ~~counties to appropriate funds generated under this subdivision to~~
16 ~~increase the level of county spending for public school capital outlay~~
17 ~~purposes other than the retirement of indebtedness. A county must~~
18 ~~continue to spend for public school capital outlay purposes the same~~
19 ~~amount of money it would have spent for those purposes if it had not~~
20 ~~received the monies appropriated under this subdivision.~~

21 (2) ~~Twenty five percent (25%)~~ shall be transferred to the State
22 Educational Assistance Authority and is appropriated to fund
23 scholarships pursuant to Article 35A of Chapter 115C of the General
24 Statutes. Beginning with the 2006-2007 fiscal year and annually
25 thereafter, one hundred fifty million dollars (\$150,000,000) shall be
26 transferred to a special revenue fund to be established by the State
27 Treasurer and to be known as the County Assistance Fund. The
28 amounts transferred under this subdivision shall be transferred in four
29 equal installments, one during each fiscal quarter. Monies in this Fund
30 shall be used to pay for school construction projects in local school
31 administrative units and to retire indebtedness incurred for school
32 construction projects incurred on or after January 1, 2003. Monies in
33 this Fund shall be distributed based on average daily membership, the
34 county's ability to pay, the county's tax rate, growth in average daily
35 membership, the county's debt capacity, and an appropriate
36 requirement for matching funds from the county.

37 (3) ~~Twenty five percent (25%)~~Beginning with the 2005-2006 fiscal year,
38 and annually thereafter, after the revenue is distributed as provided in
39 subdivisions (1) and (2) of this subsection, the remainder shall be
40 transferred to a special revenue fund to be established in the State
41 treasury and to be known as the Education Enhancement Fund. This
42 fund shall be subject to appropriation by the General Assembly and
43 shall be used to further the goal of providing enhanced educational
44 opportunities so that all students in the public schools can achieve their
45 full potential. Initially, the Fund shall be used for the following
46 primary purposes:

47 a. To support reduction of class size in early grades to class size
48 allotments not exceeding 1:18 in order to eliminate achievement
49 gaps.

50 b. To support academic prekindergarten programs for at-risk
51 four-year-olds who would otherwise not be served in a
52 high-quality education program in order to help those
53 four-year-olds be prepared developmentally to succeed in
54 school.

1 c. To support other educational priorities identified by the General
2 Assembly."

3 **SECTION 31.1.(u)** If House Bill 1023, 2005 Regular Session, becomes law,
4 then G.S. 18C-171, as enacted by that act, reads as rewritten:

5 "**§ 18C-171. Lawful activity.**

6 Other than this Chapter, any other State or local law, ordinance, or regulation
7 providing any penalty, ~~disability~~, restriction, regulation, or prohibition for the
8 manufacture, transportation, storage, distribution, advertising, possession, or sale of any
9 lottery tickets or shares or for the operation of any lottery game shall not apply to the
10 operation of the Commission or lottery games established by this ~~Chapter~~. Chapter
11 where the penalty, restriction, regulation, or prohibition applies only to the Lottery as
12 operated by the North Carolina State Lottery Commission."

13 **SECTION 31.1.(v)** If House Bill 1023, 2005 Regular Session, becomes law,
14 then Sections 2 and 4 of that act are repealed.

15 **SECTION 31.1.(w)** If House Bill 1023, 2005 Regular Session, becomes law,
16 then G.S. 114-19.6, as enacted by that act, reads as rewritten:

17 "**§ 114-19.16. Criminal record checks for the North Carolina State Lottery**
18 **Commission and its Director.**

19 The Department of Justice may provide to the North Carolina State Lottery
20 Commission and to its Director from the State and National Repositories of Criminal
21 Histories the criminal history of any prospective employee of the Commission and any
22 ~~prospective lottery retailer or lottery contractor~~ lottery vendor. The North Carolina State
23 Lottery Commission or its Director shall provide to the Department of Justice, along
24 with the request, the fingerprints of the prospective employee of the Commission, or of
25 the ~~prospective lottery retailer or lottery contractor~~ lottery vendor, a form signed by the
26 prospective employee of the Commission, or of the ~~prospective lottery retailer or lottery~~
27 ~~contractor~~ lottery vendor consenting to the criminal record check and use of fingerprints
28 and other identifying information required by the State and National Repositories, and
29 any additional information required by the Department of Justice. The fingerprints of
30 the prospective employee of the Commission, or ~~prospective lottery retailer or lottery~~
31 ~~contractor~~ lottery vendor, shall be forwarded to the State Bureau of Investigation for a
32 search of the State's criminal history record file, and the State Bureau of Investigation
33 shall forward a set of fingerprints to the Federal Bureau of Investigation for a national
34 criminal history record check. The North Carolina State Lottery Commission and its
35 Director shall remit any fingerprint information retained by the Commission to alcohol
36 law-enforcement agents appointed under Article 5 of Chapter 18B of the General
37 Statutes and shall keep all information obtained pursuant to this section confidential.
38 The Department of Justice shall charge a reasonable fee only for conducting the checks
39 of the national criminal history records authorized by this section."

40 **SECTION 31.1.(x)** G.S. 18B-101 is amended by adding a new subdivision
41 to read:

42 "(8a) 'Lottery law' or 'Lottery laws' means any provision of Chapter 18C of
43 the General Statutes and the rules issued by the Lottery Commission
44 under the authority of Chapter 18C of the General Statutes."

45 **SECTION 31.1.(y)** If House Bill 1023, 2005 Regular Session, becomes law,
46 then G.S. 18B-500(b) reads as rewritten:

47 "(b) Subject Matter Jurisdiction. – After taking the oath prescribed for a peace
48 officer, an alcohol law-enforcement agent shall have authority to arrest and take other
49 investigatory and enforcement actions for any criminal offense. The primary
50 responsibility of an agent shall be enforcement of the ABC ~~laws~~ laws, lottery laws, and
51 Article 5 of Chapter 90 (The Controlled Substances Act); however, an agent may
52 perform any law-enforcement duty assigned by the Secretary of Crime Control and
53 Public Safety or the Governor."

54 **SECTION 31.1.(z)** If House Bill 1023, 2005 Regular Session, becomes law,
55 then G.S. 18B-500(d) reads as rewritten:

1 "(d) Service of Commission Orders. – Alcohol law-enforcement agents may serve
2 and execute notices, orders, or demands issued by the Alcoholic Beverage Control
3 Commission or the North Carolina State Lottery Commission for the surrender of
4 permits or relating to any administrative proceeding. While serving and executing such
5 notices, orders, or demands, alcohol law-enforcement agents shall have all the power
6 and authority possessed by law-enforcement officers when executing an arrest warrant."

7 **SECTION 31.1.(aa)** If House Bill 1023, 2005 Regular Session, becomes
8 law, then, effective for taxable years beginning on or after January 1, 2005,
9 G.S. 105-134.5(b) reads as rewritten:

10 "(b) Nonresidents. – For nonresident individuals, the term "North Carolina taxable
11 income" means the taxpayer's taxable income as determined under the Code, adjusted as
12 provided in G.S. 105-134.6 and G.S. 105-134.7, multiplied by a fraction the
13 denominator of which is the taxpayer's gross income as determined under the Code,
14 adjusted as provided in G.S. 105-134.6 and G.S. 105-134.7, and the numerator of which
15 is the amount of that gross income, as adjusted, that is derived from North Carolina
16 sources and is attributable to the ownership of any interest in real or tangible personal
17 property in this ~~State or State~~, is derived from a business, trade, profession, or
18 occupation carried on in this ~~State~~.State, or is derived from gambling activities in this
19 State."

20 **SECTION 31.1.(bb)** If House Bill 1023, 2005 Regular Session, becomes
21 law, then, effective for taxable years beginning on or after January 1, 2005, Article 4A
22 of Chapter 105 of the General Statutes is amended by adding a new section to read:

23 "**§ 105-163.2B. North Carolina State Lottery Commission must withhold taxes.**

24 The North Carolina State Lottery Commission, established by Chapter 18C of the
25 General Statutes, must deduct and withhold State income taxes from the payment of
26 winnings that are reportable to the Internal Revenue Service under section 3406 of the
27 Code. The amount of taxes to be withheld is seven percent (7%) of the winnings less the
28 amount wagered. The Commission must file a return and pay the withheld taxes in the
29 time and manner required under G.S. 105-163.6 as if the winnings were wages. The
30 taxes the Commission withholds are held in trust for the Secretary."

31 **SECTION 31.1.(cc)** If House Bill 1023, 2005 Regular Session, becomes
32 law, then G.S. 105-259(b) is amended by adding a new subdivision to read:

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

37 ...
38 (32) To provide to the North Carolina State Lottery Commission the
39 information required under G.S. 18C-141."

40
41 Requested by: Senators Albertson, Garrou, Dalton, Hagan

42 **PROHIBIT THE POSSESSION OR OPERATION OF VIDEO GAMING**
43 **MACHINES EXCEPT BY A FEDERALLY RECOGNIZED INDIAN TRIBE**
44 **AS AUTHORIZED BY THE INDIAN GAMING REGULATORY ACT AND A**
45 **VALID TRIBAL-STATE COMPACT**

46 **SECTION 31.2.(a)** G.S. 14-306.1 is repealed.

47 **SECTION 31.2.(b)** Part 1 of Article 37 of Chapter 14 of the General
48 Statutes is amended by adding a new section to read:

49 "**§ 14-306.1A. Types of machines and devices prohibited by law; penalties.**

50 (a) Ban on Machines. – It shall be unlawful for any person to operate, allow to be
51 operated, place into operation, or keep in that person's possession for the purpose of
52 operation any video gaming machine as defined in subsection (b) of this section, except
53 for the exemption for a federally recognized Indian tribe under subsection (e) of this
54 section for whom it shall be lawful to operate and possess machines as listed in
55 subsection (b) of this section if conducted in accordance with an approved Class III

1 Tribal-State Compact applicable to that tribe, as provided in G.S. 147-12(14) and
 2 G.S. 71A-8.

3 (b) Definitions. – As used in this section, a video gaming machine means a slot
 4 machine, as defined in G.S. 14-306(a), and other forms of electrical, mechanical, or
 5 computer games such as, by way of illustration:

6 (1) A video poker game or any other kind of video playing card game.

7 (2) A video bingo game.

8 (3) A video craps game.

9 (4) A video keno game.

10 (5) A video lotto game.

11 (6) Eight liner.

12 (7) Pot-of-gold.

13 (8) A video game based on or involving the random or chance matching of
 14 different pictures, words, numbers, or symbols not dependent on the
 15 skill or dexterity of the player.

16 For the purpose of this section, a video gaming machine is a video machine which
 17 requires deposit of any coin or token, or use of any credit card, debit card, or any other
 18 method that requires payment to activate play of any of the games listed in this
 19 subsection. The enumeration of games in the list in this subsection does not authorize
 20 the possession or operation of such game if it is otherwise prohibited by law.

21 For the purpose of this section, a video gaming machine includes those that are
 22 within the scope of the exclusion provided in G.S. 14-306(b)(2) unless conducted in
 23 accordance with an approved Class III Tribal-State Compact applicable to that tribe as
 24 provided in G.S. 147-12(14) and G.S. 71A-8. For the purpose of this section, a video
 25 gaming machine does not include those that are within the scope of the exclusion
 26 provided in G.S. 14-306(b)(1).

27 (c) Exemption for Certain Machines. – This section shall not apply to
 28 assemblers, repairers, manufacturers, sellers, lessors, or transporters of video gaming
 29 machines who assemble, repair, manufacture, sell, lease, or transport them for use
 30 out-of-state as long as the machines, while located in this State, cannot be used to play
 31 the prohibited games and does not apply to those who assemble, repair, manufacture,
 32 sell, or lease such machines for use only by a federally recognized Indian tribe if such
 33 machines may be lawfully used on Indian land under the Indian Gaming Regulatory
 34 Act.

35 (d) Ban on Warehousing. – It is unlawful to warehouse any video gaming
 36 machine except in conjunction with the activities permitted under subsection (c) of this
 37 section.

38 (e) Exemption for Activities Under IGRA. – Notwithstanding any other
 39 prohibitions in State law, the form of Class III gaming otherwise prohibited by
 40 subsections (a) through (d) of this section may be legally conducted on Indian lands
 41 which are held in trust by the United States government for and on behalf of federally
 42 recognized Indian tribes if conducted in accordance with an approved Class III
 43 Tribal-State Gaming Compact applicable to that tribe as provided in G.S. 147-12(14)
 44 and G.S. 71A-8."

45 **SECTION 31.2.(c)** G.S. 14-306.2 reads as rewritten:

46 "**§ 14-306.2. Violation of G.S. 14-306.1 G.S. 14-306.1A a violation of the ABC laws.**

47 A violation of ~~G.S. 14-306.1~~ G.S. 14-306.1A is a violation of the gambling statutes
 48 for the purposes of G.S. 18B-1005(a)(3)."

49 **SECTION 31.2.(d)** G.S. 147-12(14) reads as rewritten:

50 "(14) ~~To~~ Notwithstanding subsections (a) through (d) of G.S. 14-306.1A, to
 51 negotiate and enter into Class III Tribal-State gaming compacts, and
 52 amendments thereto, on behalf of the ~~State~~ State, consistent with State
 53 law (G.S. 14-306.1A(e) and G.S. 71A-8) and the Indian Gaming
 54 Regulatory Act, Public Law 100-497, as necessary to allow a federally
 55 recognized Indian tribe to operate gaming ~~activities~~ activities.

1 including those games allowed pursuant to G.S. 14-306.1A(e), in this
2 State as permitted under federal law."

3 **SECTION 31.2.(e)** G.S. 71A-8 reads as rewritten:

4 **"§ 71A-8. Authorization for federally recognized Indian tribes.**

5 In recognition of the governmental relationship between the State, federally
6 recognized Indian tribes and the United States, a federally recognized Indian tribe may
7 conduct games consistent with the Indian Gaming Regulatory Act, Public Law 100-497,
8 that are in accordance with a valid Tribal-State compact executed by the Governor
9 pursuant to G.S. 147-12(14) and approved by the U.S. Department of Interior under the
10 Indian Gaming Regulatory Act, and such ~~games~~ games, including those permitted under
11 G.S. 14-306.1A(e), shall not be unlawful or be lawful and not against the public policy
12 of the State if the State permits such gaming for any purpose by any person,
13 organization, or entity, if conducted by a federally recognized Indian tribe on federal
14 Indian Trust Lands within the State in accordance with a Tribal-State Gaming Compact
15 applicable to that tribe as provided in G.S. 147-12(14) and G.S. 71A-8."

16 **SECTION 31.2.(f)** G.S. 14-298 reads as rewritten:

17 **"§ 14-298. Seizure of illegal gaming items.**

18 Upon a determination that probable cause exists to believe that any gaming table
19 prohibited to be used by G.S. 14-289 through G.S. 14-300, any illegal punchboard or
20 illegal slot machine, or any video game machine prohibited to be used by G.S. 14-306
21 or ~~G.S. 14-306.1, G.S. 14-306.1A,~~ is in the illegal possession or use of any person
22 within the limits of their jurisdiction, all sheriffs and law enforcement officers are
23 authorized to seize the items in accordance with applicable State law. Any law
24 enforcement agency in possession of that item shall retain the item pending a
25 disposition order from a district or superior court judge. Upon application by the law
26 enforcement agency, district attorney, or owner, and after notice and opportunity to be
27 heard by all parties, if the court determines that the item is unlawful to possess, it shall
28 enter an order releasing the item to the law enforcement agency for destruction or for
29 training purposes. If the court determines that the item is not unlawful to possess and
30 will not be used in violation of the law, the item shall be ordered released to its owner
31 upon satisfactory proof of ownership. The foregoing procedures for release shall not
32 apply, however, with respect to an item seized for use as evidence in any criminal action
33 or proceeding until after entry of final judgment. This section does not prohibit any
34 activities which are legally conducted by a federally recognized Indian tribe pursuant to
35 G.S. 14-306.1A(e), 147-12(14), and 71A-8."

36 **SECTION 31.2.(g)** Effective with respect to offenses committed on or after
37 December 1, 2005, G.S. 14-309(b) is repealed.

