

EDUCATION

1			
2			
3	Community Colleges System Office	\$ 792,784,715	\$ 746,844,357
4			
5	Department of Public Instruction	6,686,828,445	6,706,732,097
6			
7	University of North Carolina – Board of Governors		
8	Appalachian State University	97,985,189	98,017,482
9	East Carolina University		
10	Academic Affairs	163,117,460	165,825,346
11	Health Affairs	45,936,835	45,899,318
12	Elizabeth City State University	27,836,223	27,945,857
13	Fayetteville State University	42,457,022	42,888,221
14	North Carolina Agricultural and		
15	Technical State University	76,760,995	77,033,079
16	North Carolina Central University	58,670,213	58,651,761
17	North Carolina School of the Arts	19,903,778	19,887,953
18	North Carolina State University		
19	Academic Affairs	298,649,068	303,604,023
20	Agricultural Extension	35,806,488	35,806,688
21	Agricultural Research	45,270,285	45,549,731
22	University of North Carolina at Asheville	28,616,607	29,645,303
23	University of North Carolina at Chapel Hill		
24	Academic Affairs	212,811,809	221,386,937
25	Health Affairs	163,536,496	165,717,793
26	Area Health Education Centers	44,519,506	44,519,506
27	University of North Carolina at Charlotte	125,946,379	132,426,616
28	University of North Carolina at Greensboro	112,494,664	113,358,313
29	University of North Carolina at Pembroke	40,978,831	41,646,390
30	University of North Carolina at Wilmington	74,233,617	76,212,723
31	Western Carolina University	71,221,796	71,938,286
32	Winston-Salem State University	48,827,490	48,923,209
33	General Administration	47,357,834	47,356,334
34	University Institutional Programs	24,285,466	28,270,466
35	Related Educational Programs	112,128,293	113,991,033
36	North Carolina School of Science and Mathematics	13,840,377	13,840,377
37	UNC Hospitals at Chapel Hill	39,231,482	39,231,482
38	Total University of North Carolina –		
39	Board of Governors	2,072,424,203	2,109,574,227

HEALTH AND HUMAN SERVICES

40			
41			
42			
43	Department of Health and Human Services		
44	Office of the Secretary	114,180,919	130,744,045
45	Division of Aging	29,495,139	29,495,139
46	Division of Blind Services/Deaf/HH	9,636,797	9,681,220
47	Division of Child Development	264,750,017	267,356,799
48	Division of Education Services	33,852,267	34,281,895
49	Division of Facility Services	16,045,403	17,795,105
50	Division of Medical Assistance	2,461,281,279	2,606,201,525
51	Division of Mental Health	600,373,655	602,298,655
52	NC Health Choice	76,706,650	97,511,380
53	Division of Public Health	139,796,232	141,314,496
54	Division of Social Services	185,339,061	186,973,442
55	Division of Vocation Rehabilitation	41,755,526	42,142,193

1	Total Health and Human Services	\$ 3,973,212,945	\$ 4,165,795,894
2			
3	NATURAL AND ECONOMIC RESOURCES		
4			
5	Department of Agriculture and Consumer Services	49,829,113	49,456,901
6			
7	Department of Commerce		
8	Commerce	44,407,935	36,759,201
9	Commerce State-Aid	11,222,085	11,222,085
10	NC Biotechnology Center	12,083,395	10,583,395
11	Rural Economic Development Center	24,802,607	24,802,607
12			
13	Department of Environment and Natural Resources	171,187,401	163,712,105
14			
15	Department of Labor	14,154,785	14,169,511
16			
17	JUSTICE AND PUBLIC SAFETY		
18			
19	Department of Correction	\$ 1,023,193,451	\$ 1,041,825,169
20			
21	Department of Crime Control and Public Safety	33,509,206	33,899,206
22			
23	Judicial Department	338,914,267	341,627,255
24	Judicial Department – Indigent Defense	90,879,188	85,879,188
25			
26	Department of Justice	76,555,200	77,190,756
27			
28	Department of Juvenile Justice and		
29	Delinquency Prevention	135,174,503	135,774,503
30			
31	GENERAL GOVERNMENT		
32			
33	Department of Administration	62,419,016	58,783,228
34			
35	Office of Administrative Hearings	2,987,410	2,969,712
36			
37	Department of State Auditor	10,850,737	10,840,918
38			
39	Office of State Controller	10,043,268	10,044,511
40			
41	Department of Cultural Resources		
42	Cultural Resources	63,541,449	61,950,582
43	Roanoke Island Commission	1,783,374	1,783,374
44			
45	State Board of Elections	5,067,543	5,069,307
46			
47	General Assembly	42,984,588	46,965,432
48			
49	Office of the Governor		
50	Office of the Governor	5,324,590	5,344,528
51	Office of State Budget and Management	5,019,735	5,021,795
52	OSBM – Reserve for Special Appropriations	4,430,000	4,180,000
53	Housing Finance Agency	5,750,945	4,750,945
54			
55	Department of Insurance		

1	Insurance	28,088,214	28,110,582
2	Insurance – Volunteer Safety Workers'		
3	Compensation	2,500,000	4,500,000
4			
5	Office of Lieutenant Governor	754,737	753,037
6			
7	Department of Revenue	78,238,895	77,858,775
8			
9	Department of Secretary of State	8,657,943	8,638,857
10			
11	Department of State Treasurer		
12	State Treasurer	8,690,595	8,295,843
13	State Treasurer – Retirement for Fire and Rescue		
14	Squad Workers	8,551,457	8,551,457
15			
16	TRANSPORTATION		
17			
18	Department of Transportation	0	0
19			
20	RESERVES, ADJUSTMENTS AND DEBT SERVICE		
21			
22	Reserve for Compensation Increases	192,876,000	499,876,000
23			
24	Salary Adjustment Fund: 2005-2007 Biennium	4,500,000	4,500,000
25			
26	Salary Adjustment Fund: 2004-2005 Fiscal Year	4,500,000	4,500,000
27			
28	Reserve for Teachers' and State Employees'		
29	Retirement Contribution	14,617,000	14,617,000
30			
31	Reserve for Retirement System Payback	25,000,000	0
32			
33	Reserve for Death Benefit Trust	12,899,200	12,899,200
34			
35	Reserve for Disability Income Plan	6,586,500	6,586,500
36			
37	Reserve for State Health Plan	117,300,000	156,500,000
38			
39	Contingency and Emergency Fund	5,000,000	5,000,000
40			
41	Reserve for Information Technology		
42	Rate Adjustments	(2,300,000)	(2,300,000)
43			
44	Information Technology Fund	24,375,000	8,025,000
45			
46	MH/DD/SAS Trust Fund	5,000,000	0
47			
48	Health and Wellness Trust Fund	10,000,000	0
49			
50	Reserve for Job Development Investment Grants (JDIG)	8,000,000	12,400,000
51			
52	Reserve for Healthy NC	2,000,000	0
53			
54	Reserve for Increased Fuel Costs	3,000,000	0
55			

