

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007**

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**SENATE BILL 1266\***

Short Title: Build Community Infrastructure - MH/DD/SA. (Public)

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Sponsors: Senators Nesbitt; Allran, Atwater, Cowell, Dannelly, Forrester, and Purcell.

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Referred to: Appropriations/Base Budget.

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March 26, 2007

A BILL TO BE ENTITLED

1 AN ACT TO BUILD COMMUNITY INFRASTRUCTURE FOR MENTAL HEALTH,  
2 DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES  
3 AND TO APPROPRIATE FUNDS AS RECOMMENDED BY THE JOINT  
4 LEGISLATIVE OVERSIGHT COMMITTEE ON MENTAL HEALTH,  
5 DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES.  
6

7 The General Assembly of North Carolina enacts:

8  
9 **PART I. INCREASE AVAILABILITY OF SUBSTANCE ABUSE TREATMENT.**

10  
11 **START-UP FUNDING FOR SUBSTANCE ABUSE TREATMENT PROGRAMS.**

12 **SECTION 1.1.** There is appropriated from the General Fund to the  
13 Department of Health and Human Services (DHHS), Division of Mental Health,  
14 Developmental Disabilities, and Substance Abuse Services (DMH), the sum of ten  
15 million dollars (\$10,000,000) for the 2007-2008 fiscal year and the sum of five million  
16 (\$5,000,000) for the 2008-2009 fiscal year. DHHS shall distribute the funds no later  
17 than 30 days after the enactment of the Current Operations and Capital Appropriations  
18 Act for the 2007-2009 biennium.

19 Funds appropriated in this section shall be allocated to local management  
20 entities (LMEs) such that each LME receives a percentage of the total allocation that is  
21 equal to that local management entity's percentage of the State's total population that is  
22 below the federal poverty level. LMEs shall use the funds for operational start-up,  
23 capital, or subsidies related to the creation of both residential and outpatient substance  
24 abuse treatment programs. Each LME shall determine the type of substance abuse  
25 treatment programs that are needed in that LME's catchment area, issue requests for  
26 proposals for the creation of those programs, and award funds for appropriate proposals.  
27 LMEs may work together to identify regional needs and may also issue combined  
28 requests for proposals to create regional substance abuse treatment programs. LMEs

1 shall distribute funds appropriated under this section no later than six months after the  
2 funds are distributed to LMEs by DHHS, and in no event later than June 30, 2008.

3 **SECTION 1.2.** There is appropriated from the General Fund to the North  
4 Carolina Area Health Education Centers (AHEC) the sum of five hundred thousand  
5 dollars (\$500,000) for the 2007-2008 fiscal year and the sum of five hundred thousand  
6 dollars (\$500,000) for the 2008-2009 fiscal year. AHEC shall use the funds to provide  
7 technical assistance to LMEs in the identification of substance abuse treatment program  
8 needs in the LMEs' catchment areas, the development of requests for proposals, and  
9 oversight and accountability for the implementation of substance abuse treatment  
10 programs. AHEC shall make recommendations to the Joint Legislative Oversight  
11 Committee on Mental Health, Developmental Disabilities, and Substance Abuse  
12 Services by February 1, 2009, and October 1, 2010, regarding whether there is a need  
13 for additional funds for substance abuse start-up and services.

#### 14 **SUBSTANCE ABUSE TREATMENT SERVICES AND PREVENTION.**

15 **SECTION 1.3.** G.S. 122C-147.1 reads as rewritten:

##### 16 **"§ 122C-147.1. Appropriations and allocations.**

17 (a) Except as provided in subsection (b) of this section, funds for services  
18 delivered to mentally ill and developmentally disabled clients shall be appropriated by  
19 the General Assembly in broad age/disability categories. Funds for services delivered to  
20 substance abuse clients shall be appropriated by the General Assembly in a broad  
21 disability category. The Secretary shall allocate and account for funds in broad  
22 disability or age/disability categories so that the ~~area authority~~ LME may, with  
23 flexibility, earn funds in response to local needs that are identified within the payment  
24 policy developed in accordance with G.S. 122C-143.1(b).

25 (b) When the General Assembly determines that it is necessary to appropriate  
26 funds for a more specific purpose than the broad disability or age/disability category,  
27 the Secretary shall determine whether expenditure accounting, special reporting within  
28 earning from a broad fund, the Memorandum of Agreement, or some other mechanism  
29 allows the best accounting for the funds.