38 **SECTION 31.2.(h)** G.S. 105-256(d)(1) is repealed, but that repeal does not
39 affect reports for activities prior to December 1, 2005.

40 **SECTION 31.2.(i)** G.S. 14-309 reads as rewritten:

41 **"§ 14-309. Violation made criminal.**

42 (a) Any person who violates any provision of G.S. 14-304 through 14-309 is
43 guilty of a Class 1 misdemeanor for the first offense, and is guilty of a Class I felony for
44 a second offense and a Class H felony for a third or subsequent offense.

45 (b) Notwithstanding the provisions of subsection (a) of this section, any person
46 violating the provisions of ~~G.S. 14-306.1~~ G.S. 14-306.1A involving the operation of five
47 or more machines prohibited by that section is guilty of a Class G felony."

48 **SECTION 31.2.(j)** This section becomes effective December 1, 2005, and
49 applies to offenses committed on or after that date but also applies to compacts and
50 amendments thereto executed before that date. If a court of competent jurisdiction in
51 this State issues a stay to prohibit possession or operation of video gaming machines by
52 a federally recognized Indian tribe, as authorized by a valid Tribal-State Compact,
53 because that activity is not allowed on non-Indian lands pursuant to this section, this
54 section is suspended and shall not have the force of law until such time as the stay is
55 dissolved or a final order is entered. If a court of competent jurisdiction in this State

1 issues a final order that prohibits the possession or operation of video gaming machines
 2 by a federally recognized Indian tribe, as authorized by a valid Tribal-State Compact,
 3 because that activity is not allowed on non-Indian lands, this section is void.

4 PART XXXII. STREAMLINED SALES TAX CHANGES

5
 6
 7 Requested by: Senators Hoyle, Kerr

8 STREAMLINED SALES TAX CHANGES

9 SECTION 32.1.(a) Subdivisions (4a) and (4b) of G.S. 105-164.3 are
 10 recodified as subdivisions (4b) and (4c) respectively.

11 SECTION 32.1.(b) G.S. 105-164.3 reads as rewritten:

12 "§ 105-164.3. Definitions.

13 The following definitions apply in this Article:

14
 15 (4a) Combined general rate. – The State's general rate of tax set in
 16 G.S. 105-164.4(a) plus the sum of the rates of the local sales and use
 17 taxes authorized by Subchapter VIII of this Chapter for every county
 18 in this State.

19
 20 (4d) Computer supply. – An item that is considered a 'school computer
 21 supply' under the Streamlined Agreement.

22
 23 (10) Food. – Substances that are sold for ingestion or chewing by humans
 24 and are consumed for their taste or nutritional value. The substances
 25 may be in liquid, concentrated, solid, frozen, dried, or dehydrated
 26 form. The term does not include an alcoholic beverage, as defined in
 27 G.S. 105-113.68, or a tobacco products, product, as defined in
 28 G.S. 105-113.4.

29
 30 (37b) School supply. – An item that is commonly used by a student in the
 31 course of study and is considered a 'school supply', a 'school art
 32 supply', or 'school instructional material' under the Streamlined
 33 Agreement.

34
 35 (45a) Streamlined Agreement. – The Streamlined Sales and Use Tax
 36 Agreement adopted November 12, 2002, as amended on November 19,
 37 2003, November 16, 2004, and April 16, 2005."

38 SECTION 32.1.(c) G.S. 105-164.4(a), as amended by Section 33.1(a) of this
 39 act, reads as rewritten:

40 "(a) A privilege tax is imposed on a retailer at the following percentage rates of
 41 the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is
 42 four and one-half percent (4 1/2%).

43
 44 (1b) The rate of three percent (3%) applies to the sales price of each
 45 aircraft, boat, railway car, or locomotive aircraft or boat sold at retail,
 46 including all accessories attached to the item when it is delivered to the
 47 purchaser. The maximum tax is one thousand five hundred dollars
 48 (\$1,500) per article.

49 (1c) The rate of one percent (1%) applies to the sales price of the following
 50 articles:

51 a. Horses or mules by whomsoever sold.

52 b. Semen to be used in the artificial insemination of animals.

53 c. Sales of fuel, other than electricity, to farmers to be used by
 54 them for any farm purposes other than preparing food, heating
 55 dwellings, and other household purposes. The quantity of fuel

1 purchased or used at any one time shall not in any manner be a
 2 determinative factor as to whether any sale or use of fuel is or is
 3 not subject to the one percent (1%) rate of tax imposed by this
 4 subdivision.

5 d. ~~Sales of fuel, other than electricity, to manufacturing industries
 6 and manufacturing plants for use in connection with the
 7 operation of such industries and plants other than sales of fuels
 8 to be used for residential heating purposes. The quantity of fuel
 9 purchased or used at any one time shall not in any manner be a
 10 determinative factor as to whether any sale or use of fuel is or is
 11 not subject to the rate of tax provided in this subdivision.~~

12 e. ~~Sales of fuel, other than electricity, to commercial laundries or
 13 to pressing and dry cleaning establishments for use in
 14 machinery used in the direct performance of the laundering or
 15 the pressing and cleaning service.~~

16 f. ~~Sales to freezer locker plants of wrapping paper, cartons and
 17 supplies consumed directly in the operation of such plant.~~

18 (1d) ~~The rate of one percent (1%) applies to the sales price of the articles
 19 listed in G.S. 105-164.4A. The maximum tax is eighty dollars (\$80.00)
 20 per article. As used in G.S. 105-164.4A and G.S. 105-187.51, the term
 21 "accessories" does not include electricity.~~

22 a. ~~through k. Recodified as § 105-164.4A by Session Laws
 23 1999-360, s. 3(a), effective August 4, 1999.~~

24 (1e) ~~The rate of three percent (3%) applies to the sales price of each mobile
 25 classroom or mobile office sold at retail, including all accessories
 26 attached to the mobile classroom or mobile office when it is delivered
 27 to the purchaser. The maximum tax is one thousand five hundred
 28 dollars (\$1,500) per article. Each section of a mobile classroom or
 29 mobile office that is transported separately to the site where it is to be
 30 placed is a separate article.~~

31 ...
 32 (4c) ~~The rate of six percent (6%) combined general rate applies to the gross
 33 receipts derived from providing telecommunications service. A person
 34 who provides telecommunications service is considered a retailer
 35 under this Article. Telecommunications service is taxed in accordance
 36 with G.S. 105-164.4C.~~

37 ...
 38 (6) ~~The rate of five percent (5%) combined general rate applies to the gross
 39 receipts derived from providing direct to home satellite service to
 40 subscribers in this State. A person engaged in the business of
 41 providing direct-to-home satellite service is considered a retailer under
 42 this Article.~~

43 (7) ~~The rate of six percent (6%) combined general rate applies to the sales
 44 price of spirituous liquor other than mixed beverages. As used in this
 45 subdivision, the terms 'spirituous liquor' and 'mixed beverage' have the
 46 meanings provided in G.S. 18B-101."~~

47 **SECTION 32.1(d)** G.S. 105-164.4A is repealed.

48 **SECTION 32.1(e)** G.S. 105-164.13 reads as rewritten:

49 **"§ 105-164.13. Retail sales and use tax.**

50 The sale at retail and the use, storage, or consumption in this State of the following
 51 tangible personal property and services are specifically exempted from the tax imposed
 52 by this Article:

53 ...
 54 (1) ~~Commercial fertilizer, lime, land plaster, plastic mulch, plant bed
 55 covers, and seeds~~ Any of the following items sold to a farmer for

1 ~~agricultural purposes use by the farmer in the planting, cultivating,~~
2 ~~harvesting, or curing of farm crops or in the production of dairy~~
3 ~~products, eggs, or animals. A 'farmer' includes a dairy operator, a~~
4 ~~poultry farmer, an egg producer, a livestock farmer, a farmer of crops,~~
5 ~~and a farmer of an aquatic species, as defined in G.S. 106-758.~~

6 a. Commercial fertilizer, lime, land plaster, plastic mulch, plant
7 bed covers, and seeds.

8 b. Farm machinery, attachment and repair parts for farm
9 machinery, and lubricants applied to farm machinery. The term
10 'machinery' includes implements that have moving parts or are
11 operated or drawn by an animal. The term does not include
12 implements operated wholly by hand or motor vehicles required
13 to be registered under Chapter 20 of the General Statutes.

14 c. A horse or mule.

15 d. Fuel other than electricity.

16 (1a) A container sold to a farmer, as defined in subdivision (1) of this
17 section, used for a purpose set out in that subdivision or in packaging
18 and transporting the farmer's product for sale.

19 ...
20 (2a) Any of the following substances when purchased for use on animals or
21 plants, as appropriate, held or produced for commercial purposes. This
22 exemption does not apply to any equipment or devices used to
23 administer, release, apply, or otherwise dispense these substances:

24 a. Remedies, vaccines, medications, litter materials, and feeds for
25 animals.

26 b. Rodenticides, insecticides, herbicides, fungicides, and
27 pesticides.

28 c. Defoliants for use on cotton or other crops.

29 d. Plant growth inhibitors, regulators, or stimulators, including
30 systemic and contact or other sucker control agents for tobacco
31 and other crops.

32 e. Semen.

33 ...
34 (4c) Any of the following following items concerning the housing, raising,
35 or feeding of animals:

36 a. Commercially manufactured facilities to be used for
37 commercial purposes for housing, raising, or feeding animals or
38 for housing equipment necessary for these commercial
39 activities.

40 b. Building materials, supplies, fixtures, and equipment that
41 become a part of and are used in the construction, repair, or
42 improvement of an enclosure or a structure specifically
43 designed, constructed, and used for housing, raising, or feeding
44 animals or for housing equipment necessary for one of these
45 commercial activities.

46 c. Commercially manufactured equipment, and parts and
47 accessories for the equipment, used in a facility that is exempt
48 from tax under this subdivision or in an enclosure or a structure
49 whose building materials are exempt from tax under this
50 subdivision.

51 (4d) Any of the following tobacco items:

52 a. The lease or rental of tobacco sheets used in handling tobacco
53 in the warehouse and transporting tobacco to and from the
54 warehouse.

- 1 b. A metal flue sold for use in curing tobacco, whether the flue is
2 attached to a handfired furnace or used in connection with a
3 mechanical burner.
- 4 c. A bulk tobacco barn or rack, parts and accessories attached to
5 the tobacco barn or rack, and any similar apparatus, part, or
6 accessory used to cure or dry tobacco or another crop.
- 7 (4e) A grain, feed, or soybean storage facility, and parts and accessories
8 attached to the facility.
- 9 ...
- 10 (5a) ~~Mill machinery and machinery, mill machinery parts and accessories~~
11 accessories, and manufacturing fuel that are subject to tax under
12 Article 5F of this Chapter.
- 13 (5b) Sales to a telephone company regularly engaged in providing
14 telephone service to subscribers on a commercial basis of central
15 office equipment, switchboard equipment, private branch exchange
16 equipment, and parts and accessories for the equipment
- 17 (5c) Sales to a radio or television company regulated by the Federal
18 Communications Commission of towers, broadcasting equipment, and
19 parts and accessories for the equipment.
- 20 ...
- 21 (10) Sales of the following to commercial laundries or to pressing and dry
22 cleaning establishments of articles establishments:
- 23 a. Articles or materials used for the identification of garments
24 being laundered or dry cleaned, wrapping paper, bags, hangers,
25 starch, soaps, detergents, cleaning fluids and other compounds
26 or chemicals applied directly to the garments in the direct
27 performance of the laundering or the pressing and cleaning
28 service.
- 29 b. Laundry and dry-cleaning machinery, parts and accessories
30 attached to the machinery, and lubricants applied to the
31 machinery.
- 32 c. Fuel, other than electricity, used in the direct performance of
33 the laundering or the pressing and cleaning service.
- 34 (10a) ~~Sales of the following to a major recycling facility of (i)~~
35 ~~lubricants facility:~~
- 36 a. Lubricants and other additives for motor vehicles or machinery
37 and equipment used at the facility and (ii) materials, facility.
- 38 b. Materials, supplies, parts, and accessories, other than machinery
39 and equipment, that are not capitalized by the taxpayer and are
40 used or consumed in the manufacturing and material handling
41 processes at the facility.
- 42 (10b) ~~c. Sales to a major recycling facility of electricity~~
43 Electricity
44 used at the facility.
- 45 d. Equipment that is subject to tax under Article 5F of this
46 Chapter.
- 47 ...
- 48 (18) ~~Funeral expenses, including coffins and caskets, not to exceed one~~
49 ~~thousand five hundred dollars (\$1,500). All other funeral expenses,~~
50 ~~including gross receipts for services rendered, shall be taxable at the~~
51 ~~general rate of tax set in G.S. 105-164.4. However, "services rendered"~~
52 ~~shall not include those services which have been taxed pursuant to~~
53 ~~G.S. 105-164.4(4), or to those services performed by any beautician,~~
54 ~~cosmetologist, hairdresser or barber employed by or at the specific~~
55 ~~direction of the family or personal representative of a deceased; and~~
56 ~~"funeral expenses" and "services rendered" shall not include death~~

certificates procured by or at the specific direction of the family or personal representative of a deceased. Where coffins, caskets or vaults are purchased direct and a separate charge is paid for services, the provisions of this subdivision shall apply to the total for both.

- ...
 (45) Sales of the following items to an interstate passenger air carrier ~~or an interstate air courier~~ for use at its ~~hub~~: ~~aircraft lubricants, aircraft repair parts, and aircraft accessories~~.
 a. Aircraft lubricants, aircraft repair parts, and aircraft accessories.
 b. Aircraft simulators for flight crew training.

- ...
 (45b) Sales of the following items to an interstate air courier for use at its hub:
 a. Aircraft lubricants, aircraft repair parts, and aircraft accessories.
 b. Materials handling equipment, racking systems, and related parts and accessories for the storage or handling and movement of tangible personal property at an airport or in a warehouse or distribution facility.

... "
SECTION 32.1.(f) G.S. 105-164.13C(a) reads as rewritten:

"(a) The taxes imposed by this Article do not apply to the following items of tangible personal property if sold between 12:01A.M. on the first Friday of August and 11:59 P.M. the following Sunday:

- (1) Clothing with a sales price of one hundred dollars (\$100.00) or less per item.
- (2) School supplies with a sales price of one hundred dollars (\$100.00) or less per item.
- (3) Computers with a sales price of three thousand five hundred dollars (\$3,500) or less per item.
- (3a) Computer supplies with a sales price of two hundred fifty dollars (\$250.00) or less per item.
- (4) Sport or recreational equipment with a sales price of fifty dollars (\$50.00) or less per item."

SECTION 32.1.(g) G.S. 105-164.14(a) reads as rewritten:

"(a) Interstate Carriers. – An interstate carrier is allowed a refund, in accordance with this section, of part of the sales and use taxes paid by it on the purchase in this State of railway cars and locomotives, and fuel, lubricants, repair parts, and accessories purchased in this State for a motor vehicle, railroad car, locomotive, or airplane the carrier operates. An 'interstate carrier' is a person who is engaged in transporting persons or property in interstate commerce for compensation. The Secretary shall prescribe the periods of time, whether monthly, quarterly, semiannually, or otherwise, with respect to which refunds may be claimed, and shall prescribe the time within which, following these periods, an application for refund may be made.

An applicant for refund shall furnish the following information and any proof of the information required by the Secretary:

- (1) A list identifying the railway cars, locomotives, fuel, lubricants, repair parts, and accessories purchased by the applicant inside or outside this State during the refund period.
- (2) The purchase price of the items listed in subdivision (1) of this subsection.
- (3) The sales and use taxes paid in this State on the listed items.
- (4) The number of miles the applicant's motor vehicles, railroad cars, locomotives, and airplanes were operated both inside and outside this State during the refund period.
- (5) Any other information required by the Secretary.