1	Debt Service		
2	General Debt Service	489,544,211	619,291,140
3	Federal Reimbursement	1,616,380	1,616,380
4			
5	TOTAL CURRENT OPERATIONS –		
6	 GENERAL FUND	\$ 16,831,362,231	\$ 17,453,772,560
7			
8	Requested by: Senators Garrou, Dalton, Hagan		
9	GENERAL FUND AVAILABILITY STATEMENT		
10	SECTION 2.2.(a) The General Fund availability used in developing the		
11	2005-2007 biennial budget is shown below:		
12		FY 2005-2006	FY 2006-2007
13			
14	Unappropriated Balance Remaining		
15	from Previous Year	\$ 0	\$ 240,751,821
16	Projected Over Collections FY 2004-2005	428,400,000	0
17	Projected Reversions FY 2004-2005	75,000,000	0
18	Less Earmarkings of Year End Credit Balance	0	0
19	Savings Reserve Account	(125,850,000)	0
20	Repairs and Renovations	(50,000,000)	0
21	Beginning Unreserved Credit Balance	\$ 327,550,000	\$ 240,751,821
22			
23	Revenues Based on Existing Tax Structure	\$ 15,250,100,000	\$ 15,903,000,000
24			
25	Nontax Revenues		
26	Investment Income	75,300,000	78,500,000
27	Judicial Fees	142,200,000	147,900,000
28	Disproportionate Share	100,000,000	100,000,000
29	Insurance	56,600,000	58,800,000
30	Other Nontax Revenues	150,400,000	161,800,000
31	Highway Trust Fund/Use Tax Reimbursement		
32	Transfer	252,558,117	252,663,009
33	Highway Fund Transfer	16,200,000	16,200,000
34	Subtotal Nontax Revenues	793,258,117	815,863,009
35			
36	Total General Fund Availability	\$ 16,370,908,117	\$ 16,966,585,499
37			
38	Adjustments to Availability: 2005 Session		
39	Streamlined Sales Tax Changes	72,200,000	87,800,000
40	Maintain 4.5% Sales Tax Rate	413,400,000	458,700,000
41	Other Sales Tax Changes		
42	Apply Sales Tax to Service Contracts and		
43	Warranties	9,100,000	16,800,000
44	Apply Sales Tax to Candy	11,000,000	15,800,000
45	Exempt Potting Soil for Farmers	(200,000)	(300,000)
46	Tobacco Tax Rate Changes	201,300,000	229,900,000
47	Reduce Highest Marginal Individual		
48	Income Tax Rate to 7.75% Over Two Years	20,100,000	24,600,000
49	Continue Use Tax Line on Individual Returns	3,200,000	3,200,000
50	Conform Estate Tax to Federal Sunset	30,700,000	121,600,000
51	Reduce Corporate Income Tax Rate	0	0
52	Corporate Tax "Throwout" Rule	9,800,000	10,300,000
53	Film Industry Jobs Incentives	(4,800,000)	(4,800,000)
54	IRC Update – Partial Conformance	(8,000,000)	(10,700,000)
55	Increase Earmarking for NC Grape Growers Council	(150,000)	(150,000)

1	Justice and Public Safety Fees	20,428,271	20,428,271
2	Transfer from Tobacco Trust Fund	34,000,000	30,000,000
3	Transfers from Special Revenue and Other Funds	8,953,950	0
4			
5	Reimburse Debt Service for Certain Capital Facilities		
6	and Land Acquisition per SL 2004-179	5,958,723	21,060,827
7	Adjust Transfer from Insurance Regulatory Fund	256,513	243,813
8	Adjust Transfer from Treasurer's Office	68,478	67,478
9	Subtotal Adjustments to Availability:		
10	2005 Session	\$ 827,315,935	\$ 1,024,550,389
11			
12	Revised General Fund Availability	\$ 17,198,224,052	\$ 17,984,165,219
13			
14	Less: General Fund Appropriations		
15	SB 622 (2005 Appropriations Act)	(16,857,472,231)	(17,453,772,560)
16	G.S. 143-15.3B: Clean Water Management		
17	Trust Fund	(100,000,000)	(100,000,000)
18	Total General Fund Appropriations 2005-2007		
19	Biennium	(\$16,957,472,231)	(\$17,553,772,560)
20			
21	Unappropriated Balance Remaining	\$ 240,751,821	\$ 430,392,659
22			

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

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

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

37 This subsection becomes effective June 30, 2005.

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

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

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

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

5 **SECTION 2.2.(h)** Notwithstanding any other provision of law to the
 6 contrary, effective July 1, 2005, cash balances remaining in special funds on June 30,
 7 2005, shall be transferred to the State Controller to be deposited in Nontax Budget Code
 8 19978 (Intrastate Transfers) according to the schedule that follows. These funds shall
 9 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

39 **SECTION 2.2.(i)** The transfer of cash from Department of Correction,
 40 Budget Code 74500, Fund Code 7100 (Prison Enterprises) to Nontax Budget Code
 41 19978 (Intrastate Transfers) shall be increased by five hundred thousand dollars
 42 (\$500,000), effective July 1, 2005, for the 2005-2006 fiscal year.

43
 44 **PART III. CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND**

45
 46 Requested by: Senators Jenkins, Garrou, Dalton, Hagan
 47 **CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND**

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

Current Operations – Highway Fund	2005-2006	2006-2007
Department of Transportation		

1	Administration	\$ 93,888,317	\$ 95,100,980
2			
3	Division of Highways		
4	Administration	30,621,612	30,632,164
5	Construction	140,470,000	143,080,000
6	Maintenance	715,895,029	665,722,211
7	Planning and Research	4,280,000	4,280,000
8	OSHA Program	425,000	425,000
9			
10	Ferry Operations	21,264,811	21,264,811
11			
12	State Aid		
13	Municipalities	93,370,000	95,980,000
14	Public Transportation	66,466,447	89,866,447
15	Railroads	16,531,153	15,531,153
16			
17	Governor's Highway Safety	293,118	293,118
18			
19	Division of Motor Vehicles	95,447,914	95,268,137
20			
21	Other State Agencies	237,392,745	230,530,729
22			
23	Reserves and Transfers	20,428,052	36,438,052
24			
25	TOTAL	\$ 1,536,774,198	\$ 1,524,412,802
26			

Requested by: Senators Jenkins, Garrou, Dalton, Hagan

HIGHWAY FUND AVAILABILITY STATEMENT

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

31	Highway Fund Availability Statement	2005-2006	2006-2007
32			
33			
34	Beginning Credit Balance	-	-
35	Estimated Revenue	\$ 1,631,640,000	\$ 1,661,240,000
36	Estimated Reversions	-	-
37			
38	Total Highway Fund Availability	\$ 1,631,640,000	\$ 1,661,240,000
39			

PART IV. HIGHWAY TRUST FUND APPROPRIATIONS

Requested by: Senators Jenkins, Garrou, Dalton, Hagan

HIGHWAY TRUST FUND APPROPRIATIONS

SECTION 4.1. Appropriations from the State Highway Trust 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:

48	Current Operations – Highway Trust Fund	2005-2006	2006-2007
49			
50			
51	Intrastate System	\$469,925,196	\$486,590,730
52	Urban Loops	190,018,179	196,757,026
53	Aid to Municipalities	49,306,114	51,054,717
54	Secondary Roads	86,596,114	89,274,717
55	Program Administration	41,156,280	42,259,800

1	Transfer to General Fund	252,558,117	252,663,009
2			
3	GRAND TOTAL CURRENT OPERATIONS		
4	AND EXPANSION	\$1,089,560,000	\$1,118,600,000
5			
6	PART V. BLOCK GRANTS		
7			
8	Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan		
9	DHHS BLOCK GRANTS		
10	SECTION 5.1.(a) Appropriations from federal block grant funds are made		
11	for the fiscal year ending June 30, 2006, according to the following schedule:		
12			
13	COMMUNITY SERVICES BLOCK GRANT		
14			
15	01. Community Action Agencies		\$ 15,071,666
16			
17	02. Limited Purpose Agencies		837,315
18			
19	03. Department of Health and Human Services		
20	to administer and monitor		
21	the activities of the		
22	Community Services Block Grant		837,315
23			
24	TOTAL COMMUNITY SERVICES BLOCK GRANT		\$ 16,746,296
25			
26	SOCIAL SERVICES BLOCK GRANT		
27			
28	01. County departments of social services		\$ 28,868,189
29	(Transfer from TANF – \$4,500,000)		
30			
31	02. Allocation for in-home services provided		
32	by county departments of		
33	social services		2,101,113
34			
35	03. Adult day care services		2,155,301
36			
37	04. Child Protective Services/CPS Investigative		
38	Services/Child Medical Evaluation Program		238,321
39			
40	05. Foster Care Services – CCIS		1,500,000
41			
42	06. Division of Aging and Adult Services – Home and Community		
43	Care Block Grant		1,834,077
44			
45	07. UNC-CH CARES Program for training and		
46	consultation services		247,920
47			
48	08. Mental Health Services Program		422,003
49			
50	09. Division of Mental Health, Developmental Disabilities, and		
51	Substance Abuse Services – Developmentally Disabled		
52	Services Program		5,000,000
53			
54	10. Division of Mental Health, Developmental Disabilities,		
55	and Substance Abuse Services		3,234,601