30 (c) Funds that have been appropriated by the General Assembly for a more  
31 specific purpose than specified in subsection (a) of this section shall be converted to a  
32 broad disability or age/disability category at the beginning of the second biennium  
33 following the appropriation, unless otherwise acted upon by the General Assembly.

34 (d) The Secretary shall allocate funds to ~~area programs~~ LMEs as follows:

35 (1) To be earned in a purchase of service basis, at negotiated  
36 reimbursement rates, for services that are included in the payment  
37 policy and delivered to mentally ~~ill~~, ill and developmentally disabled,  
38 ~~and substance abuse disabled~~ clients and for services that are included  
39 in the payment policy to other ~~recipients~~; or recipients.

40 (2) To be paid under a grant on the basis of agreed-upon ~~expenditures,~~  
41 ~~when the Secretary determines that it would be impractical to pay on a~~  
42 ~~purchase of service basis expenditures.~~

1       (d1) The Secretary shall allocate funds to LMEs for services to substance abuse  
2 clients. Notwithstanding subsection (d) of this section, each LME shall determine  
3 whether to earn the funds for services to substance abuse clients in a purchase for  
4 service basis, under a grant, or some combination of the two.

5       (d2) No later than November 1, 2007, the Secretary shall develop and implement a  
6 system that LMEs shall use to track the funds each LME expends on a grant basis for  
7 each disability and for each age/disability category and that identifies the specific  
8 services purchased with the funds.

9       (e) After the close of a fiscal year, final payments of funds shall be ~~made~~made  
10 as follows:

11           (1) Under the purchase of service basis, on the earnings of the ~~area~~  
12 ~~authority—~~LME for the delivery to individuals within each  
13 age/disability group, of any services that are consistent with the  
14 payment policy established in G.S. 122C-143.1(b), up to the final  
15 allocation ~~amount; or~~amount.

16           (2) When awarded on an expenditure basis, on allowable actual  
17 expenditures, up to the final allocation amount.

18       (e1) Under rules adopted by the Secretary, final payments made under subsection  
19 (e) of this section shall be adjusted on the basis of the audit required in  
20 G.S. 122C-144.1(d)."

21       **SECTION 1.4.** Consistent with G.S. 122C-2, the General Assembly strongly  
22 encourages LMEs to use a portion of the funds appropriated for substance abuse  
23 treatment services to support prevention and education activities.

24       **SECTION 1.5.** An LME may use up to one percent (1%) of funds allocated  
25 to it for substance abuse treatment services to provide nominal incentives for consumers  
26 who achieve specified treatment benchmarks.

## 27 **DRUG TREATMENT COURTS.**

28       **SECTION 1.6.** There is appropriated from the General Fund to the  
29 Department of Health and Human Services (DHHS), Division of Mental Health,  
30 Developmental Disabilities, and Substance Abuse Services the sum of four million  
31 dollars (\$4,000,000) for the 2007-2008 fiscal year and the sum of four million dollars  
32 (\$4,000,000) for the 2008-2009 fiscal year. The funds shall be used to provide  
33 substance abuse treatment services and case management for existing pre- and post-plea  
34 Adult Drug Treatment Courts, DWI Treatment Courts, Youth Drug Treatment Courts,  
35 Mental Health Treatment Courts, and Family Drug Treatment Courts.

## 36 **PART II. ADDITIONAL HOUSING ASSISTANCE.**

### 37 **INDEPENDENT- AND SUPPORTIVE-LIVING APARTMENTS INITIATIVE.**

38       **SECTION 2.1.** There is appropriated from the General Fund to the  
39 Department of Health and Human Services (DHHS) the sum of five million two  
40 hundred fifty thousand dollars (\$5,250,000) for the 2007-2008 fiscal year and the sum  
41 of five million two hundred fifty thousand dollars (\$5,250,000) for the 2008-2009 fiscal  
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1 year. The funds shall be used to pay for operating cost subsidies for approximately  
2 thousand 1,000 independent- and supportive-living apartments for individuals with  
3 mental health, developmental, or substance abuse disabilities. DHHS shall maximize  
4 the number of subsidies that can be paid for with these funds by giving first priority to  
5 North Carolina Housing Finance Agency-financed apartments, giving second priority to  
6 other publicly subsidized apartments, and third priority to market-rate apartments. Up  
7 to two hundred fifty thousand dollars (\$250,000) may be used for administration of the  
8 subsidies.