1 For each applicant, the Secretary shall compute the amount to be refunded as
 2 follows. First, the Secretary shall determine the ratio of the number of miles the
 3 applicant operated its motor vehicles, railroad cars, locomotives, and airplanes in this
 4 State during the refund period to the number of miles it operated them both inside and
 5 outside this State during the refund period. Second, the Secretary shall determine the
 6 applicant's proportional liability for the refund period by multiplying this mileage ratio
 7 by the purchase price of the items identified in subdivision (1) of this subsection and
 8 then multiplying the resulting product by the tax rate that would have applied to the
 9 items if they had all been purchased in this State. Third, the Secretary shall refund to
 10 each applicant the excess of the amount of sales and use taxes the applicant paid in this
 11 State during the refund period on these items over the applicant's proportional liability
 12 for the refund period."

13 **SECTION 32.1.(h)** G.S. 105-164.28 reads as rewritten:

14 **"§ 105-164.28. Certificate of resale.**

15 (a) Seller's Responsibility. – A seller who accepts a certificate of resale from a
 16 purchaser of tangible personal property has the burden of proving that the sale was not a
 17 retail sale unless all of the following conditions are met:

- 18 (1) For a sale made in person, the certificate is signed by the ~~purchaser,~~
 19 purchaser and states the purchaser's name, address, ~~and~~ registration
 20 number, and ~~describes the type of tangible personal property generally~~
 21 ~~sold by the purchaser in the regular course of business.~~ type of
 22 business.
- 23 (2) For a sale made in person, the ~~purchaser is engaged in the business of~~
 24 ~~selling tangible personal property of the type sold.~~ sold is typically used
 25 in the type of business stated on the certificate.
- 26 (3) For a sale made over the Internet or by other remote means, the sales
 27 tax registration number given by the purchaser matches the number on
 28 the Department's registry.

29 (b) ~~Liabilities.~~ Purchaser's Liability. – A purchaser who does not resell property
 30 purchased under a certificate of resale is liable for any tax subsequently determined to
 31 be due on the sale. ~~A seller of property sold under a certificate of resale is jointly liable~~
 32 ~~with the purchaser of the property for any tax subsequently determined to be due on the~~
 33 ~~sale only if the Secretary proves that the sale was a retail sale."~~

34 **SECTION 32.1.(i)** Part 4 of Article 5 of Chapter 105 of the General Statutes
 35 is amended by adding a new section to read:

36 **"§ 105-164.15A. Effective date of rate changes for services.**

37 The effective date of a rate change for a service taxable under this Article is
 38 administered as follows:

- 39 (1) For a rate increase, the new rate applies to the first billing period that
 40 starts on or after the effective date.
- 41 (2) For a rate decrease, the new rate applies to bills rendered on or after
 42 the effective date."

43 **SECTION 32.1.(j)** Part 7A of Article 5 of Chapter 105 of the General
 44 Statutes is amended by adding a new section to read:

45 **"§ 105-164.42K. Registration and effect of registration.**

46 Registration under the Agreement satisfies the registration requirements under this
 47 Article. A seller who registers under the Agreement within 12 months after the State
 48 becomes a member of the Agreement and who meets the following conditions is not
 49 subject to assessment for sales tax for any period before the effective date of the seller's
 50 registration:

- 51 (1) The seller was not registered with the State during the 12-month period
 52 before the effective date of this State's participation in the Agreement.
- 53 (2) When the seller registered, the seller had not received a letter from the
 54 Department notifying the seller of an audit.

(3) The seller continues to be registered under the Agreement and to remit tax to the State for at least 36 months."

SECTION 32.1.(k) Article 5F of Chapter 105 of the General Statutes is amended by adding new sections to read:

"§ 105-187.51A. Tax imposed on manufacturing fuel.

A privilege tax is imposed on a manufacturing industry or plant that purchases fuel to operate the industry or plant. The tax is one percent (1%) of the sales price of the fuel. The tax does not apply to electricity.

"§ 105-187.51B. Tax imposed on recycling equipment.

(a) Tax. – A privilege tax is imposed on a major recycling facility that purchases any of the following tangible personal property for use in connection with the facility:

(1) Cranes, structural steel crane support systems, and foundations related to the cranes and support systems.

(2) Port and dock facilities.

(3) Rail equipment.

(4) Material handling equipment.

(b) Rate. – The tax is one percent (1%) of the sales price of the tangible personal property. The maximum tax is eighty dollars (\$80.00) per article."

SECTION 32.1.(l) G.S. 105-187.52 reads as rewritten:

"§ 105-187.52. Administration.

The privilege tax this Article imposes on a person listed in G.S. 105-187.51 is an additional tax imposed by this Article in addition to the State use tax. Except as otherwise provided in this Article, the collection and administration of this tax these taxes is the same as the State use tax imposed by Article 5 of this Chapter."

SECTION 32.1.(m) Section 18 of S.L. 2000-120, as amended by Section 44.1 of S.L. 2003-284, reads as rewritten:

"Section 18. Section 7 of this act becomes effective January 1, 2001. Sections 10 and 11 of this act become effective for taxable years beginning on or after January 1, ~~2005-2010~~. The remainder of this act is effective when it becomes law."

SECTION 32.1.(n) G.S. 105-151.21(b) reads as rewritten:

(b) Definitions. – The following definitions apply in this section:

(1) Farm machinery. – Machinery ~~subject to exempt from~~ State sales tax at the rate of one percent (1%) under G.S. ~~105-164.4A, 105-164.13(4e).~~

(2) Property taxes. – The principal amount of taxes levied and assessed by a taxing unit under Subchapter II of this Chapter. The term does not include costs, penalties, interest, or other charges that may be added to the principal amount.

(3) Taxing unit. – Defined in G.S. 105-273."

SECTION 32.1.(o) G.S. 105-164.44F(a) reads as rewritten:

(a) Amount. – The Secretary must distribute to the cities part of the taxes imposed by G.S. 105-164.4(a) (4c) on telecommunications service. The Secretary must make the distribution within 75 days after the end of each calendar quarter. The amount the Secretary must distribute is eighteen and ~~twenty six hundredths percent (18.26%)~~ three one-hundredths percent (18.03%) of the net proceeds of the taxes collected during the quarter, minus two million six hundred twenty thousand nine hundred forty-eight dollars (\$2,620,948). This deduction is one-fourth of the annual amount by which the distribution to cities of the gross receipts franchise tax on telephone companies, imposed by former G.S. 105-120, was required to be reduced beginning in fiscal year 1995-96 as a result of the 'freeze deduction.' The Secretary must distribute the specified percentage of the proceeds, less the 'freeze deduction' among the cities in accordance with this section."

SECTION 32.1.(p) G.S. 105-164.6 reads as rewritten:

"§ 105-164.6. Imposition of Complementary use tax.

(a) Tax. – An excise tax at the following percentage rates is imposed on the storage, use, or consumption in this State of tangible personal property purchased inside

1 ~~or outside the State for storage, use, or consumption in the State; at the applicable rate~~
2 ~~set in G.S. 105-164.4 is imposed on the items listed below. The applicable rate is the~~
3 ~~rate and maximum tax, if any, that would apply to the sale of the item.~~

4 (1) ~~At the applicable percentage rate of the purchase price of each item or~~
5 ~~article of tangible personal property that is stored, used, or consumed~~
6 ~~in this State. The applicable percentage rate is the rate and the~~
7 ~~maximum tax, if any, that applies to a sale of the property that is~~
8 ~~stored, used, or consumed. Tangible personal property purchased inside~~
9 ~~or outside this State for storage, use, or consumption in this State. This~~
10 ~~subdivision includes property that becomes part of a building or~~
11 ~~another structure.~~

12 (2) ~~At the applicable percentage rate of the monthly lease or rental price~~
13 ~~paid, contracted, or agreed to be paid by the lessee or renter to the~~
14 ~~owner of tangible personal property that is stored, used, or consumed~~
15 ~~in this State. The applicable percentage rate is the rate and the~~
16 ~~maximum tax, if any, that applies to a lease or rental of the property~~
17 ~~that is stored, used, or consumed. Tangible personal property leased or~~
18 ~~rented inside or outside this State for storage, use, or consumption in~~
19 ~~this State.~~

20 (3) ~~Services sourced to this State.~~

21 (b) ~~An excise tax at the general rate of tax set in G.S. 105-164.4 is imposed on~~
22 ~~the purchase price of tangible personal property purchased inside or outside the State~~
23 ~~that Liability. – The tax imposed by this section is payable by the person who purchases,~~
24 ~~leases, or rents tangible personal property or who purchases a service. If the property~~
25 ~~purchased becomes a part of a building or other structure in the State. The purchaser of~~
26 ~~the property is liable for the tax. If the purchaser is a contractor, the contractor and~~
27 ~~owner are jointly and severally liable for the tax; if State and the purchaser is a~~
28 ~~subcontractor, the subcontractor and contractor contractor or subcontractor, the~~
29 ~~contractor, the subcontractor, and the owner of the building are jointly and severally~~
30 ~~liable for the tax. The liability of an owner or a contractor a contractor, a subcontractor,~~
31 ~~or an owner who did not purchase the property is satisfied if the purchaser delivers to~~
32 ~~the owner or contractor before final settlement between them by receipt of an affidavit~~
33 ~~from the purchaser certifying that the tax has been paid.~~

34 (c) ~~Where a retail sales tax has already been paid with respect to tangible~~
35 ~~personal property in this State by the purchaser thereof, the tax shall be credited upon~~
36 ~~the tax imposed by this Part. Where a retail sales and use tax is due and has been paid~~
37 ~~with respect to tangible personal property in another state by the purchaser for storage,~~
38 ~~use or consumption in this State, the tax shall be credited upon the tax imposed by this~~
39 ~~Part. Credit. – A credit is allowed against the tax imposed by this section for the~~
40 ~~following:~~

41 (1) ~~The amount of sales or use tax paid on the item to this State. Payment~~
42 ~~of sales or use tax to this State on an item by a retailer extinguishes the~~
43 ~~liability of a purchaser for the tax imposed under this section.~~

44 (2) ~~The amount of sales tax paid on the item to another State. If the~~
45 ~~amount of tax paid to another the other state is less than the amount of~~
46 ~~tax imposed by this Part, the purchaser shall pay to the Secretary an~~
47 ~~amount sufficient to make the tax paid to the other state and this State~~
48 ~~equal to the amount imposed by this Part. The Secretary of Revenue~~
49 ~~shall require such proof of payment of tax to another state as he deems~~
50 ~~necessary. No credit shall be given under this subsection for sales or~~
51 ~~use taxes paid in another state if that section, the difference is payable~~
52 ~~to this State. The credit allowed by this subdivision does not apply to~~
53 ~~tax paid to a state that does not grant a similar credit for sales or use~~
54 ~~taxes paid in North Carolina.~~

1 ~~(d) Every person storing, using or otherwise consuming in this State tangible~~
 2 ~~personal property purchased or received at retail either within or without this State shall~~
 3 ~~be liable for the tax imposed by this Article and the liability shall not be extinguished~~
 4 ~~until the tax has been paid to this State. Provided, however, that a receipt from a~~
 5 ~~registered retailer engaged in business in this State given to the purchaser in accordance~~
 6 ~~with the provisions of this Article shall be prima facie sufficient to relieve the purchaser~~
 7 ~~from liability for the tax to which such receipt may refer and the liability of the~~
 8 ~~purchaser shall be extinguished upon payment of the tax by any retailer from whom he~~
 9 ~~has purchased the property.~~

10 ~~(e) Except as provided herein the tax so levied is and shall be in addition to all~~
 11 ~~other taxes whether levied in the form of excise, license, privilege or other taxes.~~

12 (f) Registration. – Before a person may engage in business in this State selling or
 13 delivering tangible personal property for storage, use, or consumption in this State, the
 14 person must obtain a certificate of registration from the Department. To obtain a
 15 certificate of registration, a person must register with the Department.

16 The holder of the certificate of registration must pay the tax levied under this
 17 Article. A certificate of registration is valid unless it is revoked for failure to comply
 18 with the provisions of this Article or becomes void. A certificate issued to a retailer
 19 becomes void if, for a period of 18 months, the retailer files no returns or files returns
 20 showing no sales."

21 **SECTION 32.1.(q)** G.S. 105-164.13B(a) reads as rewritten:

22 "(a) State Exemption. – Food is exempt from the taxes imposed by this Article
 23 unless the food is included in one of the subdivisions in this subsection. The following
 24 food items are subject to tax:

- 25 ~~(1) Alcoholic beverages, as defined in G.S. 105-113.68.~~
 26 (2) Dietary supplements.
 27 (3) Food sold through a vending machine.
 28 (4) Prepared food.
 29 (5) Soft drinks."

30 **SECTION 32.1.(r)** G.S. 105-164.42B(1) reads as rewritten:

31 "**§ 105-164.42B. Definitions.**

32 The following definitions apply in this Part:

- 33 (1) Agreement. – ~~The Streamlined Sales and Use Tax~~
 34 ~~Agreement.~~ Agreement, as defined in G.S. 105-164.3.

35 "...."

36 **SECTION 32.1.(s)** Subdivision (b)(5) of Section 5 of Part IV of Chapter 908
 37 of the 1983 Session Laws, as amended by Chapter 821 of the 1989 Session Laws and
 38 S.L. 2001-347, reads as rewritten:

39 "(b) Definitions. The definitions in G.S. 105-164.3 apply to this Part insofar as
 40 they are not inconsistent with the provisions of this Part. In addition, the following
 41 definitions apply in this Part:

- 42 "...."
 43 (5) Prepared Food and Beverages. – ~~The term has the same meaning as the~~
 44 ~~term "prepared food" in G.S. 105-164.3; includes the following:~~
 45 a. Prepared food, as defined in G.S. 105-164.3.
 46 b. An alcoholic beverage, as defined in G.S. 18B-101, that meets
 47 at least one of the conditions of prepared food under
 48 G.S. 105-164.3."

49 **SECTION 32.1.(t)** Subdivision (a)(2) of Section 2 of Chapter 413 of the
 50 1993 Session Laws, as amended by S.L. 2001-347, reads as rewritten:

51 "Sec. 2. Definitions; Sales and Use Tax Statutes. – (a) The definitions in
 52 G.S. 105-164.3 apply to this act to the extent they are not inconsistent with the
 53 provisions of this act. In addition, the following definitions apply in this act:

54 "...."

- 1 (2) Prepared food and beverages. – The term ~~has the same meaning as the~~
2 ~~term "prepared food" in G.S. 105-164.3, includes the following:~~
3 a. Prepared food, as defined in G.S. 105-164.3.
4 b. An alcoholic beverage, as defined in G.S. 18B-101, that meets
5 at least one of the conditions of prepared food under
6 G.S. 105-164.3."

7 **SECTION 32.1.(u)** Section 2 of Chapter 449 of the 1985 Session Laws, as
8 amended by Chapter 826 of the 1985 Session Laws, Chapter 177 of the 1991 Session
9 Laws, and S.L. 2001-347, reads as rewritten:

10 "Sec. 2. Definitions. The definitions in G.S. 105-164.3 apply in this act. In addition,
11 the following definitions apply in this act.

- 12 (1) Net proceeds. – Gross proceeds less the cost to the county of
13 administering and collecting the tax.
14 (2) Prepared food and beverages. – The term ~~has the same meaning as the~~
15 ~~term "prepared food" in G.S. 105-164.3, includes the following:~~
16 a. Prepared food, as defined in G.S. 105-164.3.
17 b. An alcoholic beverage, as defined in G.S. 18B-101, that meets
18 at least one of the conditions of prepared food under
19 G.S. 105-164.3."

20 **SECTION 32.1.(v)** Subsection (b) of Section 1 of Chapter 449 of the 1993
21 Session Laws, as amended by S.L. 2001-347, reads as rewritten:

22 "(b) Definitions; Sales and Use Tax Statutes. – The definitions in G.S. 105-164.3
23 apply to this section to the extent they are not inconsistent with the provisions of this
24 section. The provisions of Article 5 and Article 9 of Chapter 105 of the General Statutes
25 apply to this section to the extent they are not inconsistent with the provisions of this
26 section. In addition, For the purposes of this section, the term 'prepared food and
27 beverages' has the same meaning as the term "prepared food" in G.S. 105-164.3.
28 includes the following:

- 29 (1) Prepared food, as defined in G.S. 105-164.3.
30 (2) An alcoholic beverage, as defined in G.S. 18B-101, that meets at least
31 one of the conditions of prepared food under G.S. 105-164.3.