1			
2	11.	Division of Services for the Blind – Independent Living Program	3,182,987
3			
4			
5	12.	Division of Vocational Rehabilitation Services – Easter Seals Society/UCP	188,263
6			
7			
8	13.	Office of the Secretary – Office of Economic Opportunity for N.C. Senior Citizens' Federation for outreach services to low-income elderly persons	41,302
9			
10			
11			
12			
13	14.	Child Care Subsidies	3,356,063
14			
15	15.	Division of Facility Services – Adult Care Licensure Program	411,897
16			
17			
18	16.	Division of Facility Services – Mental Health Licensure	205,668
19			
20			
21	17.	State administration	1,706,017
22			
23	18.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services – Administration	18,098
24			
25			
26			
27	19.	Division of Facility Services	37,204
28			
29	20.	Office of the Secretary – NC Interagency Council for Coordinating Homeless Programs	250,000
30			
31			
32	21.	Department of Administration for the N.C. State Commission of Indian Affairs In-Home Services Program for the Elderly	203,198
33			
34			
35			
36	22.	Transfer to Preventative Health Services Block Grant for HIV/AIDS education, counseling, and testing	145,819
37			
38			
39			
40	TOTAL SOCIAL SERVICES BLOCK GRANT		\$ 55,348,041
41			
42	LOW-INCOME ENERGY BLOCK GRANT		
43			
44	01.	Energy Assistance Programs	\$ 13,208,740
45			
46	02.	Crisis Intervention	9,592,387
47			
48	03.	Administration	3,186,258
49		County DSS	\$1,930,734
50		Division of Social Services	\$ 300,000
51		Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	\$ 7,146
52		Local Residential Energy Efficiency Service Providers	\$ 353,820
53			
54			
55			

1	Office of the Secretary	\$ 594,558
2		
3	04. Weatherization Program	4,343,072
4		
5	05. Department of Administration –	
6	N.C. State Commission of Indian Affairs	54,840
7		
8	06. Heating Air Repair and Replacement Program	2,025,687
9		
10	TOTAL LOW-INCOME ENERGY BLOCK GRANT	\$ 32,410,984
11		
12	MENTAL HEALTH SERVICES BLOCK GRANT	
13		
14	01. Provision of community-based	
15	services for severe and persistently	
16	mentally ill adults	\$ 6,983,202
17		
18	02. Provision of community-based	
19	services to children	3,921,991
20		
21	03. Comprehensive Treatment Services	
22	Program for Children	1,500,000
23		
24	04. Administration	568,911
25		
26	TOTAL MENTAL HEALTH SERVICES BLOCK GRANT	\$ 12,974,104
27		
28	SUBSTANCE ABUSE PREVENTION	
29	AND TREATMENT BLOCK GRANT	
30		
31	01. Provision of community-based	
32	alcohol and drug abuse services,	
33	tuberculosis services, and services	
34	provided by the Alcohol and Drug Abuse	
35	Treatment Centers	\$ 20,441,082
36		
37	02. Continuation of services for	
38	pregnant women and women	
39	with dependent children	8,069,524
40		
41	03. Continuation of services to	
42	IV drug abusers and others at risk	
43	for HIV diseases	4,816,378
44		
45	04. Child Substance Abuse Prevention	5,835,701
46		
47	05. Provision of services to children	
48	and adolescents	4,940,500
49		
50	06. Juvenile Services – Family Focus	851,156
51		
52	07. Allocation to the Division of Public Health	
53	for HIV/STD Risk Reduction Projects	383,980
54		
55	08. Allocation to the Division of Public Health	

1	for HIV/STD Prevention by County Health	
2	Departments	209,576
3		
4	09. Allocation to the Division of Public Health	
5	for the Maternal and Child Health Hotline	37,779
6		
7	10. Administration	2,596,307
8		
9	TOTAL SUBSTANCE ABUSE PREVENTION	
10	AND TREATMENT BLOCK GRANT	\$ 48,181,983
11		
12	CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT	
13		
14	01. Child care subsidies	\$158,708,393
15		
16	02. Quality and availability initiatives	33,059,644
17		
18	03. Administrative expenses	7,163,654
19		
20	04. Transfer from TANF Block Grant for	
21	child care subsidies	81,292,880
22		
23	TOTAL CHILD CARE AND DEVELOPMENT FUND	
24	BLOCK GRANT	\$280,224,571
25		
26	TEMPORARY ASSISTANCE TO NEEDY FAMILIES	
27	(TANF) BLOCK GRANT	
28		
29	01. Work First Cash Assistance	\$107,794,365
30		
31	02. Work First County Block Grants	94,653,315
32		
33	03. Child Protective Services –	
34	Child Welfare Workers for local DSS	12,452,391
35		
36	04. Support Our Students – Department of	
37	Juvenile Justice and Delinquency	
38	Prevention	2,749,642
39		
40	05. Family Violence Prevention	1,200,000
41		
42	06. Work First – After-School Services for	
43	At-Risk Children	2,249,642
44		
45	07. Division of Social Services –	
46	Administration	356,291
47		
48	08. Office of the Secretary –	
49	Administration	60,249
50		
51	09. Child Welfare Training	2,550,000
52		
53	10. Boys and Girls Clubs	1,000,000
54		
55	11. Work Central Career Advancement Center	550,000

1			
2	12.	Special Children's Adoption Fund	3,000,000
3			
4	13.	Maternity Homes	838,000
5			
6	14.	After-School Programs for At-Risk Youth in	
7		Middle Schools	500,000
8			
9	15.	Teen Pregnancy Prevention Initiatives	2,500,000
10			
11	16.	Subsidized Child Care Program	36,601,205
12			
13	17.	TANF Automation Projects	592,500
14			
15	18.	NC FAST Implementation	1,447,640
16			
17	19.	Transfer to the Child Care and	
18		Development Fund Block Grant	
19		for child care subsidies	81,292,880
20			
21	20.	Transfer to Social Services Block Grant for	
22		County Departments of Social Services for	
23		Children's Services	4,500,000
24			
25	TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES		
26	(TANF) BLOCK GRANT		\$356,888,120
27			
28	MATERNAL AND CHILD HEALTH BLOCK GRANT		
29			
30	01.	Healthy Mothers/Healthy Children	
31		Block Grants to Aid-to-County	9,359,236
32			
33	02.	Children's Health Services Aid-to-County	7,364,216
34			
35	03.	Healthy Beginnings Aid-to-County	404,559
36			
37	04.	Maternal Health Aid-to-County	397,761
38			
39	05.	Children's Health Services	2,878,883
40			
41	06.	Office of Women's Health and	
42		Maternal Health Activities	114,063
43			
44	07.	State Center for Health Statistics	28,874
45			
46	08.	Local Technical Assistance & Training	46,866
47			
48	09.	Injury and Violence Prevention	149,438
49			
50	10.	Office of Minority Health	99,352
51			
52	11.	Special Supplemental Nutrition Program	
53		for Women, Infants and Children (WIC)	25,713
54			
55	12.	Immunization Program – Vaccine Distribution	819,997

1		
2	13. Administration	518,137
3		
4	TOTAL MATERNAL AND CHILD	
5	HEALTH BLOCK GRANT	\$ 22,207,095
6		
7	PREVENTIVE HEALTH SERVICES BLOCK GRANT	
8		
9	01. Statewide Health Promotion Programs	\$3,637,771
10		
11	02. Rape Crisis/Victims' Services	
12	Program – Council for Women	197,112
13		
14	03. Transfer from Social Services	
15	Block Grant – HIV/AIDS education,	
16	counseling, and testing	145,819
17		
18	04. Adolescent Pregnancy Prevention Coalition of NC	150,000
19		
20	05. Administration and Program Support	121,271
21		
22	06. Osteoporosis Task Force Operating Costs	150,000
23		
24	TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT	\$4,401,973

GENERAL PROVISIONS

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

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

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

54 Prior to allocating the change in federal fund availability, the proposed
 55 allocation must be approved by the Office of State Budget and Management. If the

1 Department adjusts the allocation of any Block Grant due to changes in federal fund
2 availability, then a report shall be made to the Joint Legislative Committee on
3 Governmental Operations, the House of Representatives Appropriations Subcommittee
4 on Health and Human Services, the Senate Appropriations Committee on Health and
5 Human Services, and the Fiscal Research Division.