9 **SECTION 2.2.** There is appropriated from the General Fund to the North  
10 Carolina Housing Trust Fund the sum of ten million dollars (\$10,000,000) for the  
11 2007-2008 fiscal year and the sum of ten million dollars (\$10,000,000) for the  
12 2008-2009 fiscal year. The funds shall be used to finance independent- and  
13 supportive-living apartments for individuals with mental health, developmental, or  
14 substance abuse disabilities. The funds shall be used to continue and expand the  
15 Housing 400 Initiative created in 2006.

16 **SECTION 2.3.** The independent and supportive living apartments for  
17 persons with disabilities constructed from funds appropriated in this act for that purpose  
18 shall be affordable to persons with incomes at or below the Supplemental Security  
19 Income (SSI) level.

20 **SECTION 2.4.** The Department of Health and Human Services and the  
21 North Carolina Housing Finance Agency shall work together to develop a plan for the  
22 most efficient and effective use of State resources in the financing and construction of  
23 additional independent- and supportive-living apartments for individuals with mental  
24 health, developmental, or substance abuse disabilities. This plan shall address gaps in  
25 the housing continuum identified by the study that DHHS will conduct during fiscal  
26 year 2006-2007 and fiscal year 2007-2008. DHHS and NCHFA shall report this plan  
27 and also the progress of the Housing 400 Initiative to the Joint Legislative Oversight  
28 Committee on Mental Health, Developmental Disabilities, and Substance Abuse  
29 Services by March 1, 2008.

## 30 **SUPPORT PROPOSALS REGARDING MENTALLY ILL IN ADULT CARE** 31 **HOMES.**

32 **SECTION 2.5.** The Department of Health and Human Services shall  
33 develop a "Transitional Residential Treatment Program" service definition to provide  
34 24-hour residential treatment and rehabilitation for adults who have a pattern of difficult  
35 behaviors related to mental illness and which exceed the capabilities of traditional  
36 community residential settings. DHHS shall submit the new service definition to the  
37 Centers for Medicare and Medicaid for approval no later than 90 days after the  
38 enactment of the Current Operations and Capital Appropriations Act for the 2007-2009  
39 biennium.

40 **SECTION 2.6.** The joint ad hoc subcommittee regarding the mentally ill in  
41 adult care homes convened by the Joint Legislative Oversight Committee on Mental  
42 Health, Developmental Disabilities, and Substance Abuse Services and the North  
43 Carolina Commission on Aging may continue to study and identify rules and laws that  
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1 are necessary to regulate facilities that provide housing for adults with mental illness in  
2 the same location with adults without mental illness.

3 **SECTION 2.7.** The Department of Health and Human Services shall  
4 complete the development of a Uniform Screening Tool (UST) to be used by LMEs to  
5 determine the mental health of any individual admitted to any long-term care facility  
6 within an LME's catchment area. The UST shall be available for use no later than 90  
7 days after the enactment of the Current Operations and Capital Appropriations Act for  
8 the 2007-2009 biennium.

9 **SECTION 2.8.** The Department of Health and Human Services shall make  
10 available placements for at least 2,000 adults through the State/County Special  
11 Assistance In-Home Program. LMEs shall be responsible for the delivery of case  
12 management for recipients who have a mental illness, developmental disability, or  
13 substance abuse disorder and are within the target populations for those disabilities.

### 14 **PART III. CRISIS AND ACUTE CARE SERVICES.**

#### 15 **EXPAND CRISIS SERVICES**

16  
17 **SECTION 3.1.** There is appropriated from the General Fund to the  
18 Department of Health and Human Services, Division of Mental Health, Developmental  
19 Disabilities, and Substance Abuse Services, the sum of ten million dollars  
20 (\$10,000,000) for the 2007-2008 fiscal year and the sum of five million dollars  
21 (\$5,000,000) for the 2008-2009 fiscal year. LMEs shall use these funds to continue to  
22 implement the crisis plans developed under S.L. 2006-66, Section 10.26. DHHS may  
23 use up to two hundred fifty thousand dollars (\$250,000) of the funds appropriated under  
24 this section to extend its contract with the crisis services consultant authorized under  
25 Section 10.26(b) of S.L. 2006-66.