32 ~~The provisions of Article 5 and Article 9 of Chapter 105 of the General Statutes apply to~~
33 ~~this section to the extent they are not inconsistent with the provisions of this section."~~

34 **SECTION 32.1.(w)** Subdivision (3) of Section 2 of Chapter 594 of the 1991
35 Session Laws, as amended by S.L. 2001-347, reads as rewritten:

36 "Sec. 2. Definitions. The definitions in G.S. 105-164.3 apply to this act to the extent
37 they are not inconsistent with the provisions of this act. The following definitions also
38 apply in this act:

- 39 ...
40 (3) Prepared food and beverage. – The term ~~has the same meaning as the~~
41 ~~term "prepared food" in G.S. 105-164.3, includes the following:~~
42 a. Prepared food, as defined in G.S. 105-164.3.
43 b. An alcoholic beverage, as defined in G.S. 18B-101, that meets
44 at least one of the conditions of prepared food under
45 G.S. 105-164.3."

46 **SECTION 32.1.(x)** Section 3.1 of S.L. 2001-347, as amended by Section 13
47 of S.L. 2003-416, reads as rewritten:

48 "**SECTION 3.1.** Part 1 of this act is effective when it becomes law and expires
49 January 1, 2006, unless one of the following occurs: (i) 15 states have adopted the
50 Streamlined Sales and Use Tax Agreement, or (ii) states representing a combined
51 resident population equal to at least ten percent (10%) of the national resident
52 population, as determined by the 2000 federal decennial census, have adopted the
53 Agreement law."

54 **SECTION 32.1.(y)** Section 3.2 of S.L. 2001-347 reads as rewritten:

1 "SECTION 3.2. Section 2.8, G.S. 105-164.13(5a), as enacted by Section 2.12, and
2 Section 2.17 of Part 2 of this act become effective ~~January 1, 2006~~ October 1, 2005. The
3 remainder of Part 2 of this act becomes effective January 1, 2002."

4 **SECTION 32.1.(z)** This subsection and subsection (m) of this section are
5 effective when they become law. Subsection (a) of this section, the changes made by
6 subsection (b) of this section to G.S. 105-164.3(4a) and (45a), the changes made by
7 subsection (c) of this section to G.S. 105-164.4(a)(4c) and (6), and subsection (i) of this
8 section become effective July 1, 2005. The remainder of this section becomes effective
9 October 1, 2005. Subsection (o) of this section applies to distributions for calendar
10 quarters that begin on or after October 1, 2005.

11 12 **PART XXXIII. SALES TAX CHANGES**

13
14 Requested by: Senators Hoyle, Kerr

15 **SALES TAX CHANGES**

16 **SECTION 33.1.(a)** Section 34.13(c) of S.L. 2001-424, as amended by
17 Section 38.1 of S.L. 2003-284, reads as rewritten:

18 "**SECTION 34.13.(c)** This section becomes effective October 16, 2001, and applies
19 to sales made on or after that date. ~~This section is repealed effective for sales made on~~
20 ~~or after July 1, 2005.~~ This section does not affect the rights or liabilities of the State, a
21 taxpayer, or another person arising under a statute amended or repealed by this section
22 before the effective date of its amendment or repeal; nor does it affect the right to any
23 refund or credit of a tax that accrued under the amended or repealed statute before the
24 effective date of its amendment or repeal."

25 **SECTION 33.1.(b)** G.S. 105-164.3 is amended by adding new subdivisions
26 to read:

27 "(1a) Cable service. – The one-way transmission to subscribers of video
28 programming or another programming service and any subscriber
29 interaction required to select or use the service.

30
31 ...(37a) Satellite digital audio radio service. – A radio communication service
32 in which audio programming is digitally transmitted by satellite to an
33 earth-based receiver, whether directly or via a repeater station."

34 **SECTION 33.1.(c)** G.S. 105-164.4(a), as amended by subsection (a) of this
35 section and subsection (c) of Section 32.1 of this act, reads as rewritten:

36 "(a) A privilege tax is imposed on a retailer at the following percentage rates of
37 the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is
38 four and one-half percent (4 1/2%).

39
40 ...(6) The combined general rate applies to the gross receipts derived from
41 providing ~~direct to home satellite service to subscribers in this~~
42 State ~~any of the following broadcast services to a subscriber in this~~
43 State. A person engaged in the business of providing ~~direct to home~~
44 satellite service ~~any of these services~~ is considered a retailer under this
45 Article. Article:

46 a. Direct-to-home satellite service.

47 b. Cable service.

48 c. Satellite digital audio radio service. For service received by a
49 mobile or portable station, the service is sourced to the
50 subscriber's business or home address.

51
52 ...(9) The general rate of tax applies to the sales price of a warranty
53 agreement, a maintenance agreement, a repair contract, or a similar
54 service agreement or contract by which the seller agrees to maintain or

1 repair tangible personal property. A person who sells a service
2 agreement or contract is considered a retailer under this Article."

3 **SECTION 33.1.(d)** G.S. 105-164.4C(b)(2) reads as rewritten:

4 "(2) Charges for directory assistance, directory listing that is not
5 yellow-page classified listing, call forwarding, call waiting, three-way
6 calling, caller ID, voice mail, and other similar services."

7 **SECTION 33.1.(e)** G.S. 105-164.4C(c)(11) is repealed.

8 **SECTION 33.1.(f)** G.S. 105-164.13(1), as amended by Section 32.1(c) of
9 this act, reads as rewritten:

10 "(1) Any of the following items sold to a farmer for use by the farmer in the
11 planting, cultivating, harvesting, or curing of farm crops or in the
12 production of dairy products, eggs, or animals. A 'farmer' includes a
13 dairy operator, a poultry farmer, an egg producer, a livestock farmer, a
14 farmer of crops, and a farmer of an aquatic species, as defined in
15 G.S. 106-758.

16 a. Commercial fertilizer, lime, land plaster, plastic mulch, plant
17 bed covers, potting soil, and seeds.

18 b. Farm machinery, attachment and repair parts for farm
19 machinery, and lubricants applied to farm machinery. The term
20 'machinery' includes implements that have moving parts or are
21 operated or drawn by an animal. The term does not include
22 implements operated wholly by hand or motor vehicles required
23 to be registered under Chapter 20 of the General Statutes.

24 c. A horse or mule.

25 d. Fuel other than electricity."

26 **SECTION 33.1.(g)** G.S. 105-164.13B(a) reads as rewritten:

27 "(a) State Exemption. – Food is exempt from the taxes imposed by this Article
28 unless the food is included in one of the subdivisions in this subsection. The following
29 food items are subject to tax:

30 (1) Alcoholic beverages, as defined in G.S. 105-113.68.

31 (2) Dietary supplements.

32 (3) Food sold through a vending machine.

33 (4) Prepared food.

34 (5) Soft drinks.

35 (6) Repealed.

36 (7) Candy."

37 **SECTION 33.1.(h)** Part 4 of Article 5 of Chapter 105 of the General
38 Statutes is amended by adding a new section to read:

39 "**§ 105-164.21B. Credit for local cable television franchise taxes.**

40 A cable service retailer is allowed a credit against the tax imposed by this Article on
41 cable service. The credit is for local cable television franchise taxes the retailer pays to a
42 city under G.S. 160A-214 or to a county under G.S. 153A-154 based on the amount it
43 receives from subscribers for cable service. The amount received from subscribers for
44 cable service does not include receipts from the lease or rental of tangible personal
45 property.

46 When making a payment or filing a return under G.S. 105-164.16, a cable service
47 retailer may claim a credit for the applicable pro rata amount of local cable television
48 franchise taxes for which this section allows a credit. The applicable pro rata amount is
49 the creditable amount of local cable television franchise taxes the retailer paid for the
50 most recent fiscal year divided by the number of sales tax payments the retailer is
51 required to make under this Article."

52 **SECTION 33.1.(i)** G.S. 105-467(a) is amended by adding a new subdivision
53 to read:

54 "(a) Sales Tax. – The sales tax that may be imposed under this Article is limited to
55 a tax at the rate of one percent (1%) of the transactions listed in this subsection. The

1 sales tax authorized by this Article does not apply to sales that are taxable by the State
2 under G.S. 105-164.4 but are not specifically included in this subsection.

3
4 (7) The sales price of a service agreement or contract subject to the
5 general rate of tax under G.S. 105-164.4(a)(9)."

6 **SECTION 33.1.(j)** Subsections (a) and (j) of this section are effective when
7 they become law. The remainder of this section becomes effective October 1, 2005.

8
9 **PART XXXIV. TOBACCO TAX RATE CHANGES**

10
11
12 Requested by: Senators Hoyle, Kerr

13 **TOBACCO TAX RATE CHANGES**

14 **SECTION 34.1.(a)** G.S. 105-113.5 reads as rewritten:

15 "**§ 105-113.5. Tax on cigarettes.**

16 A tax is levied on the sale or possession for sale in this State, by a distributor, of all
17 cigarettes at the rate of two ~~and one half mills~~ cents (2¢) per individual cigarette."

18 **SECTION 34.1.(b)** G.S. 105-113.35(a) reads as rewritten:

19 "(a) Tax. – An excise tax is levied on tobacco products other than cigarettes at the
20 rate of ~~two percent (2%)~~ four percent (4%) of the cost price of the products. This tax
21 does not apply to the following:

- 22 (1) A tobacco product sold outside the State.
23 (2) A tobacco product sold to the federal government.
24 (3) A sample tobacco product distributed without charge."

25 **SECTION 34.1.(c)** G.S. 105-113.21(a1) reads as rewritten:

26 (a1) Discount. – A distributor who files a timely report under G.S. 105-113.18 and
27 who sends a timely payment may deduct from the amount due with the report a discount
28 of two percent (2%). The discount a distributor deducts on all reports filed for a
29 12-month period beginning July 1 may not exceed a maximum of one hundred
30 twenty-five thousand dollars (\$125,000). This discount covers expenses incurred in
31 preparing the records and reports required by this Part, and the expense of furnishing a
32 bond."

33 **SECTION 34.1.(d)** This section becomes effective July 1, 2005.

34
35 **PART XXXV. IRC UPDATE**

36
37 Requested by: Senators Jenkins

38 **IRC UPDATE**

39 **SECTION 35.1.(a)** G.S. 105-228.90(b)(1b) reads as rewritten:

40 "(b) Definitions. – The following definitions apply in this Article:

41
42 (1b) Code. – The Internal Revenue Code as enacted as of ~~May 1,~~
43 ~~2004,~~ January 1, 2005, including any provisions enacted as of that date
44 which become effective either before or after that ~~date-date,~~ but not
45 including the amendments made to section 164 of the Code by section
46 501 of P.L. 108-357."

47 **SECTION 35.1.(b)** G.S. 105-130.5(a) reads as rewritten:

48 "(a) The following additions to federal taxable income shall be made in
49 determining State net income:

50
51 (16) The amount excluded from gross income under Subchapter R of
52 Chapter I of the Code.

53 (17) The amount excluded from gross income under section 199 of the
54 Code."

1 **SECTION 35.1.(c)** Notwithstanding subsection (a) of this section, any
 2 amendments to the Internal Revenue Code enacted after May 1, 2004, that increase
 3 North Carolina taxable income for the 2004 taxable year become effective for taxable
 4 years beginning on or after January 1, 2005.

5 **SECTION 35.1.(d)** G.S. 105-228.90(b)(1b), as amended by subsection (a) of
 6 this section, reads as rewritten:

7 "(b) Definitions. – The following definitions apply in this Article:

8
 9 (1b) Code. – The Internal Revenue Code as enacted as of January 1, 2005,
 10 including any provisions enacted as of that date which become
 11 effective either before or after that date, ~~but not including the~~
 12 ~~amendments made to Section 164 of the Code by Section 501 of P.L.~~
 13 ~~108-357 date."~~

14 **SECTION 35.1.(e)** G.S. 105-134.6(c) reads as rewritten:

15 "(c) Additions. – The following additions to taxable income shall be made in
 16 calculating North Carolina taxable income, to the extent each item is not included in
 17 taxable income:

18
 19 (3) Any amount deducted from gross income under section 164 of the
 20 Code as state, local, or foreign income tax or as state or local general
 21 sales tax to the extent that the taxpayer's total itemized deductions
 22 deducted under the Code for the taxable year exceed the standard
 23 deduction allowable to the taxpayer under the Code reduced by the
 24 amount the taxpayer is required to add to taxable income under
 25 subdivision (4) of this subsection.

26
 27 **SECTION 35.1.(f)** Notwithstanding any other provision of law, a taxpayer
 28 whose federal taxable income for 2004 is reduced due to a charitable contribution of
 29 cash made in January 2005 for Indian Ocean tsunami relief efforts in accordance with
 30 P.L. 109-1 is not required to add back the amount of the deduction related to that
 31 contribution in determining North Carolina taxable income for 2004.

32 **SECTION 35.1.(g)** Subsections (d) and (e) of this section become effective
 33 for taxable years beginning on or after January 1, 2005. The remainder of this section is
 34 effective when it becomes law.

35
 36 **PART XXXVI. INDIVIDUAL INCOME TAX CHANGES**

37
 38 Requested by: Senators Hoyle, Kerr
 39 **PHASE-OUT 8.25% INDIVIDUAL INCOME TAX RATE**

40 **SECTION 36.1.(a)** Section 39.1 of S.L. 2003-284 is repealed.

41 **SECTION 36.1.(b)** Effective for taxable years beginning on or after January
 42 1, 2006, G.S. 105-134.2(a) reads as rewritten:

43 "(a) A tax is imposed upon the North Carolina taxable income of every individual.
 44 The tax shall be levied, collected, and paid annually and shall be computed at the
 45 following percentages of the taxpayer's North Carolina taxable income.

46 (1) For married individuals who file a joint return under G.S. 105-152 and
 47 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% <u>8%</u>

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 55 (2) For heads of households, as defined in section 2(b) of the Code:

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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%
\$10,625	\$50,000	7%
\$50,000	\$100,000	7.75%
\$100,000	NA	8.25% 8%".

SECTION 36.1.(c) Effective for taxable years beginning on or after January 1, 2007, G.S. 105-134.2(a), as amended by this section, 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 NA	7.75%
\$200,000	NA	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 NA	7.75%
\$160,000	NA	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 NA	7.75%
\$120,000	NA	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%
\$10,625	\$50,000	7%
\$50,000	\$100,000	7.75%
\$100,000	NA	8%".

SECTION 36.1(d). Except as otherwise provided, this section is effective when it becomes law.

PART XXXVII. CONFORM ESTATE TAX TO FEDERAL SUNSET

Requested by: Senators Hoyle, Kerr
CONFORM ESTATE TAX TO FEDERAL SUNSET

SECTION 37.1(a) Section 30C.3(b) of S.L. 2002-126, as amended by Section 37A.4 of S.L. 2003-284 and Section 1 of S.L. 2004-170, reads as rewritten:

"SECTION 30C.3.(b) This section is effective on and after January 1, 2002, and applies to the estates of decedents dying on or after that date. ~~This section and Section 37A.5 of S.L. 2003-284 are repealed effective for the estates of decedents dying on or after July 1, 2005."~~

SECTION 37.1.(b) This section is effective when it becomes law.

PART XXXVIII. CORPORATE INCOME TAX CHANGES

Requested by: Senators Hoyle, Kerr
CORPORATE INCOME TAX REDUCTION

SECTION 38.1.(a) G.S. 105-130.3 reads as rewritten:

"§ 105-130.3. Corporations.

A tax is imposed on the State net income of every C Corporation doing business in this State. An S Corporation is not subject to the tax levied in this section. The tax is a ~~percentage six and four-tenths percent (6.4%)~~ of the taxpayer's State net ~~income~~ computed as follows:

Income Years Beginning	Tax
In 1997	7.5%
In 1998	7.25%
In 1999	7%
After 1999	6.9% income. "

SECTION 38.1.(b) G.S. 115C-546.1, as amended by Section 7.26 of this act, reads as rewritten:

"§ 115C-546.1. Creation of Fund; administration.