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

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

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

26 The Department shall provide the plan to the Fiscal Research Division by January 1,
27 2006.

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

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

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

39 **SOCIAL SERVICES BLOCK GRANT**

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

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

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

52 **MENTAL HEALTH BLOCK GRANT**

53 **SECTION 5.1.(i)** The sum of one million five hundred thousand dollars
54 (\$1,500,000) appropriated in this section in the Mental Health Block Grant to the
55 Department of Health and Human Services, Division of Mental Health, Developmental

1 Disabilities, and Substance Abuse Services, for the 2005-2006 fiscal year, and the sum
2 of four hundred twenty-two thousand three dollars (\$422,003) appropriated in this
3 section in the Social Services Block Grant to the Department of Health and Human
4 Services, Division of Social Services, for the 2005-2006 fiscal year shall be used to
5 continue a Comprehensive Treatment Services Program for Children in accordance with
6 Section 10.25 of this act.

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

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

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

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

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

26 **TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT** 27 **(TANF)**

28 **SECTION 5.1.(n)** The sum of four hundred sixteen thousand five hundred
29 forty dollars (\$416,540) appropriated in this section in the TANF Block Grant to the
30 Department of Health and Human Services, Division of Social Services, for the
31 2005-2006 fiscal year shall be used to support administration of TANF-funded
32 programs.

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

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

50 Each county department of social services and the local domestic violence
51 shelter program serving the county shall jointly develop a plan for utilizing these funds.
52 The plan shall include the services to be provided and the manner in which the services
53 shall be delivered. The county plan shall be signed by the county social services director
54 or the director's designee and the domestic violence program director or the director's
55 designee and submitted to the Division of Social Services by December 1, 2005. The

1 Division of Social Services, in consultation with the Council for Women, shall review
2 the county plans and shall provide consultation and technical assistance to the
3 departments of social services and local domestic violence shelter programs, if needed.

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

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

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

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

42 **SECTION 5.1.(s)** The sum of two million five hundred fifty thousand
43 dollars (\$2,550,000) appropriated in this section in the TANF Block Grant to the
44 Department of Health and Human Services, Division of Social Services, for fiscal year
45 2005-2006 shall be used to support various child welfare training projects as follows:

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

51 **SECTION 5.1.(t)** The sum of eight hundred thirty-eight thousand dollars
52 (\$838,000) appropriated in this section in the TANF Block Grant to the Department of
53 Health and Human Services shall be used to purchase services at maternity homes
54 throughout the State.

1 **SECTION 5.1.(u)** The sum of three million dollars (\$3,000,000)
2 appropriated in this section in the TANF Block Grant to the Department of Health and
3 Human Services, Special Children Adoption Fund, for the 2005-2006 fiscal year shall
4 be used to implement this subsection. The Division of Social Services, in consultation
5 with the North Carolina Association of County Directors of Social Services and
6 representatives of licensed private adoption agencies, shall develop guidelines for the
7 awarding of funds to licensed public and private adoption agencies upon the adoption of
8 children described in G.S. 108A-50 and in foster care. Payments received from the
9 Special Children Adoption Fund by participating agencies shall be used exclusively to
10 enhance the adoption services program. No local match shall be required as a condition
11 for receipt of these funds.

12 **SECTION 5.1.(v)** The sum of one million five hundred thousand dollars
13 (\$1,500,000) appropriated in this section in the TANF Block Grant and transferred to
14 the Social Services Block Grant to the Department of Health and Human Services,
15 Division of Social Services, for child caring agencies for the 2005-2006 fiscal year shall
16 be allocated to the State Private Child Caring Agencies Fund.

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

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

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

53 **SECTION 5.1.(z)** The sum of five hundred thousand dollars (\$500,000)
54 appropriated in this section to the Department of Health and Human Services, Division
55 of Social Services, in the TANF Block Grant shall be used to expand after-school

1 programs for at-risk children attending middle school. The Department shall develop
2 and implement a grant program to award funds to community-based programs
3 demonstrating the capacity to reach children at risk of teen pregnancy and school
4 dropout. These funds shall not be used for training or administration at the State level.
5 All funds shall be distributed to community-based programs, focusing on those
6 communities where similar programs do not exist in middle schools. The Department
7 shall report to the House of Representatives Appropriations Subcommittee on Health
8 and Human Services, the Senate Appropriations Committee on Health and Human
9 Services, and the Fiscal Research Division on its progress in complying with this
10 subsection no later than May 1, 2006.

11 **MATERNAL AND CHILD HEALTH BLOCK GRANT**

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

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

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

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

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

42
43 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

44 **NER BLOCK GRANTS**

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

47 48 **COMMUNITY DEVELOPMENT BLOCK GRANT**

49		
50	01. State Administration	\$ 1,000,000
51		
52	02. Urgent Needs and Contingency	1,000,000
53		
54	03. Scattered Site Housing	13,200,000
55		

1	04. Economic Development	8,710,000
2		
3	05. Community Revitalization	13,500,000
4		
5	06. State Technical Assistance	450,000
6		
7	07. Housing Development	2,000,000
8		
9	08. Infrastructure	5,140,000
10		
11	TOTAL COMMUNITY DEVELOPMENT	
12	BLOCK GRANT – 2006 Program Year	\$ 45,000,000
13		

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

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

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

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

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

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

- 1 (1) A reallocation is required because of an emergency that poses an
2 imminent threat to public health or public safety, the Director of the
3 Budget may authorize the reallocation without consulting the
4 Commission. The Department of Commerce shall report to the
5 Commission on the reallocation no later than 30 days after it was
6 authorized and shall identify in the report the emergency, the type of
7 action taken, and how it was related to the emergency.
- 8 (2) The State will lose federal block grant funds or receive less federal
9 block grant funds in the next fiscal year unless a reallocation is made,
10 the Department of Commerce shall provide a written report to the
11 Commission on the proposed reallocation and shall identify the reason
12 that failure to take action will result in the loss of federal funds. If the
13 Commission does not hear the issue within 30 days of receipt of the
14 report, the Department may take the action without consulting the
15 Commission.

16 17 18 **PART VI. GENERAL PROVISIONS**

19
20 Requested by: Senators Garrou, Dalton, Hagan

21 **APPROPRIATION OF CASH BALANCES AND RECEIPTS**

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

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

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

1 **SECTION 6.1.(b)** Receipts collected in a fiscal year in excess of the
2 amounts authorized by this section shall remain unexpended and unencumbered until
3 appropriated by the General Assembly in a subsequent fiscal year, unless the
4 expenditure of over-realized receipts in the fiscal year in which the receipts were
5 collected is authorized by the Executive Budget Act.