26 **SECTION 3.2.** S.L. 2006-66, Section 10.26(d) reads as rewritten:

27 **"SECTION 10.26.(d)** With the assistance of the consultant, the ~~area authorities and~~  
28 ~~county programs~~ LMEs within a crisis region shall work together to identify gaps in  
29 their ability to provide a continuum of crisis services for all consumers and use the  
30 funds allocated to them to develop and implement a plan to address those needs. At a  
31 minimum, the plan must address the development over time of the following  
32 components: 24-hour crisis telephone lines, walk-in crisis services, mobile crisis  
33 outreach, crisis respite/residential services, crisis stabilization units, 24-hour beds,  
34 facility-based crisis, in-patient crisis, detox, and transportation. Options for voluntary  
35 admissions to a secured facility must include at least one service appropriate to address  
36 the mental health, developmental disability, and substance abuse needs of adults, and  
37 the mental health, developmental disability, and substance abuse needs of children.  
38 Options for involuntary commitment to a secured facility must include at least one  
39 option in addition to admission to a State facility.

40 If all ~~area authorities and county programs~~ LMEs in a crisis region determine that a  
41 facility-based crisis center is needed and sustainable on a long-term basis, the crisis  
42 region shall first attempt to secure those services through a community hospital or other  
43 community facility. If all the ~~area authorities and county programs~~ LMEs in the crisis  
44

1 region determine the region's crisis needs are being met, the ~~area authorities and county~~  
2 ~~programs~~ LMEs may use the funds to meet local crisis service needs."

3 **SECTION 3.3.** There is appropriated from the General Fund to the  
4 Department of Health and Human Services, Division of Mental Health, Developmental  
5 Disabilities, and Substance Abuse Services, the sum of fifteen million dollars  
6 (\$15,000,000) for the 2007-2008 fiscal year and the sum of twenty million dollars  
7 (\$20,000,000) for the 2008-2009 fiscal year to be used to provide crisis services.

8 Funds appropriated in this section shall be allocated to local management  
9 entities (LMEs) such that each LME receives a percentage of the total allocation that is  
10 equal to that LME's percentage of the State's total population that is below the federal  
11 poverty level. DHHS shall distribute the funds no later than 30 days after the enactment  
12 of the Current Operations and Capital Appropriations Act for the 2007-2009 biennium.  
13 LMEs shall work with sheriffs and county public health agencies to serve individuals  
14 who are incarcerated or being held in county jails and who are in need of crisis services.

15 **SECTION 3.4.** G.S. 122C-147.1, as amended by Section 1.3 of this act,  
16 reads as rewritten:

17 "**§ 122C-147.1. Appropriations and allocations.**

18 (a) Except as provided in subsection (b) of this section, funds for services  
19 delivered to mentally ill and developmentally disabled clients shall be appropriated by  
20 the General Assembly in broad age/disability categories. Funds for services delivered to  
21 substance abuse clients shall be appropriated by the General Assembly in a broad  
22 disability category. The Secretary shall allocate and account for funds in broad  
23 disability or age/disability categories so that the LME may, with flexibility, earn funds  
24 in response to local needs that are identified within the payment policy developed in  
25 accordance with G.S. 122C-143.1(b).

26 (b) When the General Assembly determines that it is necessary to appropriate  
27 funds for a more specific purpose than the broad disability or age/disability category,  
28 the Secretary shall determine whether expenditure accounting, special reporting within  
29 earning from a broad fund, the Memorandum of Agreement, or some other mechanism  
30 allows the best accounting for the funds.

31 (b1) Notwithstanding subsection (b) of this section, funds appropriated by the  
32 General Assembly for crisis services shall not be allocated in broad disability or  
33 age/disability categories.

34 (c) Funds that have been appropriated by the General Assembly for a more  
35 specific purpose than specified in subsection (a) of this section shall be converted to a  
36 broad disability or age/disability category at the beginning of the second biennium  
37 following the appropriation, unless otherwise acted upon by the General Assembly. This  
38 subsection shall not apply to funds appropriated by the General Assembly for crisis  
39 services.

40 (d) The Secretary shall allocate funds to LMEs as follows:

- 41 (1) To be earned in a purchase of service basis, at negotiated  
42 reimbursement rates, for services that are included in the payment  
43 policy and delivered to mentally ill and developmentally disabled

1 clients and for services that are included in the payment policy to other  
2 recipients.

3 (2) To be paid under a grant on the basis of agreed-upon expenditures.

4 (d1) The Secretary shall allocate funds to LMEs for crisis services and services to  
5 substance abuse clients. Notwithstanding ~~subsection~~ subsections (b) and (d) of this  
6 section, each LME shall determine whether to earn the funds for crisis services and  
7 funds for services to substance abuse clients in a purchase for service basis, under a  
8 grant, or some combination of the two.