(a) There is created the Public School Building Capital and Technology Fund. The Fund shall be used to assist county governments in meeting their public school building capital needs and their equipment needs under their local school technology plans.

(b) ~~Each calendar quarter, the Secretary of Revenue shall remit to the State Treasurer for credit to the Public School Building Capital and Technology Fund an amount equal to the applicable fraction provided in the table below of the net collections received during the previous quarter by the Department of Revenue under G.S. 105-130.3 minus two million five hundred thousand dollars (\$2,500,000). All funds deposited in the Public School Building Capital and Technology Fund shall be 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)

1 ~~10/1/99 to 9/30/00~~ ~~One-fourteenth (1/14)~~

2 ~~After 9/30/00~~ ~~Five-sixty-ninths (5/69)~~

3 (c) The Fund shall be administered by the Department of Public Instruction."

4 **SECTION 38.1.(c)** This section is effective for taxable years beginning on
5 or after January 1, 2007.

6
7 Requested by: Senators Hoyle, Kerr

8 **CORPORATE THROWOUT RULE AND OUTER JURISDICTIONAL**
9 **PROPERTY**

10 **SECTION 38.2.(a)** G.S. 105-130.4(a) is amended by adding a new
11 subdivision to read:

12 "(a) As used in this section, unless the context otherwise requires:

13 ...
14 (5b) 'Outer-jurisdictional property' means tangible personal property that is
15 not physically located in any state. The term includes orbiting satellites
16 and undersea transmission cables."

17 **SECTION 38.2.(b)** G.S. 105-130.4(j)(1) reads as rewritten:

18 "(1) The property factor is a fraction, the numerator of which is the average
19 value of the corporation's real and tangible personal property owned or
20 rented and used in this State during the income year and the
21 denominator of which is the average value of all the corporation's real
22 and tangible personal property owned or rented and used during the
23 income year. Neither the numerator nor the denominator includes
24 outer-jurisdictional property."

25 **SECTION 38.2.(c)** G.S. 105-130.4(l) reads as rewritten:

26 "(1) (1) The sales factor is a ~~fraction, the fraction.~~ The numerator of which the
27 fraction is the total sales of the corporation in this State during the
28 income year, and the denominator of which is the total sales of the
29 corporation everywhere the fraction is the sum of sales to the United
30 States government and sales other than those attributable to the United
31 States government that are attributable to a state in which the taxpayer
32 is taxable during the income year. Notwithstanding any other provision
33 under this Part, the receipts from any casual sale of property shall be
34 excluded from both the numerator and the denominator of the sales
35 factor. Where a corporation is not taxable in another state on its
36 apportionable income but is taxable in another state only because of
37 nonapportionable income, all sales shall be treated as having been
38 made in this State.

39 (2) Sales of tangible personal property are in this State if the property is
40 received in this State by the purchaser. In the case of delivery of goods
41 by common carrier or by other means of transportation, including
42 transportation by the purchaser, the place at which the goods are
43 ultimately received after all transportation has been completed shall be
44 considered as the place at which the goods are received by the
45 purchaser. Direct delivery into this State by the taxpayer to a person or
46 firm designated by a purchaser from within or without the State shall
47 constitute delivery to the purchaser in this State.

48 (3) Other sales are in this State if:

- 49 a. The receipts are from real or tangible personal property located
50 in this State; or
51 b. The receipts are from intangible property and are received from
52 sources within this State; or
53 c. The receipts are from services and the income-producing
54 activities are in this State."

1 **SECTION 38.2(d).** This section is effective for taxable years beginning on
2 or after January 1, 2005.

3
4 **PART XXXIX. FILM INDUSTRY JOBS INCENTIVES**

5
6 Requested by: Senators Boseman, Hoyle

7 **FILM INDUSTRY JOBS INCENTIVES**

8 **SECTION 39.1.(a)** Part 1 of Article 4 of Chapter 105 of the General Statutes
9 is amended by adding a new section to read:

10 **"§ 105-130.47. Credit for qualifying expenses of a production company.**

11 (a) Definitions. – The following definitions apply in this section:

12 (1) Highly compensated individual. – An individual who receives
13 compensation in excess of one million dollars (\$1,000,000) with
14 respect to a single production.

15 (2) Qualifying expenses. – The sum of the total amount spent in this State
16 for the following by a production company in connection with a
17 production:

18 a. Goods and services purchased by the production company.

19 b. Compensation and wages paid by the production company,
20 other than amounts paid to a highly compensated individual, on
21 which the production company remitted withholding payments
22 to the Department of Revenue under Article 4A of this Chapter.

23 (3) Production company. – Defined in G.S. 105-164.3.

24 (b) Credit. – A taxpayer that is a production company and has qualifying
25 expenses of at least one million dollars (\$1,000,000) with respect to a production is
26 allowed a credit against the taxes imposed by this Part equal to fifteen percent (15%) of
27 the production company's qualifying expenses that have been certified as required in
28 subsection (c) of this section. For the purposes of this section, in the case of an episodic
29 television series, an entire season of episodes is one production. The credit is computed
30 based on all of the taxpayer's qualifying expenses incurred with respect to the
31 production, not just the qualifying expenses incurred during the taxable year.

32 (c) Certification. – In order to be eligible for a credit under this section, a
33 taxpayer must submit a detailed accounting of its qualifying expenses to the North
34 Carolina Film Office of the Department of Commerce. The North Carolina Film Office,
35 with the assistance of the regional film commission for the location of the production,
36 must make a written certification of the amount of the qualifying expenses.

37 (d) Pass-Through Entity. – Notwithstanding the provisions of G.S. 105-131.8 and
38 G.S. 105-269.15, a pass-through entity that qualifies for the credit provided in this
39 section does not distribute the credit among any of its owners. The pass-through entity
40 is considered the taxpayer for purposes of claiming the credit allowed by this section. If
41 a return filed by a pass-through entity indicates that the entity is paying tax on behalf of
42 the owners of the entity, the credit allowed under this section does not affect the entity's
43 payment of tax on behalf of its owners.

44 (e) Return. – A taxpayer may claim the credit allowed by this section on a return
45 filed for the taxable year in which the production activities are completed. The return
46 must state the name of the production, a description of the production, and the
47 certification from the North Carolina Film Office of the qualifying expenses for which
48 the credit is claimed.

49 (f) Credit Refundable. – If the credit allowed by this section exceeds the amount
50 of tax imposed by this Part for the taxable year reduced by the sum of all credits
51 allowable, the Secretary must refund the excess to the taxpayer. The refundable excess
52 is governed by the provisions governing a refund of an overpayment by the taxpayer of
53 the tax imposed in this Part. In computing the amount of tax against which multiple
54 credits are allowed, nonrefundable credits are subtracted before refundable credits.

1 (g) Limitation. – No credit is allowed under this section for any production that
2 satisfies one of the following conditions:

3 (1) It is commercial or political advertising.

4 (2) It is a television production of a news program or sporting event.

5 (3) It contains material that is obscene, as defined in G.S. 14-190.1.

6 (h) Substantiation. – A taxpayer allowed a credit under this section must maintain
7 and make available for inspection any information or records required by the Secretary
8 of Revenue or the regional film commissions. The taxpayer has the burden of proving
9 eligibility for a credit and the amount of the credit.

10 (i) Report. – The Department of Revenue must publish by May 1 of each year
11 the following information, itemized by taxpayer for the 12-month period ending the
12 preceding April 1:

13 (1) The location of sites used in a production for which a credit was
14 claimed.

15 (2) The qualifying expenses for which a credit was claimed, classified by
16 whether the expenses were for goods, services, or compensation paid
17 by the production company.

18 (3) The number of people employed in the State with respect to credits
19 claimed.

20 (4) The total cost to the General Fund of the credits claimed.

21 (j) Sunset. – This section is repealed for qualifying expenses occurring on or
22 after January 1, 2010."

23 **SECTION 39.1.(b)** Part 2 of Article 4 of Chapter 105 of the General
24 Statutes is amended by adding a new section to read:

25 **"§ 105-151.29. Credit for qualifying expenses of a production company.**

26 (a) Definitions. – The following definitions apply in this section:

27 (1) Highly compensated individual. – An individual who receives
28 compensation in excess of one million dollars (\$1,000,000) with
29 respect to a single production.

30 (2) Qualifying expenses. – The sum of the total amount spent in this State
31 for the following by a production company in connection with a
32 production:

33 a. Goods and services purchased by the production company.

34 b. Compensation and wages paid by the production company,
35 other than amounts paid to a highly compensated individual, on
36 which the production company remitted withholding payments
37 to the Department of Revenue under Article 4A of this Chapter.

38 (3) Production company. – Defined in G.S. 105-164.3.

39 (b) Credit. – A taxpayer that is a production company and has qualifying
40 expenses of at least one million dollars (\$1,000,000) with respect to a production is
41 allowed a credit against the taxes imposed by this Part equal to fifteen percent (15%) of
42 the production company's qualifying expenses that have been certified as required in
43 subsection (c) of this section. For the purposes of this section, in the case of an episodic
44 television series, an entire season of episodes is one production. The credit is computed
45 based on all of the taxpayer's qualifying expenses incurred with respect to the
46 production, not just the qualifying expenses incurred during the taxable year.

47 (c) Certification. – In order to be eligible for a credit under this section, a
48 taxpayer must submit a detailed accounting of its qualifying expenses to the North
49 Carolina Film Office of the Department of Commerce. The North Carolina Film Office,
50 with the assistance of the regional film commission for the location of the production,
51 must make a written certification of the amount of the qualifying expenses.

52 (d) Pass-Through Entity. – Notwithstanding the provisions of G.S. 105-131.8 and
53 G.S. 105-269.15, a pass-through entity that qualifies for the credit provided in this
54 section does not distribute the credit among any of its owners. The pass-through entity
55 is considered the taxpayer for purposes of claiming the credit allowed by this section. If

1 a return filed by a pass-through entity indicates that the entity is paying tax on behalf of
2 the owners of the entity, the credit allowed under this section does not affect the entity's
3 payment of tax on behalf of its owners.

4 (e) Return. – A taxpayer may claim the credit allowed by this section on a return
5 filed for the taxable year in which the production activities are completed. The return
6 must state the name of the production, a description of the production, and the
7 certification from the North Carolina Film Office of the qualifying expenses for which
8 the credit is claimed.

9 (f) Credit Refundable. – If the credit allowed by this section exceeds the amount
10 of tax imposed by this Part for the taxable year reduced by the sum of all credits
11 allowable, the Secretary must refund the excess to the taxpayer. The refundable excess
12 is governed by the provisions governing a refund of an overpayment by the taxpayer of
13 the tax imposed in this Part. In computing the amount of tax against which multiple
14 credits are allowed, nonrefundable credits are subtracted before refundable credits.

15 (g) Limitation. – No credit is allowed under this section for any production that
16 satisfies one of the following conditions:

17 (1) It is commercial or political advertising.

18 (2) It is a television production of a news program or sporting event.

19 (3) It contains material that is obscene, as defined in G.S. 14-190.1.

20 (h) Substantiation. – A taxpayer allowed a credit under this section must maintain
21 and make available for inspection any information or records required by the Secretary
22 of Revenue or the regional film commissions. The taxpayer has the burden of proving
23 eligibility for a credit and the amount of the credit.

24 (i) Report. – The Department of Revenue must publish by May 1 of each year
25 the following information, itemized by taxpayer for the 12-month period ending the
26 preceding April 1:

27 (1) The location of sites used in a production for which a credit was
28 claimed.

29 (2) The qualifying expenses for which a credit was claimed, classified by
30 whether the expenses were for goods, services, or compensation paid
31 by the production company.

32 (3) The number of people employed in the State with respect to credits
33 claimed.

34 (4) The total cost to the General Fund of the credits claimed.

35 (j) Sunset. – This section is repealed for qualifying expenses occurring on or
36 after January 1, 2010."

37 **SECTION 39.1.(c)** G.S. 105-259(b), as amended by Section 30.1 of this act,
38 is amended by adding a new subdivision to read:

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

43 ..
44 (33) To exchange information concerning a tax credit claimed under
45 G.S. 105-130.47 or G.S. 105-151.29 with the North Carolina Film
46 Office of the Department of Commerce and with the regional film
47 commissions."

48 **SECTION 39.1.(d)** G.S. 143B-434.4 is repealed.

49 **SECTION 39.1.(e)** This section is effective for taxable years beginning on
50 or after January 1, 2005.

51
52 **PART XL. SET RATES FOR INSURANCE REGULATORY CHARGE AND**
53 **PUBLIC UTILITIES FEES**

54
55 Requested by: Senators Hoyle, Kerr

INSURANCE REGULATORY CHARGE

SECTION 40.1.(a) The percentage rate to be used in calculating the insurance regulatory charge under G.S. 58-6-25 is five and one-half percent (5.5%) for the 2005 calendar year.

SECTION 40.1.(b) This section is effective when it becomes law.

Requested by: Senators Hoyle, Kerr

REGULATORY FEE FOR UTILITIES COMMISSION

SECTION 40.2.(a) The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is twelve-hundredths of one percent (0.12%) for each public utility's North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 2005.

SECTION 40.2.(b) The electric membership corporation regulatory fee imposed under G.S. 62-302(b1) for the 2005-2006 fiscal year is two hundred thousand dollars (\$200,000).

SECTION 40.2.(c) This section becomes effective July 1, 2005.

PART XLI. HEALTH AND HUMAN SERVICES FEES

Requested by: Senators Hoyle, Kerr

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

1 fee and reporting requirements only once in any 12-month period. This
 2 fee does not apply to seed grown by a farmer and offered for sale by
 3 the farmer at the farm where the seed was grown."

4 **SECTION 42.1.(d)** The Board of Agriculture shall charge the following fees
 5 for agronomic services:

<u>Test/Service</u>	<u>Fee</u>
7 (1) Routine nematode samples	\$ 3.00
8 (2) Routine waste samples	\$ 5.00
9 (3) Research soil and nematode samples	\$12.00
10 (4) Research plant, waste, and solution samples	\$12.00
11 (5) Nonresident nematode samples	\$14.00
12 (6) Nonresident plant, waste, and solution samples	\$26.00
13 (7) Special services for plant, waste, and solution samples:	
14 a. Heavy metals-soils	\$25.00
15 b. Nitrates-soils	\$ 5.00
16 c. Waste-heavy metals	\$10.00
17 d. Waste-N breakout	\$10.00
18 e. Waste-liming equivalent	\$10.00
19 f. Plant-chloride	\$ 5.00
20 g. Plant-molybdenum	\$ 5.00
21 h. Plant-petiole nitrates	\$ 5.00

22 **SECTION 42.1.(e)** The Board of Agriculture shall charge the following fees
 23 for animal disease diagnostic tests and services:

<u>Test/Service</u>	<u>Fee</u>
25 (1) Histopath	\$30.00
26 (2) Professional services-EIA	\$ 6.00
27 (3) Professional services-blood pour-off fees	\$ 1.00
28 (4) Vacuum tube handling fee	\$ 0.04

29 **SECTION 42.1.(f)** G.S. 81A-52 reads as rewritten:

30 **"§ 81A-52. License.**

31 All public weighmasters shall be licensed. Any person not less than 18 years of age
 32 who wishes to be a public weighmaster shall apply to the Department on a form
 33 provided by the Department. The Board may adopt rules for determining the
 34 qualifications of the applicant for a license. Public weighmasters shall be licensed for a
 35 period of one year beginning the first day of July and ending on the thirtieth day of
 36 June, and a fee of ~~twelve dollars (\$12.00)~~ nineteen dollars (\$19.00) shall be paid for each
 37 person licensed at the time of the filing of the application."

38 **SECTION 42.1.(g)** G.S. 81A-72 reads as rewritten:

39 **"§ 81A-72. Registration; certificate of registration; annual renewal.**

40 The Commissioner or his authorized agent shall register any person who has
 41 complied with the requirements of this Article by making a record of receipt of
 42 application, and the issuing of a certificate or card of registration to applicant,
 43 whereupon the applicant becomes a registered scale technician and shall be known
 44 thereafter as such. Such registration shall be in effect from date of registration until July
 45 1 next and shall be renewed on the first day of July of each year thereafter. A fee of
 46 twenty dollars (\$20.00) shall accompany each application for registration and each
 47 annual registration renewal."