6 Over-realized receipts are appropriated up to the amounts necessary to
7 implement this subsection.

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

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

20 **SECTION 6.1.(d)** Notwithstanding subsections (a) and (b) of this section, if
21 Senate Bill 1126, 2005 Session, or substantially similar legislation revising the Coastal
22 Recreational Fishing License program or establishing a unified fishing license for
23 hunting and fishing in coastal, joint, and inland waters, becomes law, any receipts from
24 license revenues generated pursuant to such legislation are hereby appropriated for the
25 2005-2006 fiscal year and the 2006-2007 fiscal year for programs and purposes
26 authorized by law.

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

33
34 Requested by: Senators Garrou, Dalton, Hagan

35 **CONTINGENCY AND EMERGENCY FUND ALLOCATIONS**

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

- 40 (1) Up to two million dollars (\$2,000,000) for the 2005-2006 fiscal year
41 may be used for purposes related to the Base Realignment and Closure
42 Act (BRAC); and
- 43 (2) Up to five hundred thousand dollars (\$500,000) for the 2005-2006
44 fiscal year and up to five hundred thousand dollars (\$500,000) for the
45 2006-2007 fiscal year may be expended for purposes other than those
46 set out in G.S.143-23(a1)(2) or in subdivision (1) of this section.

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

49
50 Requested by: Senators Garrou, Dalton, Hagan

51 **EXPENDITURES OF FUNDS IN RESERVES LIMITED**

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

54
55 Requested by: Senators Garrou, Dalton, Hagan

1 **BUDGET REPORTS ACCURATELY REFLECT PROJECTED RECEIPTS,**
2 **EXPENDITURES, FUND BALANCES, AND ACTUAL COLLECTIONS**

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

4 **"§ 143-11. Survey of departments, departments and recommended budget report.**

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

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

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

46
47 Requested by: Senators Garrou, Dalton, Hagan

48 **AUTHORIZATION TO ESTABLISH RECEIPT-SUPPORTED POSITIONS**

49 **SECTION 6.5.** Notwithstanding G.S. 143-34.1(a1), a department,
50 institution, or other agency of State government may establish receipt-supported
51 positions authorized in this act upon approval by the Director of the Budget. The
52 Director, if necessary, may establish a receipt-supported position pursuant to this
53 section at an annual salary amount different from the salary amount set out in this act if
54 (i) funds are available from the proposed funding source and (ii) the alternative salary
55 amount remains within the established salary range grade identified for the job

1 classification of the affected receipt-supported position established in this act. The
2 Director shall not change the job classifications or increase the number of
3 receipt-supported positions specified in this act without prior consultation with the Joint
4 Legislative Commission on Governmental Operations.

5
6 Requested by: Senators Garrou, Dalton, Hagan

7 **OVERHEAD COST RECOVERY**

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

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

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

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

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

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

54
55 Requested by: Senators Garrou, Dalton, Hagan

1 **PRIOR CONSULTATION WITH THE JOINT LEGISLATIVE COMMISSION**
2 **ON GOVERNMENTAL OPERATIONS**

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

5 "**§ 120-76.1. Prior consultation with the Commission.**

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

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

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

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

- 28 (1) An object or line item within a purpose or program so long as the total
29 amount expended for the purpose or program is no more than was
30 appropriated from all sources for the purpose or program for the fiscal
31 period;
- 32 (2) A purpose or program, without consultation with the Joint Legislative
33 Commission on Governmental Operations, if the overexpenditure of
34 the purpose or program is:
- 35 a. Required by a court, Industrial Commission, or administrative
36 hearing officer's order;
 - 37 b. Required to respond to an unanticipated disaster such as a fire,
38 hurricane, or tornado; or
 - 39 c. Required to call out the National Guard.

40 The Director of the Budget shall report on a quarterly basis to the Joint
41 Legislative Commission on Governmental Operations on any
42 overexpenditures under this subdivision; or

- 43 (3) A purpose or program, after consultation with the Joint Legislative
44 Commission on Governmental Operations in accordance with
45 G.S. 120-76(8), and only if: (i) the overexpenditure is required to
46 continue the purpose or programs due to complications or changes in
47 circumstances that could not have been foreseen when the budget for
48 the fiscal period was enacted and (ii) the scope of the purpose or
49 program is not increased. The consultation is required as follows:
- 50 a. For a purpose or program with a certified budget of up to five
51 million dollars (\$5,000,000), consultation is required when the
52 authorization for the overexpenditure exceeds ten percent (10%)
53 of the certified budget;
 - 54 b. For a purpose or program with a certified budget of from five
55 million dollars (\$5,000,000) up to twenty million dollars

1 (\$20,000,000), consultation is required when the authorization
 2 for the overexpenditure exceeds five hundred thousand dollars
 3 (\$500,000) or seven and one-half percent (7.5%) of the certified
 4 budget, whichever is greater;

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

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

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

18
 19 Requested by: Senators Garrou, Dalton, Hagan

20 **CONSULTATION NOT REQUIRED PRIOR TO ESTABLISHING OR**
 21 **INCREASING FEES IN ACCORDANCE WITH BUDGET ACT**

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

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

29
 30 Requested by: Senators Garrou, Dalton, Hagan

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

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

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

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

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

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

54
 55 Requested by: Senators Garrou, Dalton, Hagan

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

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

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

9 **SECTION 6.10.(b)** This section shall apply to all State grant funds
10 appropriated or awarded on or after July 1, 2005. Grants awarded prior to July 1, 2005,
11 shall be subject to the reporting requirements in effect at the time the grant was made.
12

13 Requested by: Senators Garrou, Dalton, Hagan, Kerr, Hoyle

14 **RESERVE FOR SMALL EMPLOYER HEALTH INSURANCE**

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

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

42 **SECTION 6.11.(c)** Subsection (b) of this section becomes effective only if
43 the 2005 General Assembly enacts the Healthy NC program and appropriates funds to
44 the Reserve for Healthy NC.
45

46 Requested by: Senators Garrou, Dalton, Hagan

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

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

51 "(2) To the extent that a tobacco product manufacturer establishes that the
52 amount it was required to place into escrow on account of units sold in
53 the State in a particular year was greater than ~~the State's allocable~~
54 ~~share of the total payments that such manufacturer would have been~~
55 ~~required to make in that year under the Master Settlement Agreement~~

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

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

21 **SECTION 6.12.(c)** This section becomes effective October 1, 2005.
22

23 Requested by: Senators Garrou, Dalton, Hagan

24 **STATEWIDE INFORMATION TECHNOLOGY PROJECTS**

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

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

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

48 **SECTION 6.13.(d)** There is appropriated from the Information Technology
49 Fund established in G.S. 147-33.72H to the Office of Information Technology Services
50 the sum of five hundred thousand dollars (\$500,000) for the 2005-2006 fiscal year to
51 facilitate consolidation of information technology activities in State agencies.
52

53 Requested by: Senators Garrou, Dalton, Hagan

54 **STATE BUSINESS INFRASTRUCTURE PROGRAM**

	<u>Years of Experience</u>	<u>"A" Teachers</u>	<u>NBPTS Certification</u>
1			
2			
3	0	\$2,545	N/A
4	1	\$2,587	N/A
5	2	\$2,631	N/A
6	3	\$2,786	\$3,120
7	4	\$2,926	\$3,278
8	5	\$3,059	\$3,427
9	6	\$3,189	\$3,571
10	7	\$3,292	\$3,687
11	8	\$3,340	\$3,740
12	9	\$3,389	\$3,795
13	10	\$3,439	\$3,851
14	11	\$3,488	\$3,906
15	12	\$3,539	\$3,963
16	13	\$3,589	\$4,019
17	14	\$3,642	\$4,079
18	15	\$3,696	\$4,140
19	16	\$3,751	\$4,202
20	17	\$3,806	\$4,263
21	18	\$3,864	\$4,328
22	19	\$3,922	\$4,393
23	20	\$3,980	\$4,458
24	21	\$4,042	\$4,528
25	22	\$4,104	\$4,596
26	23	\$4,169	\$4,669
27	24	\$4,233	\$4,740
28	25	\$4,298	\$4,813
29	26	\$4,364	\$4,887
30	27	\$4,432	\$4,963
31	28	\$4,502	\$5,043
32	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>
33			
34			
35			
36			
37			
38			
39			
40			
41	0	\$2,800	N/A
42	1	\$2,846	N/A
43	2	\$2,894	N/A
44	3	\$3,063	\$3,431
45	4	\$3,219	\$3,605
46	5	\$3,366	\$3,769
47	6	\$3,507	\$3,927
48	7	\$3,621	\$4,055
49	8	\$3,673	\$4,114
50	9	\$3,727	\$4,175
51	10	\$3,782	\$4,236
52	11	\$3,837	\$4,298
53	12	\$3,892	\$4,360
54	13	\$3,947	\$4,421
55	14	\$4,006	\$4,487