9 (d2) No later than November 1, 2007, the Secretary shall develop and implement a  
10 system that LMEs shall use to track the funds each LME expends on a grant basis for  
11 each disability and for each age/disability category and that identifies the specific  
12 services purchased with the funds.

13 (e) After the close of a fiscal year, final payments of funds shall be made as  
14 follows:

15 (1) Under the purchase of service basis, on the earnings of the LME for  
16 the delivery to individuals within each age/disability group, of any  
17 services that are consistent with the payment policy established in  
18 G.S. 122C-143.1(b), up to the final allocation amount.

19 (2) When awarded on an expenditure basis, on allowable actual  
20 expenditures, up to the final allocation amount.

21 (e1) Under rules adopted by the Secretary, final payments made under subsection  
22 (e) of this section shall be adjusted on the basis of the audit required in  
23 G.S. 122C-144.1(d)."

24 **SECTION 3.5.** The Department of Health and Human Services shall  
25 develop a system for reporting to LMEs information regarding all visits to community  
26 hospital emergency departments by individuals who are in crisis due to a mental illness,  
27 a developmental disability, or a substance abuse disorder. The system shall be  
28 implemented no later than 90 days after the enactment of the Current Operations and  
29 Capital Appropriations Act for the 2007-2009 biennium.

30

### 31 **STATE PSYCHIATRIC HOSPITAL – UTILIZATION PILOT.**

32 **SECTION 3.6.** In addition to the crisis service funds appropriated under  
33 Section 3.3 of this act, there is appropriated from the General Fund to the Department of  
34 Health and Human Services, Division of Mental Health, Developmental Disabilities,  
35 and Substance Abuse Services, the sum of five million dollars (\$5,000,000) for the  
36 2007-2008 fiscal year and the sum of five million dollars (\$5,000,000) for the  
37 2008-2009 fiscal year to be used by selected LMEs to provide crisis services as part of a  
38 pilot program to increase community resources for persons with mental illness and to  
39 reduce acute admissions to State psychiatric hospitals. LMEs that have at least one of  
40 all of the following shall be eligible to use the funds appropriated under this section:  
41 mobile crisis team, facility-based crisis unit, walk-in facility, and a contract with a  
42 community hospital for inpatient beds for involuntary commitments. An LME that  
43 participates in this pilot program during the 2007-2008 fiscal year shall be eligible to  
44 participate in the program during the 2008-2009 fiscal year if the LME can document a

1 reduction in the involuntary commitment admissions from that LME's catchment area to  
2 the State psychiatric hospital that serves that catchment area during the 2007-2008 fiscal  
3 year.

4 The budgets for the State psychiatric hospitals shall not be reduced during the  
5 2007-2008 fiscal year as a result of this pilot. However, those budgets shall be adjusted  
6 in following years to reflect the previous year's use by the LMEs participating in the  
7 pilot program.

#### 8 9 **PART IV. ASSISTANCE TO LAW ENFORCEMENT.**

#### 10 11 **SERVICES TO PERSONS IN JAIL.**

12 **SECTION 4.1.** Local management entities shall work with county public  
13 health departments and county sheriffs to provide medical assessments and medication,  
14 if appropriate, for inmates housed in county jails who are suicidal, hallucinating, or  
15 delusional. LMEs shall also examine ways to provide additional treatment to persons  
16 who are determined to be psychotic, severely depressed, suicidal, or who have  
17 substance abuse disorders. LMEs, county public health departments and county sheriffs  
18 shall work together to develop all of the following:

- 19 (1) A standardized evidence-based screening instrument to be used when  
20 offenders are booked.
- 21 (2) A designated LME employee who is responsible for screening the  
22 daily jail booking log for known mental health consumers.
- 23 (3) Protocols for effective communication between the LME and the jail  
24 staff including collaborative development of medication management  
25 protocols between the jail staff and the mental health providers.
- 26 (4) Training to help detention officers recognize signals of mental illness.

27 There is appropriated from the General Fund to the Department of Health and  
28 Human Services (DHHS), Division of Mental Health, Developmental Disabilities, and  
29 Substance Abuse Services (DMH), the sum of one million dollars (\$1,000,000) for the  
30 2007-2008 fiscal year and the sum of one million dollars (\$1,000,000) for the  
31 2008-2009 fiscal year. Funds appropriated in this section shall be allocated to local  
32 management entities (LMEs) such that each LME receives a percentage of the total  
33 allocation that is equal to that local management entity's percentage of the State's total  
34 population that is below the federal poverty level. LMEs shall use the funds to provide  
35 the assistance required under this section.