48 **SECTION 42.1.(h)** G.S. 81A-11 is repealed.

49 **SECTION 42.1.(i)** Chapter 81A of the General Statutes is amended by
 50 adding the following new section to read:

51 **"§ 81A-12. Fee schedule.**

52 (a) The following fees apply to all weights that are tested and certified to meet
 53 tolerances less stringent than the American Society for Testing and Materials (ASTM)
 54 Standard E617 Class 4. This includes the National Institutes of Standards and
 55 Technology (NIST) Class F tolerance. If the weight error exceeds three-fourths of the

1 applicable tolerance, adjustment may be required at an additional fee equal to the
 2 normal fee. No extra fee shall be charged for the normal adjustment of a weight cart.
 3 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>
0-10 lb	\$ 5.00	0-5 kg	\$ 5.00
11-100 lb	\$ 10.00	6-50 kg	\$ 10.00
101-1000 lb	\$ 20.00	51-500 kg	\$ 20.00
1001-2500 lb	\$ 30.00	501-1000 kg	\$ 30.00
2501-6000 lb	\$ 50.00	1001-2500 kg	\$ 50.00
<u>Weight Carts</u>	<u>\$125.00</u>		
up to 6000 lb	(includes adjustment)		

11 (b) The following fees apply to all weights that are tested and certified to meet
 12 ASTM Standard E617 Class 4 or the International Organization of Legal Metrology
 13 (IOLM) R111 Class F2 tolerances. If the weight error exceeds three-fourths of the
 14 applicable tolerance, adjustment may be required at an additional fee equal to the
 15 normal fee. Even if weights are rejected or condemned, fees shall be assessed for the
 16 test performed.

<u>Customary</u>	<u>Fee/Unit</u>	<u>Metric</u>	<u>Fee/Unit</u>
0-10 lb	\$ 10.00	0-5 kg	\$ 10.00
11-100 lb	\$ 20.00	6-50 kg	\$ 20.00
101-1000 lb	\$ 40.00	51-500 kg	\$ 40.00
1001-2500 lb	\$ 60.00	501-1000 kg	\$ 60.00
2501-6000 lb	\$100.00	1001-2500 kg	\$100.00

24 (c) The following fees apply to all weights that are calibrated. Calibration means
 25 determining actual mass and conventional mass values with an assigned uncertainty
 26 specific to the test. If necessary and considered feasible by the metrologist, adjustments
 27 to ASTM Class 1, 2, or 3 tolerances or IOLM Class E2, F1, or F2 tolerances may be
 28 made for an additional fee of two times the normal fee. Adjustments to weights of this
 29 group shall require a minimum of 10 days for weights to return to environmental
 30 equilibrium before a final calibration value can be assigned. Even if weights are rejected
 31 or condemned, fees shall be assessed for the test performed.

<u>Customary</u>	<u>Fee/Unit</u>	<u>Metric</u>	<u>Fee/Unit</u>
0-20 lb	\$ 20.00	0-10 kg	\$ 20.00
21-50 lb	\$ 40.00	11-30 kg	\$ 40.00
51-1000 lb	\$ 70.00	31-500 kg	\$ 70.00
1001-2500 lb	\$130.00	501-1000 kg	\$130.00
2501-6000 lb	\$200.00	1001-2500 kg	\$200.00

38 (d) The following fees apply to all weights that are calibrated using NIST
 39 weighing designs. These weights are tested in groups (typically either a 1, 2, 3, 5 series
 40 or a 1, 2, 2, 5 series) and are subject to the minimum per series fee shown. The best
 41 uncertainty possible from the North Carolina Standards Laboratory shall be assigned to
 42 the mass values of the weights. If necessary and considered feasible by the metrologist,
 43 adjustments to ASTM Class 0, 1, 2, or 3 tolerances or IOLM Class E1, E2, F1, or F2
 44 tolerances may be made for an additional fee of two times the normal fee. Adjustments
 45 to weights of this group shall require a minimum of 10 days for weights to return to
 46 environmental equilibrium before a final calibration value can be assigned.

<u>Weight Range</u>	<u>Fee/Unit or Series</u>
0-1 kg	\$30.00 each, with a minimum charge of \$90 (3 weights) per series
2-30 kg	\$50.00 each, with a minimum charge of \$150 (3 weights) per series
0-2 lb	\$30.00 each, with a minimum charge of \$90 (3 weights) per series
3-50 lb	\$50.00 each, with a minimum charge of \$150 (3 weights) per series

52 (e) The following fees apply to volumetric standard calibration.

53 Provers or Test Measures Tested By The Volume Transfer Method

<u>Customary</u>	<u>Fee/Test Point</u>	<u>Metric</u>	<u>Fee/Test Point</u>
0-5 gal	\$30.00	0-20 liters	\$30.00

1	<u>Over 5 gal</u>	<u>Add \$0.40 per each</u>	<u>Over 20 liters</u>	<u>Add \$0.10 per each</u>
2		<u>additional gallon</u>		<u>additional liter</u>
3	<u>Volumetric Flasks, Graduates, Provers, Slicker Plate Standards, or Test Measures</u>			
4	<u>Tested By the Gravimetric Calibration Method</u>			
5	<u>Customary</u>	<u>Fee/Test Point</u>	<u>Metric</u>	<u>Fee/Test Point</u>
6	<u>0-100 gal set-up fee</u>	<u>\$50.00</u>	<u>0-500 liters set-up fee</u>	<u>\$50.00</u>
7	<u>Calibration Fee</u>	<u>Add \$2.00</u>	<u>Calibration Fee</u>	<u>Add \$0.50</u>
8		<u>per gallon</u>		<u>per liter</u>
9	<u>Small Volume Provers (SVPs) Tested By The Gravimetric Calibration Method</u>			
10	<u>Customary</u>	<u>Fee/Test Point</u>	<u>Metric</u>	<u>Fee/Test Point</u>
11	<u>0-100 gal set-up fee</u>	<u>\$ 100.00</u>	<u>0-500 liters set-up fee</u>	<u>\$100.00</u>
12	<u>Calibration Fee</u>	<u>Add \$2.00</u>	<u>Calibration Fee</u>	<u>Add \$0.50</u>
13		<u>per gallon</u>		<u>per liter</u>

(f) The following fees apply to tape measures and rigid rules.

15	<u>Set-Up Fee</u>	<u>\$ 40.00 per instrument</u>
16	<u>Calibration Fee</u>	<u>\$ 10.00 calibration interval</u>

(g) The following fees apply to liquid-in-glass and electronic thermometers.

18	<u>Set-Up Fee</u>	<u>\$ 40.00/instrument</u>
19	<u>Calibration Fee</u>	<u>\$ 20.00/calibration point</u>

Resistance Thermometry Coefficient

Calculation and Report \$ 100.00/ instrument

(h) Any special tests or weight cleaning shall be billed at the rate of seventy dollars (\$70.00) per hour prorated to the nearest tenth of an hour, with a minimum charge of thirty-five dollars (\$35.00).

(i) A minimum charge of twenty-five dollars (\$25.00) per invoice shall apply.

(j) If travel is required in connection with the performance of any of these services, the Department shall be reimbursed at the rates provided in G.S. 138-6.

(k) The Department may refuse to accept for testing any weight or measure the Department deems unsuited for its intended use.

(l) The fee for tests performed on weights or measures that will be used primarily outside of the State of North Carolina shall be twice the amounts set forth in this section."

Requested by: Senators Hoyle, Kerr

LABOR COMMISSIONER FEE AUTHORITY FOR MINE INSPECTIONS

SECTION 42.2. G.S. 74-24.7 is amended by adding a new subsection to read:

"(h) An annual inspection and investigation fee of one thousand two hundred thirty dollars (\$1,230) is imposed on an operator of a mine subject to an inspection or investigation under this section. The fee may be collected at the time of inspection or investigation. If the fee is not collected at the time of inspection or investigation, the Director must bill the operator of the mine for the amount of the fee and the amount of the fee is payable by the operator upon receipt of the bill. Fees collected under this subsection shall be credited to the Department of Labor and applied to the cost of administering this Article."

PART XLIII. JUSTICE AND PUBLIC SAFETY FEES

Requested by: Senators Thomas, Hoyle, Kerr

GENERAL COURT OF JUSTICE FEE INCREASES

SECTION 43.1.(a) G.S. 7A-304(a)(4) reads as rewritten:

"(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected, except that when the judgment imposes an active prison sentence, costs shall be

1 assessed and collected only when the judgment specifically so provides, and that no
2 costs may be assessed when a case is dismissed.

3
4 ~~...~~
5 (4) For support of the General Court of Justice, the sum of ~~seventy-six~~
6 ~~dollars (\$76.00)~~ eighty-six dollars (\$86.00) in the district court,
7 including cases before a magistrate, and the sum of ~~eighty-three dollars~~
8 ~~(\$83.00)~~ ninety-three dollars (\$93.00) in the superior court, to be
9 remitted to the State Treasurer. For a person convicted of a felony in
10 superior court who has made a first appearance in district court, both
11 the district court and superior court fees shall be assessed. The State
12 Treasurer shall remit the sum of one dollar and five cents (\$1.05) of
13 each fee collected under this subdivision to the North Carolina State
14 Bar for the provision of services described in G.S. 7A-474.4, and
15 ninety-five cents (\$.95) of each fee collected under this subdivision to
16 the North Carolina State Bar for the provision of services described in
17 G.S. 7A-474.19."

18 **SECTION 43.1.(b)** G.S. 7A-305(a)(2) reads as rewritten:

19 (a) In every civil action in the superior or district court, except for actions
20 brought under Chapter 50B of the General Statutes, the following costs shall be
21 assessed:

22 ~~...~~
23 (2) For support of the General Court of Justice, the sum of ~~sixty-nine~~
24 ~~dollars (\$69.00)~~ seventy-nine dollars (\$79.00) in the superior court,
25 and the sum of ~~fifty-four dollars (\$54.00)~~ sixty-four dollars (\$64.00) in
26 the district court except that if the case is assigned to a magistrate the
27 sum shall be ~~forty-three dollars (\$43.00)~~ fifty-three dollars (\$53.00).
28 Sums collected under this subdivision shall be remitted to the State
29 Treasurer. The State Treasurer shall remit the sum of one dollar and
30 five cents (\$1.05) of each fee collected under this subdivision to the
31 North Carolina State Bar for the provision of services described in
32 G.S. 7A-474.4, and ninety-five cents (\$.95) of each fee collected under
33 this subdivision to the North Carolina State Bar for the provision of
34 services described in G.S. 7A-474.19."

35 **SECTION 43.1.(c)** G.S. 7A-306(a)(2) reads as rewritten:

36 (a) In every special proceeding in the superior court, the following costs shall be
37 assessed:

38 ~~...~~
39 (2) For support of the General Court of Justice the sum of ~~thirty dollars~~
40 ~~(\$30.00)~~ forty dollars (\$40.00). In addition, in proceedings involving
41 land, except boundary disputes, if the fair market value of the land
42 involved is over one hundred dollars (\$100.00), there shall be an
43 additional sum of thirty cents (30¢) per one hundred dollars (\$100.00)
44 of value, or major fraction thereof, not to exceed a maximum
45 additional sum of two hundred dollars (\$200.00). Fair market value is
46 determined by the sale price if there is a sale, the appraiser's valuation
47 if there is no sale, or the appraised value from the property tax records
48 if there is neither a sale nor an appraiser's valuation. Sums collected
49 under this subdivision shall be remitted to the State Treasurer. The
50 State Treasurer shall remit the sum of one dollar and five cents (\$1.05)
51 of each ~~thirty dollar (\$30.00)~~ forty-dollar (\$40.00) General Court of
52 Justice fee collected under this subdivision to the North Carolina State
53 Bar for the provision of services described in G.S. 7A-474.4."

54 **SECTION 43.1.(d)** G.S. 7A-307(a)(2) and (2a) read as rewritten:

55 (a) In the administration of the estates of decedents, minors, incompetents, of
missing persons, and of trusts under wills and under powers of attorney, in trust

1 proceedings under G.S. 36A-23.1, and in collections of personal property by affidavit,
2 the following costs shall be assessed:

3
4 (2) For support of the General Court of Justice, the sum of ~~thirty dollars~~
5 ~~(\$30.00)~~, forty dollars (\$40.00), plus an additional forty cents (40¢)
6 per one hundred dollars (\$100.00), or major fraction thereof, of the
7 gross estate, not to exceed ~~three thousand dollars (\$3,000)~~, six
8 thousand dollars (\$6,000). Gross estate shall include the fair market
9 value of all personalty when received, and all proceeds from the sale of
10 realty coming into the hands of the fiduciary, but shall not include the
11 value of realty. In collections of personal property by affidavit, the fee
12 based on the gross estate shall be computed from the information in
13 the final affidavit of collection made pursuant to G.S. 28A-25-3 and
14 shall be paid when that affidavit is filed. In all other cases, this fee
15 shall be computed from the information reported in the inventory and
16 shall be paid when the inventory is filed with the clerk. If additional
17 gross estate, including income, comes into the hands of the fiduciary
18 after the filing of the inventory, the fee for such additional value shall
19 be assessed and paid upon the filing of any account or report
20 disclosing such additional value. For each filing the minimum fee shall
21 be fifteen dollars (\$15.00). Sums collected under this subdivision shall
22 be remitted to the State Treasurer. The State Treasurer shall remit the
23 sum of one dollar and five cents (\$1.05) of each ~~thirty dollar (\$30.00)~~
24 forty-dollar (\$40.00) General Court of Justice fee collected under this
25 subdivision to the North Carolina State Bar for the provision of
26 services described in G.S. 7A-474.4.

27 (2a) Notwithstanding subdivision (2) of this subsection, the fee of forty
28 cents (40¢) per one hundred dollars (\$100.00), or major fraction, of the
29 gross estate, not to exceed ~~three thousand dollars (\$3,000)~~, six
30 thousand dollars (\$6,000), shall not be assessed on personalty received
31 by a trust under a will when the estate of the decedent was
32 administered under Chapters 28 or 28A of the General Statutes.
33 Instead, a fee of twenty dollars (\$20.00) shall be assessed on the filing
34 of each annual and final account."

35 **SECTION 43.1.(e)** G.S. 15A-145(e) reads as rewritten:

36 "(e) A person who files a petition for expunction of a criminal record under this
37 section must pay the clerk of superior court a fee of ~~sixty five dollars (\$65.00)~~ one
38 hundred twenty-five dollars (\$125.00) at the time the petition is filed. Fees collected
39 under this subsection shall be deposited in the General Fund. This subsection does not
40 apply to petitions filed by an indigent."

41 **SECTION 43.1.(f)** G.S. 15A-1343(b1)(3c) reads as rewritten:

42 "(b1) Special Conditions. – In addition to the regular conditions of probation
43 specified in subsection (b), the court may, as a condition of probation, require that
44 during the probation the defendant comply with one or more of the following special
45 conditions:

46
47 (3c) Remain at his or her residence unless the court or the probation officer
48 authorizes the offender to leave for the purpose of employment,
49 counseling, a course of study, or vocational training. The offender
50 shall be required to wear a device which permits the supervising
51 agency to monitor the offender's compliance with the condition
52 electronically and to pay a fee for the device as specified
53 in subsection (c2) of this section."