1	15	\$4,065	\$4,553
2	16	\$4,126	\$4,621
3	17	\$4,188	\$4,690
4	18	\$4,250	\$4,759
5	19	\$4,315	\$4,832
6	20	\$4,379	\$4,904
7	21	\$4,447	\$4,980
8	22	\$4,514	\$5,056
9	23	\$4,585	\$5,136
10	24	\$4,656	\$5,215
11	25	\$4,726	\$5,288
12	26	\$4,795	\$5,376
13	27	\$4,875	\$5,460
14	28	\$4,952	\$5,547
15	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>
23	0	N/A
24	1	N/A
25	2	N/A
26	3	\$3,156
27	4	\$3,315
28	5	\$3,466
29	6	\$3,612
30	7	\$3,729
31	8	\$3,783
32	9	\$3,839
33	10	\$3,896
34	11	\$3,951
35	12	\$4,009
36	13	\$4,066
37	14	\$4,126
38	15	\$4,187
39	16	\$4,250
40	17	\$4,312
41	18	\$4,378
42	19	\$4,443
43	20	\$4,509
44	21	\$4,580
45	22	\$4,649
46	23	\$4,723
47	24	\$4,795
48	25	\$4,869
49	26	\$4,944
50	27	\$5,021
51	28	\$5,101
52	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			
3			
4			
5	0	\$2,832	N/A
6	1	\$2,879	N/A
7	2	\$2,927	N/A
8	3	\$3,099	\$3,470
9	4	\$3,256	\$3,646
10	5	\$3,404	\$3,812
11	6	\$3,547	\$3,972
12	7	\$3,663	\$4,102
13	8	\$3,715	\$4,161
14	9	\$3,770	\$4,223
15	10	\$3,826	\$4,284
16	11	\$3,881	\$4,347
17	12	\$3,937	\$4,410
18	13	\$3,993	\$4,472
19	14	\$4,052	\$4,539
20	15	\$4,112	\$4,605
21	16	\$4,173	\$4,674
22	17	\$4,236	\$4,744
23	18	\$4,299	\$4,814
24	19	\$4,364	\$4,888
25	20	\$4,429	\$4,961
26	21	\$4,498	\$5,038
27	22	\$4,566	\$5,114
28	23	\$4,638	\$5,195
29	24	\$4,710	\$5,275
30	25	\$4,781	\$5,355
31	26	\$4,855	\$5,438
32	27	\$4,931	\$5,523
33	28	\$5,009	\$5,611
34	29	\$5,088	\$5,699
35			

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

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

SECTION 7.1.(e) The first step of the salary schedule for school psychologists shall be equivalent to Step 5, corresponding to five years of experience, on the salary schedule established in this section for certified personnel of the public schools who are classified as "M" teachers. Certified psychologists shall be placed on

1 the salary schedule at an appropriate step based on their years of experience. Certified
 2 psychologists shall receive longevity payments based on years of State service in the
 3 same manner as teachers.

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

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

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

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

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

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

29 **SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE**

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

35 **SECTION 7.2.(b)** The base salary schedule for school-based administrators
 36 shall apply only to principals and assistant principals. The base salary schedule for the
 37 2005-2006 fiscal year, commencing July 1, 2005, is as follows:

38
 39 2005-2006
 40 Principal and Assistant Principal Salary Schedules
 41 Classification

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

1	14	\$4,052	\$4,052	\$4,111	\$4,173	\$4,235
2	15	\$4,111	\$4,111	\$4,173	\$4,235	\$4,298
3	16	\$4,173	\$4,173	\$4,235	\$4,298	\$4,363
4	17	\$4,235	\$4,235	\$4,298	\$4,363	\$4,428
5	18	\$4,298	\$4,298	\$4,363	\$4,428	\$4,497
6	19	\$4,363	\$4,363	\$4,428	\$4,497	\$4,565
7	20	\$4,428	\$4,428	\$4,497	\$4,565	\$4,638
8	21	\$4,497	\$4,497	\$4,565	\$4,638	\$4,708
9	22	\$4,565	\$4,565	\$4,638	\$4,708	\$4,780
10	23	\$4,638	\$4,638	\$4,708	\$4,780	\$4,855
11	24	\$4,708	\$4,708	\$4,780	\$4,855	\$4,931
12	25	\$4,780	\$4,780	\$4,855	\$4,931	\$5,008
13	26	\$4,855	\$4,855	\$4,931	\$5,008	\$5,088
14	27	\$4,931	\$4,931	\$5,008	\$5,088	\$5,189
15	28	\$5,008	\$5,008	\$5,088	\$5,189	\$5,294
16	29	\$5,088	\$5,088	\$5,189	\$5,294	\$5,400
17	30	\$5,189	\$5,189	\$5,294	\$5,400	\$5,508
18	31	\$5,294	\$5,294	\$5,400	\$5,508	\$5,617
19	32	-	\$5,400	\$5,508	\$5,617	\$5,730
20	33	-	-	\$5,617	\$5,730	\$5,845
21	34	-	-	\$5,730	\$5,845	\$5,962
22	35	-	-	-	\$5,962	\$6,081
23	36	-	-	-	\$6,081	\$6,203
24	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

1	37	\$6,453	\$6,583	\$6,847	\$6,985
2	38	\$6,583	\$6,714	\$6,985	\$7,124
3	39	-	\$6,847	\$7,124	\$7,266
4	40	-	\$6,985	\$7,266	\$7,412
5	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 Exp	PrinV (44-54)	PrinVI (55-65)	PrinVII (66-100)	PrinVIII (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

1 in alternative schools who supervise 33 or more teachers shall be classified according to
 2 the number of teachers supervised.

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

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

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

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

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

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

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

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

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

48 **CENTRAL OFFICE SALARIES**

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

52	School Administrator I	\$2,932	\$5,506
53	School Administrator II	\$3,112	\$5,840
54	School Administrator III	\$3,303	\$6,195
55	School Administrator IV	\$3,436	\$6,442

1	School Administrator V	\$3,574	\$6,702
2	School Administrator VI	\$3,792	\$7,108
3	School Administrator VII	\$3,945	\$7,394

4 The monthly salary ranges that follow apply to assistant superintendents,
 5 associate superintendents, directors/coordinators, supervisors, and finance officers for
 6 the 2006-2007 fiscal year, beginning July 1, 2006.

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

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

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

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

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

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

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

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

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

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

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

1 two percent (2%), commencing July 1, 2005. The annual salary increase for all
2 permanent full-time personnel paid from the Central Office Allotment who work a
3 nine-, 10-, 11-, or 12-month work year schedule shall be the three percent (3%),
4 commencing July 1, 2006. The State Board of Education shall allocate these funds to
5 local school administrative units. The local boards of education shall establish
6 guidelines for providing salary increases to these personnel.
7

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

9 **NONCERTIFIED PERSONNEL SALARY**

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

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

17 **SECTION 7.4.(b)** Local boards of education shall increase the rates of pay
18 for such employees who were employed for all or part of fiscal year 2004-2005 and who
19 continue their employment for fiscal year 2005-2006 by providing an annual salary
20 increase for employees of the greater of five hundred dollars (\$500.00) or two percent
21 (2%).