36 **SECTION 4.2.** There is appropriated from the General Fund to the  
37 Department of Health and Human Services, Division of Mental Health, Developmental  
38 Disabilities, and Substance Abuse Services, the sum of nine hundred thousand dollars  
39 (\$900,000) for the 2007-2008 fiscal year and the sum of one million eight hundred  
40 thousand dollars (\$1,800,000) for the 2008-2009 fiscal year. The funds shall be used by  
41 LMEs to expand post-arrest jail diversion programs. The funds would expand the  
42 program by 15 programs each year.

#### 43 44 **CRISIS INTERVENTION TEAMS.**



1           **SECTION 4.3.** There is appropriated from the General Fund to the  
2 Department of Health and Human Services, Division of Mental Health, Developmental  
3 Disabilities, and Substance Abuse Services, the sum of one hundred thousand dollars  
4 (\$100,000) for the 2007-2008 fiscal year and the sum of one hundred thousand dollars  
5 (\$100,000) for the 2008-2009 fiscal year. The funds shall be used by LMEs to develop  
6 Crisis Intervention Teams (CITs) statewide. The Division shall develop the ability to  
7 provide training within North Carolina.  
8

9           **POST-CONVICTION SUBSTANCE ABUSE TREATMENT PROGRAMS.**

10           **SECTION 4.4.** There is appropriated from the General Fund to the  
11 Department of Health and Human Services, Division of Mental Health, Developmental  
12 Disabilities, and Substance Abuse Services, the sum of four million eighty thousand  
13 dollars (\$4,080,000) for the 2007-2008 fiscal year and the sum of eight million one  
14 hundred sixty thousand dollars (\$8,160,000) for the 2008-2009 fiscal year. The funds  
15 shall be used to increase the number of TASC (Treatment Alternative for Safer  
16 Communities) case managers by 68 per year.

17           **SECTION 4.5.** There is appropriated from the General Fund to the  
18 Department of Correction the sum of one million four hundred twelve thousand  
19 forty-eight dollars (\$1,412,048) for the 2007-2008 fiscal year, and the sum of one  
20 million one hundred sixty-seven thousand six hundred forty-seven dollars (\$1,167,647)  
21 for the 2008-2009 fiscal year. These funds shall be used to establish a  
22 community-based residential substance abuse treatment facility for female offenders on  
23 probation and female DWI offenders paroled to treatment. The facility shall provide  
24 thirty 90-day therapeutic beds and twenty 28-day short-term treatment beds.  
25

26           **PART V. USE OF MENTAL HEALTH TRUST FUNDS.**

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28           **SECTION 5.1.** Funds remaining in the Trust Fund for Mental Health,  
29 Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs  
30 that are not obligated as of February 1, 2007, may only be obligated to provide  
31 community-based programs. Any funds not obligated as of February 1, 2007, and not  
32 subsequently obligated to provide community-based programs shall be deemed to be  
33 unencumbered and shall be allocated to local management entities (LMEs) such that  
34 each LME receives a percentage of the total allocation that is equal to that local  
35 management entity's percentage of the State's total population that is below the federal  
36 poverty level. DHHS shall distribute the funds no later than 30 days after the enactment  
37 of the Current Operations and Capital Appropriations Act for the 2007-2009 biennium.

38           **SECTION 5.2.** Effective July 1, 2007, G.S. 143C-9-2 reads as rewritten:

39           **"§ 143C-9-2. Trust Fund for Mental Health, Developmental Disabilities, and**  
40           **Substance Abuse Services and Bridge Funding Needs.**

41           (a) The Trust Fund for Mental Health, Developmental Disabilities, and  
42 Substance Abuse Services and Bridge Funding Needs is established as an  
43 interest-bearing, nonreverting special trust fund in the Office of State Budget and  
44 Management. Moneys in the Trust Fund shall be held in trust and used solely to increase

1 community-based services that meet the mental health, developmental disabilities, and  
2 substance abuse services needs of the State. The Trust Fund shall be used to supplement  
3 and not to supplant or replace existing State and local funding available to meet the  
4 mental health, developmental disabilities, and substance abuse services needs of the  
5 State.