54 **SECTION 43.1.(g)** G.S. 20-135.2A(e) reads as rewritten:

1 "(e) Any driver or passenger who fails to wear a seat belt as required by this
2 section shall have committed an infraction and shall pay a penalty of twenty-five dollars
3 (\$25.00) plus court costs in the sum of ~~fifty dollars (\$50.00)~~ seventy-five dollars
4 (\$75.00). Court costs assessed under this section are for the support of the General
5 Court of Justice and shall be remitted to the State Treasurer. Conviction of an infraction
6 under this section has no other consequence."
7

8 Requested by: Senators Thomas, Hoyle, Kerr

9 **DEVICE FEE FOR HOUSE ARREST WITH ELECTRONIC MONITORING**

10 **SECTION 43.2.** G.S. 15A-1343 is amended by adding a new section to
11 read:

12 "(c2) Electronic Monitoring Device Fee. – Any person placed on house arrest with
13 electronic monitoring under subsection (b1) of this section shall pay a fee of ninety
14 dollars (\$90.00) for the electronic monitoring device. The court may exempt a person
15 from paying the fee only for good cause and upon motion of the person placed on house
16 arrest with electronic monitoring. The court may require that the fee be paid in advance
17 or in a lump sum or sums, and a probation officer may require payment by those
18 methods if the officer is authorized by subsection (g) of this section to determine the
19 payment schedule. The fee must be paid to the clerk of court for the county in which the
20 judgment was entered or the deferred prosecution agreement was filed. Fees collected
21 under this subsection shall be transmitted to the State for deposit into the State's General
22 Fund."
23

24 Requested by: Senators Thomas, Hoyle, Kerr

25 **INCREASE BUTNER TAXES**

26 **SECTION 43.3.(a)** Section 1 of Chapter 830 of the 1983 Session Laws
27 reads as rewritten:

28 "Section 1. (a) The territorial jurisdiction of the Butner Police and Fire Protection
29 District shall include: (i) any property formerly a part of the original Camp Butner
30 reservation, including both those areas currently owned and occupied by the State and
31 its agencies and those which may have been leased or otherwise disposed of by the
32 State; (ii) the Lyons Station Sanitary District; and (iii) that part of Granville County
33 adjoining the Butner reservation and the Lyons Station Sanitary District situated north
34 and west of the intersection of Rural Paved Roads 1103 and 1106 and bounded by those
35 roads and the boundaries of said reservation and said sanitary district.

36 (b) The territorial jurisdiction set forth in subsection (a) of this section shall
37 constitute the Butner Fire and Police Protection District. The tax collectors of Durham
38 and Granville Counties shall annually collect ~~beginning with fiscal year 1983-84~~ a tax
39 of ~~twenty cents (20¢)~~ twenty-five cents (25¢) per one hundred dollars (\$100.00)
40 valuation of all real and personal property in the portions of said district in their
41 respective counties from year to year which tax shall be collected as county taxes are
42 collected and shall remit the same to the State Treasurer for deposit in the General
43 Fund."
44

45 **SECTION 43.3.(b)** This section is effective for taxes imposed for taxable
46 years beginning on or after July 1, 2005.

47 Requested by: Senators Thomas, Hoyle, Kerr

48 **FEE FOR POLICE INFORMATION NETWORK**

49 **SECTION 43.4.(a)** G.S. 114-10.1 reads as rewritten:

50 **"§ 114-10.1. Police Information Network.**

51 (a) The Division of Criminal Statistics is authorized to establish, devise, maintain
52 and operate, under the control and supervision of the Attorney General, a system for
53 receiving and disseminating to participating agencies information collected, maintained
54 and correlated under authority of G.S. 114-10 of this Article. The system shall be
55 known as the Police Information Network.

1 (b) The Attorney General is authorized to cooperate with the Division of Motor
2 Vehicles, Department of Administration, Department of Correction and other State,
3 local and federal agencies and organizations in carrying out the purpose and intent of
4 this section, and to utilize, in cooperation with other State agencies and to the extent as
5 may be practical, computers and related equipment as may be operated by other State
6 agencies.

7 (c) The Attorney General, after consultation with participating agencies, shall
8 adopt rules and regulations governing the organization and administration of the Police
9 Information Network, including rules and regulations governing the types of
10 information relating to the administration of criminal justice to be entered into the
11 system, and who shall have access to such information. The rules and regulations
12 governing access to the Police Information Network shall not prohibit an attorney who
13 has entered a criminal proceeding in accordance with G.S. 15A-141 from obtaining
14 information relevant to that criminal proceeding. The rules and regulations governing
15 access to the Police Information Network shall not prohibit an attorney who represents a
16 person in adjudicatory or dispositional proceedings for an infraction from obtaining the
17 person's driving record or criminal history

18 (d) The Attorney General may impose an initial set up fee of two thousand six
19 hundred fifty dollars (\$2,650) for agencies to participate in the Police Information
20 Network. This one-time fee shall be used to offset the cost of the router and data circuit
21 needed to access the Network.

22 The Attorney General may also impose monthly fees on participating agencies. For
23 agencies that possess desktop terminals, the monthly fee is three hundred dollars
24 (\$300.00) plus an additional fee amount for each terminal linked to the Police
25 Information Network. The additional fee amount varies depending upon the type of
26 terminal. For each desktop terminal after the first seven desktop terminals, the
27 additional monthly fee is twenty-five dollars (\$25.00). For each mobile terminal, the
28 additional monthly fee is six dollars (\$6.00). For agencies that possess only mobile
29 terminals, the monthly fee for each mobile terminal is six dollars (\$6.00). The monthly
30 fees collected under this subsection shall be used to offset the cost of operating and
31 maintaining the Police Information Network."

32 **SECTION 43.4.(b)** G.S. 114-110.1(d), as enacted by this section, reads as
33 rewritten:

34 (d) The Attorney General may impose an initial set up fee of two thousand six
35 hundred fifty dollars (\$2,650) for agencies to participate in the Police Information
36 Network. This one-time fee shall be used to offset the cost of the router and data circuit
37 needed to access the Network.

38 The Attorney General may also impose monthly fees on participating agencies. For
39 agencies that possess desktop terminals, the monthly fee is three hundred dollars
40 (\$300.00) plus an additional fee amount for each terminal linked to the Police
41 Information Network. The additional fee amount varies depending upon the type of
42 terminal. For each desktop terminal after the first seven desktop terminals, the
43 additional monthly fee is twenty-five dollars (\$25.00). For each mobile terminal, the
44 additional monthly fee is ~~six dollars (\$6.00)~~ twelve dollars (\$12.00). For agencies that
45 possess only mobile terminals, the monthly fee for each mobile terminal is ~~six dollars~~
46 ~~(\$6.00)~~ twelve dollars (\$12.00). The monthly fees collected under this subsection shall
47 be used to offset the cost of operating and maintaining the Police Information Network."

48 **SECTION 43.4.(c)** Subsection (b) of this section becomes effective January
49 1, 2006. The remainder of this section is effective when it becomes law.

50 51 **PART XLIV. DEPARTMENT OF TRANSPORTATION FEE CHANGES**

52
53 Requested by: Senators Hoyle, Kerr

54 **DOT FEE INCREASES**

55 **SECTION 44.1.(a)** G.S. 20-7 reads as rewritten:

"§ 20-7. Issuance and renewal of drivers licenses.

(i) Fees. – The fee for a regular drivers license is the amount set in the following 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.

(i1) 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).

(l) 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

1 issued under this section that expires on a weekend or State holiday shall remain valid
 2 through the fifth regular State business day following the date of expiration. A full
 3 provisional license expires on the date set under G.S. 20-7(f). The fee for a limited
 4 learner's permit or a limited provisional license is ~~ten dollars (\$10.00)~~ fifteen dollars
 5 (\$15.00). The fee for a full provisional license is the amount set under G.S. 20-7(i)."

6 **SECTION 44.1.(c)** G.S. 20-14 reads as rewritten:

7 "**§ 20-14. Duplicate licenses.**

8 A person may obtain a duplicate of a license issued by the Division by paying a fee
 9 of ten dollars ~~and five cents (\$10.05)~~ (\$10.00) and giving the Division satisfactory proof
 10 that any of the following has occurred:

- 11 (1) The person's license has been lost or destroyed.
- 12 (2) It is necessary to change the name or address on the license.
- 13 (3) Because of age, the person is entitled to a license with a different color
 14 photographic background or a different color border.
- 15 (4) The Division revoked the person's license, the revocation period has
 16 expired, and the period for which the license was issued has not
 17 expired."

18 **SECTION 44.1.(d)** G.S. 20-16(e) reads as rewritten:

19 "(e) The Division may conduct driver improvement clinics for the benefit of those
 20 who have been convicted of one or more violations of this Chapter. Each driver
 21 attending a driver improvement clinic shall pay a fee of ~~twenty five dollars~~
 22 (~~\$25.00~~), fifty dollars (\$50.00)."

23 **SECTION 44.1.(e)** G.S. 20-26(c) reads as rewritten:

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

- 27 (1) Limited extract copy of license record, for
 28 period up to three years ~~\$5.00~~ \$8.00
- 29 (2) Complete extract copy of license record ~~5.00~~ 8.00
- 30 (3) Certified true copy of complete license record ~~7.00~~ 11.00.

31 All fees received by the Division under this subsection shall be credited to the Highway
 32 Fund."

33 **SECTION 44.1.(f)** G.S. 20-37.15 (a1) reads as rewritten:

34 "(a1) The application must be accompanied by a nonrefundable application fee of
 35 ~~twenty dollars (\$20.00)~~ thirty dollars (\$30.00). This fee does not apply in any of the
 36 following circumstances:

- 37 (1) When an individual surrenders a commercial driver learner's permit
 38 issued by the Division when submitting the application.
- 39 (2) When the application is to renew a commercial drivers license issued
 40 by the Division.

41 This fee shall entitle the applicant to three attempts to pass the written knowledge test
 42 without payment of a new fee. No application fee shall be charged to an applicant
 43 eligible for a waiver under G.S. 20-37.13(c)."

44 **SECTION 44.1.(g)** G.S. 20-37.16(d) reads as rewritten:

45 "(d) The fee for a Class A, B, or C commercial drivers license is ~~ten dollars~~
 46 (~~\$10.00~~) fifteen dollars (\$15.00) for each year of the period for which the license is
 47 issued. The fee for each endorsement is ~~one dollar and twenty five cents (\$1.25)~~ three
 48 dollars (\$3.00) for each year of the period for which the endorsement is issued. The fees
 49 required under this section do not apply to employees of the Driver License Section of
 50 the Division who are designated by the Commissioner."

51 **SECTION 44.1.(h)** G.S. 20-42(b) reads as rewritten:

52 "(b) The Commissioner and officers of the Division designated by the
 53 Commissioner may prepare under the seal of the Division and deliver upon request a
 54 certified copy of any document of the Division for a fee. The fee for a document, other
 55 than an accident report under G.S. 20-166.1, is ~~five dollars (\$5.00)~~ ten dollars (\$10.00).

1 The fee for an accident report is ~~four dollars (\$4.00)~~, five dollars (\$5.00). A certified
2 copy shall be admissible in any proceeding in any court in like manner as the original
3 thereof, without further certification. The certification fee does not apply to a document
4 furnished for official use to a judicial official or to an official of the federal government,
5 a state government, or a local government."

6 **SECTION 44.1.(i)** G.S. 20-50(b) reads as rewritten:

7 "(b) The Division may issue a temporary license plate for a vehicle. A temporary
8 license plate is valid for the period set by the Division. The period may not be less than
9 10 days nor more than 60 days.

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

13 The fee for a temporary license plate that is valid for 10 days is ~~three dollars (\$3.00)~~-
14 five dollars (\$5.00). The fee for a temporary license plate that is valid for more than 10
15 days is the amount that would be required with an application for a license plate for the
16 vehicle. If a person obtains for a vehicle a temporary license plate that is valid for more
17 than 10 days and files an application for a license plate for that vehicle before the
18 temporary license plate expires, the person is not required to pay the fee that would
19 otherwise be required for the license plate.

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

- 21 (1) It may be issued only upon proper proof that the applicant has met the
22 applicable financial responsibility requirements.
- 23 (2) It expires on midnight of the day set for expiration.
- 24 (3) It may be used only on the vehicle for which issued and may not be
25 transferred, loaned, or assigned to another.
- 26 (4) If it is lost or stolen, the person who applied for it must notify the
27 Division.
- 28 (5) It may not be issued by a dealer.
- 29 (6) The provisions of G.S. 20-63, 20-71, 20-110 and 20-111 that apply to
30 license plates apply to temporary license plates insofar as possible."

31 **SECTION 44.1.(j)** G.S. 20-73(c) reads as rewritten:

32 "(c) Penalties. – A person to whom a vehicle is transferred who fails to apply for a
33 certificate of title within the required time is subject to a civil penalty of ~~ten dollars~~
34 (~~\$10.00~~) fifteen dollars (\$15.00) and is guilty of a Class 2 misdemeanor. A person who
35 undertakes to apply for a certificate of title on behalf of another person and who fails to
36 apply for a title within the required time is subject to a civil penalty of ~~ten dollars~~
37 (~~\$10.00~~) fifteen dollars (\$15.00). When a person to whom a vehicle is transferred fails
38 to obtain a title within the required time because a person who undertook to apply for
39 the certificate of title did not do so within the required time, the Division may impose a
40 civil penalty only on the person who undertook to apply for the title. Civil penalties
41 collected under this subsection shall be credited to the Highway Fund."

42 **SECTION 44.1.(k)** G.S. 20-85(a) reads as rewritten:

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

- 47 (1) Each application for certificate of title ~~\$35.00~~\$39.00
- 48 (2) Each application for duplicate or corrected certificate of title
49 ~~10.00~~14.00
- 50 (3) Each application of reposessor for certificate of title ~~10.00~~14.00
- 51 (4) Each transfer of registration ~~10.00~~15.00
- 52 (5) Each set of replacement registration plates ~~10.00~~15.00
- 53 (6) Each application for duplicate registration card..... ~~10.00~~15.00
- 54 (7) Each application for recording supplementary lien..... ~~10.00~~14.00

- 1 (8) Each application for removing a lien from a certificate of title
2 ~~10.00~~14.00
- 3 (9) Each application for certificate of title for a motor vehicle transferred
4 to a manufacturer, as defined in G.S. 20-286, or a motor vehicle
5 retailer for the purpose of resale..... ~~10.00~~14.00
- 6 (10) Each application for a salvage certificate of title made by an insurer
7 ~~10.00~~15.00
- 8 (11) Each set of replacement Stock Car Racing Theme plates issued under
9 G.S. 20-79.4 25.00."

10 **SECTION 44.1.(l)** G.S. 20-85.1 reads as rewritten:

11 **"§ 20-85.1. Registration by mail; one-day title service; fees.**

12 (a) The owner of a vehicle registered in North Carolina may renew that vehicle
13 registration by mail. A postage and handling fee of one dollar (\$1.00) per vehicle to be
14 registered shall be charged for this service.

15 (b) The Commissioner and the employees of the Division designated by the
16 Commissioner may prepare and deliver upon request a certificate of title, charging a fee
17 of ~~fifty dollars (\$50.00)~~ seventy-five dollars (\$75.00) for one-day title service, in lieu of
18 the title fee required by G.S. 20-85(a). The fee for one-day title service must be paid by
19 cash or by certified check.

20 (c) The fee collected under subsection (a) shall be credited to the Highway Fund.
21 The fee collected under subsection (b) shall be credited to the Highway Trust Fund."

22 **SECTION 44.1.(m)** G.S. 20-87 reads as rewritten:

23 **"§ 20-87. Passenger vehicle registration fees.**

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

- 27 (1) For-Hire Passenger Vehicles. – The fee for a passenger vehicle that is
28 operated for compensation and has a capacity of 15 passengers or less
29 is seventy-eight dollars (\$78.00). The fee for a passenger vehicle that
30 is operated for compensation and has a capacity of more than 15
31 passengers is one dollar and forty cents (\$1.40) per hundred pounds of
32 empty weight of the vehicle.
- 33 (2) U-Drive-It Vehicles. – U-drive-it vehicles shall pay the following tax:
34 Motorcycles: 1-passenger capacity \$18.00
35 2-passenger capacity 22.00
36 3-passenger capacity 26.00
37 Automobiles: 15 or fewer passengers ~~\$41.00~~\$51.00
38 Buses: 16 or more passengers ~~\$1.40~~ \$2.00 per
39 hundred
40 pounds of
41 empty weight
- 42 Trucks under
43 7,000 pounds
44 that do not
45 haul products
46 for hire: 4,000 pounds.....\$41.50
47 5,000 pounds.....\$51.00
48 6,000 pounds.....\$61.00.