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

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

28 **SECTION 7.4.(c)** The State Board of Education may adopt salary ranges for
29 noncertified personnel to support increases of the greater of five hundred dollars
30 (\$500.00) or two percent (2%) for the 2005-2006 fiscal year.

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

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

37 For the 2006-2007 fiscal year, permanent full-time employees who work a
38 nine-, 10-, or 11-month work year schedule shall receive the three percent (3%) annual
39 increase provided by this act.
40
41

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

43 **BONUS FOR CERTIFIED PERSONNEL AT THE TOP OF THEIR SALARY**
44 **SCHEDULES**

45 **SECTION 7.5.** Effective July 1, 2005, any permanent certified personnel
46 employed on July 1, 2003, and paid on the teacher salary schedule with 29+ years of
47 experience shall receive a one-time bonus equivalent to the average increase of the 26 to
48 29 year steps. Effective July 1, 2005, any permanent personnel employed on July 1,
49 2004, and paid at the top of the principal and assistant principal salary schedule shall
50 receive a one-time bonus equivalent to two percent (2%).

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

1 the top of the principal and assistant principal salary schedule shall receive a one-time
2 bonus equivalent to two percent (2%).

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

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

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

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

15 **SECTION 7.6.(b)** Use of Funds for Supplemental Funding. – All funds
16 received pursuant to this section shall be used only: (i) to provide instructional
17 positions, instructional support positions, teacher assistant positions, clerical positions,
18 school computer technicians, instructional supplies and equipment, staff development,
19 and textbooks; (ii) for salary supplements for instructional personnel and instructional
20 support personnel; and (iii) to pay an amount not to exceed ten thousand dollars
21 (\$10,000) of the plant operation contract cost charged by the Department of Public
22 Instruction for services.

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

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

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

1 Manual, adopted by the State Board of Education. If a county contains
2 only part of a local school administrative unit, the average daily
3 membership of that county includes all students who reside within the
4 county and attend that local school administrative unit.

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

1 report filed with the Secretary of the Local Government Commission
2 pursuant to G.S. 115C-447.

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

6 (14a) "Supplant" means to decrease local per student current expense
7 appropriations from one fiscal year to the next fiscal year.

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

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

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

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

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

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

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

53 This method of calculating reduced funding shall not apply in cases in which
54 the effective tax rate fell below the statewide average effective tax rate as a result of a
55 reduction in the actual property tax rate. In these cases, the minimum effort required

1 shall be calculated in accordance with Section 17.1(g) of Chapter 507 of the 1995
2 Session Laws.

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

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

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

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

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

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

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

38 **SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING**

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

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

- 1 (3) Provide additional program enhancement teachers adequate to offer
2 the standard course of study.
3 (4) Change the duty-free period allocation to one teacher assistant per 400
4 average daily membership.
5 (5) Provide a base for the consolidated funds allotment of at least seven
6 hundred forty thousand seventy-four dollars (\$740,074), excluding
7 textbooks for the 2005-2006 fiscal year and a base of seven hundred
8 forty thousand seventy-four dollars (\$740,074) for the 2006-2007
9 fiscal year.

10 (6) Allot vocational education funds for grade 6 as well as for grades 7-12.
11 If funds appropriated for each fiscal year for small school system
12 supplemental funding are not adequate to fully fund the program, the State Board of
13 Education shall reduce the amount allocated to each county school administrative unit
14 on a pro rata basis. This formula is solely a basis for distribution of supplemental
15 funding for certain county school administrative units and is not intended to reflect any
16 measure of the adequacy of the educational program or funding for public schools. The
17 formula is also not intended to reflect any commitment by the General Assembly to
18 appropriate any additional supplemental funds for such county administrative units.

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

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

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

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

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

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

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

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

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

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

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

41 **DISADVANTAGED STUDENT SUPPLEMENTAL FUNDING**

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

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

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

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

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

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

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

24 **STUDENTS WITH LIMITED ENGLISH PROFICIENCY**

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

28 The State Board shall allocate these funds to local school administrative units
29 and to charter schools under a formula that takes into account the average percentage of
30 students in the units or the charters over the past three years who have limited English
31 proficiency. The State Board shall allocate funds to a unit or a charter school only if (i)
32 average daily membership of the unit or the charter school includes at least 20 students
33 with limited English proficiency or (ii) students with limited English proficiency
34 comprise at least two and one-half percent (2.5%) of the average daily membership of
35 the unit or charter school. For the portion of the funds that is allocated on the basis of
36 the number of identified students, the maximum number of identified students for whom
37 a unit or charter school receives funds shall not exceed ten and six-tenths percent
38 (10.6%) of its average daily membership.

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

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

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

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

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

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

1 **SECTION 7.10.** The State Board of Education may allow high priority
2 schools that have made high growth for three consecutive years to be removed from the
3 list of high priority schools. If a local board of education chooses to have a school
4 removed from the list of high priority schools, the additional high priority funding for
5 that school shall be discontinued.
6

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

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

9 **SECTION 7.11.** The State Board of Education may use up to two hundred
10 thousand dollars (\$200,000) of the funds in the Alternative Schools/At-Risk Student
11 allotment each year for the 2005-2006 fiscal year and for the 2006-2007 fiscal year to
12 implement G.S. 115C-12(24).
13

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

15 **FUNDS FOR CHILDREN WITH DISABILITIES**

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

23 The dollar amounts allocated under this section for children with disabilities
24 shall also adjust in accordance with legislative salary increments, retirement rate
25 adjustments, and health benefit adjustments for personnel who serve children with
26 disabilities.
27

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

29 **FUNDS FOR ACADEMICALLY GIFTED CHILDREN**

30 **SECTION 7.13.** The State Board of Education shall allocate funds for
31 academically or intellectually gifted children on the basis of nine hundred twenty-six
32 dollars and fifty-five cents (\$926.55) per child. A local school administrative unit shall
33 receive funds for a maximum of four percent (4%) of its 2005-2006 allocated average
34 daily membership, regardless of the number of children identified as academically or
35 intellectually gifted in the unit. The State Board shall allocate funds for no more than
36 55,895 children for the 2005-2006 school year.

37 The dollar amounts allocated under this section for academically or
38 intellectually gifted children shall also adjust in accordance with legislative salary
39 increments, retirement rate adjustments, and health benefit adjustments for personnel
40 who serve academically or intellectually gifted children.
41

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

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

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

1 purposes. Except as otherwise provided by law, local boards of education may transfer
2 other funds available to them into this allocation category.

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

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

10 These funds shall be allocated to local school administrative units for the
11 2005-2006 fiscal year within 30 days of the date this act becomes law.

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

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

17 **LITIGATION RESERVE FUNDS**

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

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

24 **BASE BUDGET REDUCTION TO DEPARTMENT OF PUBLIC**
25 **INSTRUCTION**

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

30
31 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

32 **REPLACEMENT SCHOOL BUSES FUNDS**

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

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

1 **SECTION 7.17.(b)** Any term contract for the purchase or lease-purchase of
2 school buses or school activity buses shall not require vendor payment of the electronic
3 procurement transaction fee of the North Carolina E-Procurement Service.
4

5 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan
6 **EXPENDITURES FOR DRIVING ELIGIBILITY CERTIFICATES**

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

8 **"§ 115C-12. Powers and duties of the Board generally.**

9 The general supervision and administration of the free public school system shall be
10 vested in the State Board of Education. The State Board of Education shall establish
11 policy for the system of free public schools, subject to laws enacted by the General
12 Assembly. The powers and duties of the State Board of Education are defined as
13 follows:
14

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

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

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

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

1 statutory subsection the student is no longer eligible, no other details
2 or information concerning the student's school record shall be released
3 pursuant to this consent. This form shall be used for students enrolled
4 in public schools or charter schools.