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

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

15 (b) Moneys in the Trust Fund for Mental Health, Developmental Disabilities, and  
16 Substance Abuse Services and Bridge Funding Needs shall be used only to:

- 17 (1) Provide start-up funds and operating support for programs and services  
18 that provide more appropriate and cost-effective community treatment  
19 alternatives for individuals currently residing in the State's mental  
20 health, developmental disabilities, and substance abuse services  
21 institutions.
- 22 (2) Facilitate the State's compliance with the United States Supreme Court  
23 decision in *Olmstead v. L.C. and E.W.*
- 24 (3) ~~Facilitate reform of the mental health, developmental disabilities, and~~  
25 ~~substance abuse services system and expand~~ Expand and enhance  
26 mental health, developmental disabilities, and substance abuse  
27 treatment and prevention services in these program areas in the  
28 community to remove waiting lists and provide appropriate and safe  
29 services for clients.
- 30 (4) Provide bridge funding to maintain appropriate client services during  
31 transitional periods as a result of facility closings, including  
32 departmental restructuring of services.
- 33 (5) ~~Construct, repair, and renovate State mental health, developmental~~  
34 ~~disabilities, and substance abuse services facilities.~~

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

1       (d) Beginning July 1, 2007, the Secretary of the Department of Health and  
2 Human Services shall report annually to the Fiscal Research Division on the  
3 expenditures made during the preceding fiscal year from the Trust Fund. The report  
4 shall identify each expenditure by recipient and purpose and shall indicate the authority  
5 under subsection (b) of this section for the expenditure."  
6

## 7 **PART VI. STRENGTHEN THE SERVICES NETWORK.**

8  
9       **SECTION 6.1.** The Department of Health and Human Services shall  
10 designate four additional local management entities to receive all State allocations  
11 through single stream funding. If DHHS has not made the designations by June 1,  
12 2007, then the General Assembly shall make the designations.

13       **SECTION 6.2.** No later than June 1, 2007, the Department of Health and  
14 Human Services shall commend the process for three additional local management  
15 entities to apply for a 1915(b) Medicaid waiver.

16       **SECTION 6.3.** The Joint Legislative Oversight Committee for Mental  
17 Health, Developmental Disabilities, and Substance Abuse Services shall study the  
18 effectiveness of the 1915(b) Medicaid waiver and of those LMEs operating under a  
19 waiver.  
20

## 21 **PART VII. FILLING SERVICE GAPS.**

### 22 **ADDITIONAL MENTAL HEALTH SERVICES.**

23       **SECTION 7.1.** There is appropriated from the General Fund to the  
24 Department of Health and Human Services, Division of Mental Health, Developmental  
25 Disabilities, and Substance Abuse Services, the sum of thirty million dollars  
26 (\$30,000,000) for the 2007-2008 fiscal year and the sum of thirty million dollars  
27 (\$30,000,000) for the 2008-2009 fiscal year. The funds shall be used to purchase  
28 mental health services. Funds appropriated in this section shall be allocated to local  
29 management entities (LMEs) such that each LME receives a percentage of the total  
30 allocation that is equal to that local management entity's percentage of the State's total  
31 population that is below the federal poverty level.  
32  
33

### 34 **ADDITIONAL SERVICES FOR THE DEVELOPMENTALLY DISABLED.**

35       **SECTION 7.2.** There is appropriated from the General Fund to the  
36 Department of Health and Human Services, Division of Mental Health, Developmental  
37 Disabilities, and Substance Abuse Services, the sum of nine million nine hundred  
38 thousand dollars (\$9,900,000) for the 2007-2008 fiscal year and the sum of nine million  
39 nine hundred thousand dollars (\$9,900,000) for the 2008-2009 fiscal year. The funds  
40 shall be used to increase the number of individuals who can participate in the  
41 Community Alternatives Program for Mental Retardation/Developmental Disabilities  
42 (CAP MR/DD).

43       **SECTION 7.3.** There is appropriated from the General Fund to the  
44 Department of Health and Human Services, Division of Mental Health, Developmental

1 Disabilities, and Substance Abuse Services, the sum of seven million dollars  
2 (\$7,000,000) for the 2007-2008 fiscal year and the sum of seven million dollars  
3 (\$7,000,000) for the 2008-2009 fiscal year. The funds shall be used for start-up and  
4 ongoing support of Supported Employment Long-Term Support services.