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

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

- 1 (5) Private Passenger Vehicles. – There shall be paid to the Division
 2 annually, as of the first day of January, for the registration and
 3 licensing of private passenger vehicles, fees according to the following
 4 classifications and schedules:
 5 Private passenger vehicles of not more than fifteen
 6 passengers ~~\$20.00~~\$28.00
 7 Private passenger vehicles over fifteen passengers ~~23.00~~31.00
 8 Provided, that a fee of only one dollar (\$1.00) shall be charged for any
 9 vehicle given by the federal government to any veteran on account of
 10 any disability suffered during war so long as such vehicle is owned by
 11 the original donee or other veteran entitled to receive such gift under
 12 Title 38, section 252, United States Code Annotated.
- 13 (6) Private Motorcycles. – The base fee on private passenger motorcycles
 14 shall be ~~nine dollars (\$9.00); fifteen dollars (\$15.00);~~ except that when
 15 a motorcycle is equipped with an additional form of device designed to
 16 transport persons or property, the base fee shall be ~~sixteen dollars~~
 17 ~~(\$16.00); twenty-two dollars (\$22.00).~~ An additional fee of three
 18 dollars (\$3.00) is imposed on each private motorcycle registered under
 19 this subdivision in addition to the base fee. The revenue from the
 20 additional fee, in addition to any other funds appropriated for this
 21 purpose, shall be used to fund the Motorcycle Safety Instruction
 22 Program created in G.S. 115D-72.
- 23 (7) Dealer License Plates. – The fee for a dealer license plate is the regular
 24 fee for each of the first five plates issued to the same dealer and is
 25 one-half the regular fee for each additional dealer license plate issued
 26 to the same dealer. The "regular fee" is the fee set in subdivision (5) of
 27 this section for a private passenger motor vehicle of not more than 15
 28 passengers.
- 29 (8) Driveaway Companies. – Any person engaged in the business of
 30 driving new motor vehicles from the place of manufacture to the place
 31 of sale in this State for compensation shall pay a fee of one-half of the
 32 amount that would otherwise be payable under this section for each set
 33 of plates.
- 34 (9) House Trailers. – In lieu of other registration and license fees levied on
 35 house trailers under this section or G.S. 20-88, the registration and
 36 license fee on house trailers shall be ~~seven dollars (\$7.00) eleven~~
 37 ~~dollars (\$11.00)~~ for the license year or any portion thereof.
- 38 (10) Special Mobile Equipment. – The fee for special mobile equipment for
 39 the license year or any part of the license year is two times the fee in
 40 subdivision (5) for a private passenger motor vehicle of not more than
 41 15 passengers.
- 42 (11) Any vehicle fee determined under this section according to the weight
 43 of the vehicle shall be increased by the sum of three dollars (\$3.00) to
 44 arrive at the total fee.
- 45 (12) Low-Speed Vehicles. – The fee for a low-speed vehicle is the same as
 46 the fee for private passengers vehicles of not more than 15
 47 passengers."

48 **SECTION 44.1.(n)** G.S. 20-88 reads as rewritten:

49 **"§ 20-88. Property-hauling vehicles.**

50 (a) Determination of Weight. – For the purpose of licensing, the weight of
 51 self-propelled property-carrying vehicles shall be the empty weight and heaviest load to
 52 be transported, as declared by the owner or operator; provided, that any determination
 53 of weight shall be made only in units of 1,000 pounds or major fraction thereof, weights
 54 of over 500 pounds counted as 1,000 and weights of 500 pounds or less disregarded.
 55 The declared gross weight of self-propelled property-carrying vehicles operated in

1 conjunction with trailers or semitrailers shall include the empty weight of the vehicles to
 2 be operated in the combination and the heaviest load to be transported by such
 3 combination at any time during the registration period, except that the gross weight of a
 4 trailer or semitrailer is not required to be included when the operation is to be in
 5 conjunction with a self-propelled property-carrying vehicle which is licensed for 6,000
 6 pounds or less gross weight and the gross weight of such combination does not exceed
 7 9,000 pounds, except wreckers as defined under G.S. 20-4.01(50). Those
 8 property-hauling vehicles registered for 4,000 pounds shall be permitted a tolerance of
 9 500 pounds above the weight permitted under the table of weights and rates appearing
 10 in subsection (b) of this section.

11 (b) The following fees are imposed on the annual registration of self-propelled
 12 property-hauling vehicles; the fees are based on the type of vehicle and its weight:
 13

14 **SCHEDULE OF WEIGHTS AND RATES**

15

16 Rates Per Hundred Pound Gross Weight	
17	Farmer Rate
18 Not over 4,000 pounds	\$0.23 <u>\$0.29</u>
19 4,001 to 9,000 pounds inclusive	.29 <u>.40</u>
20 9,001 to 13,000 pounds inclusive	.37 <u>.50</u>
21 13,001 to 17,000 pounds inclusive	.51 <u>.68</u>
22 Over 17,000 pounds	.58 <u>.77</u>

23

24 Rates Per Hundred Pound Gross Weight	
25	General Rate
26 Not over 4,000 pounds	\$0.46 <u>\$0.59</u>
27 4,001 to 9,000 pounds inclusive	.63 <u>.81</u>
28 9,001 to 13,000 pounds inclusive	.78 <u>1.00</u>
29 13,001 to 17,000 pounds inclusive	1.06 <u>1.36</u>
30 Over 17,000 pounds	1.20 <u>1.54</u>

- 31
- 32 (1) The minimum fee for a vehicle licensed under this subsection is
 33 ~~seventeen dollars and fifty cents (\$17.50)~~ twenty-four dollars (\$24.00)
 34 at the farmer rate and ~~twenty one dollars and fifty cents (\$21.50)~~
 35 twenty-eight dollars (\$28.00) at the general rate.
 - 36 (2) The term "farmer" as used in this subsection means any person
 37 engaged in the raising and growing of farm products on a farm in
 38 North Carolina not less than 10 acres in area, and who does not engage
 39 in the business of buying products for resale.
 - 40 (3) License plates issued at the farmer rate shall be placed upon trucks and
 41 truck-tractors that are operated exclusively in the carrying or
 42 transportation of applicant's farm products, raised or produced on his
 43 farm, and farm supplies and not operated in hauling for hire.
 - 44 (4) "Farm products" means any food crop, livestock, poultry, dairy
 45 products, flower bulbs, or other nursery products and other agricultural
 46 products designed to be used for food purposes, including in the term
 47 "farm products" also cotton, tobacco, logs, bark, pulpwood, tannic acid
 48 wood and other forest products grown, produced, or processed by the
 49 farmer.
 - 50 (5) The Division shall issue necessary rules and regulations providing for
 51 the recall, transfer, exchange or cancellation of "farmer" plates, when
 52 vehicle bearing such plates shall be sold or transferred.
 - 53 (5a) Notwithstanding any other provision of this Chapter, license plates
 54 issued pursuant to this subsection at the farmer rate may be purchased
 55 for any three-month period at one fourth of the annual fee.

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

9 (c) The fee for a semitrailer or trailer is ~~ten dollars (\$10.00)~~ nineteen dollars
10 (\$19.00) for each year or part of a year. The fee is payable on or before January 1 of
11 each year. Upon the application of the owner of a semitrailer or trailer, the Division may
12 issue a multiyear plate and registration card for the semitrailer or trailer for a fee of
13 seventy-five dollars (\$75.00). A multiyear plate and registration card for a semitrailer or
14 trailer are valid until the owner transfers the semitrailer or trailer to another person or
15 surrenders the plate and registration card to the Division. A multiyear plate may not be
16 transferred to another vehicle.

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

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

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

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

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

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

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

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

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

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

43 **SECTION 44.1.(o)** G.S. 20-289 reads as rewritten:

44 **"§ 20-289. License fees.**

45 (a) The license fee for each fiscal year, or part thereof, shall be as follows:

46 (1) For motor vehicle dealers, distributors, distributor branches, and
47 wholesalers, ~~fifty dollars (\$50.00)~~ seventy dollars (\$70.00) for each
48 place of business.

49 (2) For manufacturers, ~~one hundred dollars (\$100.00)~~, one hundred fifty
50 dollars (\$150.00) and for each factory branch in this State, ~~seventy~~
51 ~~dollars (\$70.00)~~ one hundred dollars (\$100.00).

52 (3) For motor vehicle sales representatives, ~~ten dollars (\$10.00)~~ fifteen
53 dollars (\$15.00).

54 (4) For factory representatives, or distributor representatives, ~~ten dollars~~
55 ~~(\$10.00)~~ fifteen dollars (\$15.00).

1 (5) Repealed by Session Laws 1991, c. 662, s. 4.
 2 (b) The fees collected under this section shall be credited to the Highway Fund.
 3 These fees are in addition to all other taxes and fees."

4 **SECTION 44.1.(p)** G.S. 20-385 reads as rewritten:

5 "**§ 20-385. Fee schedule.**

6 (a) Amounts. –

- 7 (1) Verification by a for-hire motor
 8 carrier of insurance for each for-hire
 9 motor vehicle operated in this State \$ 1.00
 10 (2) Application by an intrastate motor carrier
 11 for a certificate of exemption ~~25.00~~45.00
 12 (3) Certification by an interstate motor carrier
 13 that it is not regulated by the United
 14 States Department of Transportation ~~25.00~~45.00
 15 (4) Application by an interstate motor carrier
 16 for an emergency permit ~~10.00~~18.00.

17 (b) Reciprocal Agreements. – The fee set in subdivision (a)(1) of this section
 18 does not apply to the verification of insurance by an interstate motor carrier regulated by
 19 the United States Department of Transportation if the Division had a reciprocal
 20 agreement on November 15, 1991, with another state by which no fee is imposed. The
 21 Division had reciprocal agreements as of that date with the following states: California,
 22 Delaware, Indiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri,
 23 Nebraska, New Jersey, Pennsylvania, Texas, and Vermont."

24 **SECTION 44.1.(q)** This section becomes effective October 1, 2005, and
 25 applies to fees collected on or after that date.

26 **PART XLV. INDUSTRIAL COMMISSION FEES**

27 Requested by: Senators Hoyle, Kerr

28 **INDUSTRIAL COMMISSION FEES**

29 **SECTION 45.1.(a)** G.S. 97-73 reads as rewritten:

30 "**§ 97-73. Expenses of making examinations.**~~Fees.~~

31 (a) The Industrial Commission ~~shall~~ may establish by rule a schedule of fees for
 32 examinations ~~conducted and conducted, reports made pursuant to G.S. 97-61.1 through~~
 33 ~~97-61.6 and 97-67 through 97-71. made, documents filed, and agreements reviewed~~
 34 under this Article. The fees shall be collected in accordance with rules adopted by the
 35 Industrial Commission.
 36

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
 41

42 **PART XLVI. MISCELLANEOUS PROVISIONS**

43 Requested by: Senators Garrou, Dalton, Hagan

44 **EXECUTIVE BUDGET ACT APPLIES**

45 **SECTION 46.1.** The provisions of the Executive Budget Act, Chapter 143,
 46 Article 1 of the General Statutes, are reenacted and shall remain in full force and effect
 47 and are incorporated in this act by reference.
 48
 49

50 Requested by: Senators Garrou, Dalton, Hagan

51 **COMMITTEE REPORT**

52 **SECTION 46.2.(a)** The Senate Appropriations/Base Budget Committee
 53 Report on the Continuation, Expansion and Capital Budgets, dated May 3, 2005, which
 54 was distributed in the Senate and House of Representatives and used to explain this act,
 55 shall indicate action by the General Assembly on this act and shall therefore be used to

1 construe this act, as provided in G.S. 143-15 of the Executive Budget Act, and for these
2 purposes shall be considered a part of this act and as such shall be printed as a part of
3 the Session Laws.

4 **SECTION 46.2.(b)** The budget enacted by the General Assembly for the
5 maintenance of the various departments, institutions, and other spending agencies of the
6 State for the 2005-2007 fiscal biennium is a line item budget, in accordance with the
7 Budget Code Structure and the State Accounting System Uniform Chart of Accounts set
8 out in the Administrative Policies and Procedures Manual of the Office of the State
9 Controller. This budget includes the appropriations made from all sources including the
10 General Fund, Highway Fund, special funds, cash balances, federal receipts, and
11 departmental receipts.

12 The Director of the Budget submitted the itemized budget requests to the
13 General Assembly on February 23, 2005, in the documents, "North Carolina State
14 Budget 2005-2007, Summary of Recommendations" and "State of North Carolina
15 2005-2007 Recommended Continuation Budget" volumes one through six. The
16 beginning appropriation for the 2005-2006 fiscal year and the 2006-2007 fiscal year for
17 the various departments, institutions, and other spending agencies of the State is
18 referenced in Tables 12 and 13 of the Summary of Recommendations document as the
19 recommended continuation budget.

20 The General Assembly adjusted the recommended continuation budget to
21 incorporate all nonrecurring adjustments enacted by the 2003 General Assembly as
22 required in S.L. 2004-124 and S.L. 2003-284. These adjustments affect the Division of
23 Medical Assistance, the Division of Mental Health, Developmental Disabilities, and
24 Substance Abuse Services, the Clean Water Management Trust Fund, the Department of
25 Crime Control and Public Safety, the Judicial Department, the General Assembly, the
26 Department of Revenue, the Office of State Budget and Management, the Community
27 Colleges System Office, the University of North Carolina – Board of Governors, the
28 Department of Transportation, and the Reserve for Death Benefit Trust, and the Reserve
29 for Disability Income Plan. These adjustments to the recommended continuation budget
30 are set out in the Senate Appropriations/Base Budget Committee Report on the
31 Continuation, Expansion, and Capital Budgets, dated May 3, 2005. The recommended
32 continuation budget submitted by the Director of the Budget, as adjusted by the General
33 Assembly, is referred to as the adjusted continuation budget and represents the starting
34 point for further legislative revisions.

35 The General Assembly revised the adjusted continuation budget for the
36 2005-2006 fiscal year and 2006-2007 fiscal year in accordance with the steps that
37 follow, and the line item detail in the budget enacted by the General Assembly may be
38 derived accordingly:

- 39 (1) The adjusted continuation budget was revised in accordance with
40 reductions and additions that were set out in the Senate
41 Appropriations/Base Budget Committee Report on the Continuation,
42 Expansion and Capital Budgets, dated May 3, 2005, together with any
43 accompanying correction sheets.
- 44 (2) Transfers of funds supporting programs were made in accordance with
45 the Senate Appropriations/Base Budget Committee Report on the
46 Continuation, Expansion and Capital Budgets, dated May 3, 2005,
47 together with any accompanying correction sheets.

48 **SECTION 46.2.(c)** The budget enacted by the General Assembly shall also
49 be interpreted in accordance with the special provisions in this act and in accordance
50 with other appropriate legislation.

51 In the event that there is a conflict between the line item budget certified by
52 the Director of the Budget and the budget enacted by the General Assembly, the budget
53 enacted by the General Assembly shall prevail.

54 Requested by: Senators Garrou, Dalton, Hagan

1 **MOST TEXT APPLIES ONLY TO THE 2005-2007 FISCAL BIENNIUM**

2 **SECTION 46.3.** Except for statutory changes or other provisions that clearly
3 indicate an intention to have effects beyond the 2005-2007 fiscal biennium, the textual
4 provisions of this act apply only to funds appropriated for, and activities occurring
5 during, the 2005-2007 fiscal biennium.
6

7 Requested by: Senators Garrou, Dalton, Hagan

8 **EFFECT OF HEADINGS**

9 **SECTION 46.4.** The headings to the parts and sections of this act are a
10 convenience to the reader and are for reference only. The headings do not expand,
11 limit, or define the text of this act, except for effective dates referring to a Part.
12

13 Requested by: Senators Garrou, Dalton, Hagan

14 **SEVERABILITY CLAUSE**

15 **SECTION 46.5.** If any section or provision of this act is declared
16 unconstitutional or invalid by the courts, it does not affect the validity of this act as a
17 whole or any part other than the part so declared to be unconstitutional or invalid.
18

19 Requested by: Senators Garrou, Dalton, Hagan

20 **EFFECTIVE DATE**

21 **SECTION 46.6.** Except as otherwise provided, this act becomes effective
22 July 1, 2005.