5 **SECTION 7.4.** Beginning July 1, 2007, Developmental Therapies services  
6 shall only be available to individuals who were receiving that service on June 30, 2007.  
7 Developmental Therapy funds that are not utilized shall be made available to LMEs to  
8 use for CAP MR/DD slots or for other Supported Employment Long-Term Support  
9 services for the developmentally disabled. An LME that receives all its State  
10 appropriated allocations through a grant basis shall also receive its Developmental  
11 Therapies allocation on the same basis.

12 The Department of Health and Human Services shall develop a new,  
13 Medicaid reimbursable service for submission to the Center for Medicare and Medicaid  
14 Services to replace Developmental Therapies no later than November 1, 2007.

15 **SECTION 7.5.** The Department of Health and Human Services shall  
16 develop and apply to the Centers for Medicare and Medicaid Services for additional  
17 home and community-based waivers for persons with developmental disabilities. In  
18 conjunction with the existing CAP MR/DD waiver, the new waivers will create a tiered  
19 system of services.

## 20 **COMMUNITY SUPPORT SERVICES/ TIERED RATE STRUCTURE.**

21 **SECTION 7.6.** The Department of Health and Human Services shall  
22 establish at least three rate tiers for the service of Community Supports. The rates shall  
23 be based upon the level of qualifications of the individuals delivering the service and  
24 shall include a professional-level case management tier, a professional-level skill  
25 building tier, and a paraprofessional-level tier.

## 26 **PART VIII. LME ADMINISTRATIVE FUNDING.**

27  
28 **SECTION 8.1.** There is appropriated from the General Fund to the  
29 Department of Health and Human Services, Division of Mental Health, Developmental  
30 Disabilities, and Substance Abuse Services, the sum of nineteen million two hundred  
31 thousand dollars (\$19,200,000) for the 2007-2008 fiscal year and the sum of nineteen  
32 million two hundred thousand dollars (\$19,200,000) for the 2008-2009 fiscal year to be  
33 used to fully fund the LME administrative cost model developed by the Division  
34 pursuant to S.L. 2006-66, Section 10.32.(b).

35  
36 Based upon information provided to the General Assembly by the Division, it is the  
37 understanding of the General Assembly that the funds appropriated under this section in  
38 addition to the funds contained in the Governor's Base Budget proposal are sufficient to  
39 fully fund the State's contribution for LME systems administration as determined by the  
40 LME administrative cost model developed under S.L. 2006-66, Section 10.32.(b).  
41 Notwithstanding any provision in Chapter 143C of the General Statutes or any other  
42 provision of law, the Secretary shall not transfer funds from any other fund code or  
43 program category within DHHS to fund LME system administration.  
44

1           **SECTION 8.2.** The General Assembly finds that counties have budgeted  
2 almost one hundred twenty-one million dollars (\$121,000,000) to LMEs to pay for  
3 mental health, developmental disabilities, and substance abuse services. However, the  
4 General Assembly lacks information regarding the specific services that are purchased  
5 with those county funds. The General Assembly also lacks data regarding the incomes  
6 of persons receiving mental health, developmental disabilities, and substance abuse  
7 services that are paid for by either State or county funds. This lack of data severely  
8 limits the General Assembly's ability to determine the distribution of services that are  
9 being paid for with public funds, whether persons who are eligible for Medicaid are  
10 being enrolled in that program, and whether expanding the State's Medicaid eligibility  
11 criteria would impact a significant number of mental health, developmental disabilities,  
12 and substance abuse service consumers. Therefore, LMEs shall report to the Division  
13 all expenditures by the LME for services, start-up expenses, and capital and operational  
14 expenditures, regardless of the source of the funds and regardless of whether the funds  
15 were earned on a payment for service or grant basis. This reporting shall include  
16 specific information regarding the expenditure of all funds provided to the LME by the  
17 county or counties contained in the LME's catchment area. To the extent possible, the  
18 information shall be submitted through the Integrated Payment and Reimbursement  
19 System. LMEs shall also gather income data for all individuals receiving services.  
20 There is appropriated from the General Fund to the Department of Health and Human  
21 Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse  
22 Services, the sum of one million seven hundred thousand dollars (\$1,700,000) for the  
23 2007-2008 fiscal year and the sum of one million seven hundred thousand dollars  
24 (\$1,700,000) for the 2008-2009 fiscal year to be used by LMEs to pay for the cost of the  
25 additional data reporting required under this section.

26  
27 **PART IX. EFFECTIVE DATE.**

28           **SECTION 9.1.** This act becomes effective July 1, 2007.  
29