5 The State Board of Education may use funds appropriated for
6 drivers education to cover the costs of driving eligibility certificates."
7

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

9 **DISCREPANCIES BETWEEN ANTICIPATED AND ACTUAL ADM**

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

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

22 The allotments reduced pursuant to this subsection shall include only those
23 allotments that may be increased pursuant to the Allotment Adjustments for ADM
24 Growth provisions of the North Carolina Public Schools Allotment Policy Manual.
25

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

27 **CHARTER SCHOOL ADVISORY COMMITTEE/CHARTER SCHOOL**
28 **EVALUATION**

29 **SECTION 7.20.** The State Board of Education may spend up to fifty
30 thousand dollars (\$50,000) a year from State Aid to Local School Administrative Units
31 for the 2005-2006 and 2006-2007 fiscal years to continue support of a charter school
32 advisory committee and to continue to evaluate charter schools.
33

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

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

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

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

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

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

54 **SECTION 7.21.(d)** In addition to the report required in subsection (c) of this
55 section, the State shall also evaluate the effectiveness of a representative sample of local

1 mentor programs and report on its findings to the Joint Legislative Education Oversight
2 Committee and the Fiscal Research Division by December 15, 2006. The evaluation
3 shall focus on quantitative evidence, quality of service delivery, and satisfaction of
4 those involved. The report shall include the results of the evaluation and
5 recommendations both for improving mentor programs generally and for an appropriate
6 level of State support for mentor programs.

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

9 **VISITING INTERNATIONAL EXCHANGE TEACHERS**

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

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

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

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

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

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

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

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

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

46 **LEA ASSISTANCE PROGRAM**

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

1 shall contain: (i) the criteria for selecting LEAs and schools to receive assistance, (ii)
2 measurable goals and objectives for the assistance program, (iii) an explanation of the
3 assistance provided, (iv) findings from the assistance program, (v) actual expenditures
4 by category, (vi) recommendations for the continuance of this program, and (vii) any
5 other information the State Board deems necessary. These funds shall not revert at the
6 end of each fiscal year but shall remain available until expended for this purpose.
7

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

9 **FUNDS FOR THE TESTING AND IMPLEMENTATION OF THE NEW**
10 **STUDENT INFORMATION SYSTEM**

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

14 **SECTION 7.25.(b)** This section becomes effective June 30, 2005.
15

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

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

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

20 "Article 38A.

21 Public School Building Capital and Technology Fund."

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

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

33 The State Treasurer shall remit funds for credit to the Public School Building
34 Capital and Technology Fund for the first and second quarters of the 2005-2006 fiscal
35 year in accordance with G.S. 115C-546.1(b).

36 **SECTION 7.26.(d)** Notwithstanding the provisions of G.S. 115C-546.1(b),
37 as rewritten by subsection (b) of this section, for the first and second quarters of the
38 2006-2007 fiscal year only, the Secretary of Revenue shall remit to the State Treasurer
39 an amount equal to five sixty-ninths of the net collections received during the previous
40 quarter by the Department of Revenue under G.S. 105-130.3. Of these funds, twenty
41 million five hundred thousand dollars (\$20,500,000) each quarter shall be for credit to
42 the State Public School Fund, and the remainder shall be for credit to the Public School
43 Building Capital and Technology Fund.
44

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

46 **LEA SALES TAX REFUND REPORTING**

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

48 "(c) Certain Governmental Entities. – A governmental entity listed in this
49 subsection is allowed an annual refund of sales and use taxes paid by it under this
50 Article on direct purchases of tangible personal property and services, other than
51 electricity and telecommunications service. Sales and use tax liability indirectly
52 incurred by a governmental entity on building materials, supplies, fixtures, and
53 equipment that become a part of or annexed to any building or structure that is owned or
54 leased by the governmental entity and is being erected, altered, or repaired for use by
55 the governmental entity is considered a sales or use tax liability incurred on direct

1 purchases by the governmental entity for the purpose of this subsection. A request for a
2 refund must be in writing and must include any information and documentation required
3 by the Secretary. A request for a refund is due within six months after the end of the
4 governmental entity's fiscal year. The Secretary shall make an annual report to the
5 Department of Public Instruction and the Fiscal Research Division of the General
6 Assembly by January 1 of the amount of refunds, identified by taxpayer, claimed under
7 subdivisions (2b) and (2c) of this subsection over the preceding year.

8 This subsection applies only to the following governmental entities:

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

1 property or services that are eligible for refund under this subsection
2 acquired by it through the expenditure of contract and grant funds.

3 (21) The University of North Carolina Health Care System.

4 (22) A regional natural gas district created pursuant to Article 28 of Chapter
5 160A of the General Statutes."

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

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

12 ..
13 (32) To provide the report required under G.S. 105-164.14(c) to the
14 Department of Public Instruction and the Fiscal Research Division of
15 the General Assembly."

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

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

24 **REVIEW OF STANDARDS FOR MASTERS IN SCHOOL ADMINISTRATION**
25 **PROGRAMS**

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

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

33 **EVALUATION OF SCHOOL PRINCIPALS**

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

36 **"§ 115C-286.1. Evaluations of principals.**

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

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

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

49 **PLANNING TIME FOR TEACHERS**

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

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

3
4 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan
5 **ONLINE PROFESSIONAL DEVELOPMENT RESOURCE CENTER FOR**
6 **TEACHERS AND PRINCIPALS**

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

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

12
13 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan
14 **LEARN AND EARN HIGH SCHOOLS**

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

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

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

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

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

42
43 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan
44 **FLEXIBILITY FOR HIGH SCHOOL INNOVATION**

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

47 "Part 9. Cooperative Innovative High School Programs.
48 **§ 115C-238.50. Purpose.**

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

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

- 1 ~~program~~, to master a certificate or vocational ~~program-program~~, or to
2 earn up to two years of college credit.
- 3 (3) Offer a college preparatory academic core and in-depth studies in a
4 career or technical field that will lead to advanced programs or
5 employment opportunities in engineering, health sciences, or teaching.
- 6 (e) Cooperative innovative high school programs may include the creation of a
7 school within a school, a technical high school, or a high school or technical center
8 located on the campus of a ~~community college-college or university.~~
- 9 (f) Students are eligible to attend these programs as early as ninth grade.

10 **"§ 115C-238.50A. Definitions.**

11 The following definitions apply in this Part:

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

22 **"§ 115C-238.51. Application process.**

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

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

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

51 (c) The application shall be submitted to the State Board of Education and the
52 ~~State Board of Community Colleges~~ applicable governing Boards by November 1 of
53 each year. The ~~State Board of Education and the State Board of Community Colleges~~
54 Boards shall appoint a joint advisory committee to review the applications and to

1 recommend to the ~~State Boards~~ those programs that meet the requirements of this Part
2 and that achieve the purposes set out in G.S. 115C-238.50.

3 ~~(d) The State Board of Education and the State Board of Community Colleges~~
4 ~~shall approve two cooperative innovative high school programs in each of the State's~~
5 ~~economic development regions. The State Boards may approve programs recommended~~
6 ~~by the joint advisory committee or may approve other programs that were not~~
7 ~~recommended. The State Boards shall approve all applications by March 15 of each~~
8 ~~year. No application shall be approved unless the State Boards State Board of Education~~
9 ~~and the applicable governing Board find that the application meets the requirements set~~
10 ~~out in this Part and that granting the application would achieve the purposes set out in~~
11 ~~G.S. 115C-238.50. Priority shall be given to applications that are most likely to further~~
12 ~~State education policies, to address the economic development needs of the economic~~
13 ~~development regions in which they are located, and to strengthen the educational~~
14 ~~programs offered in the local school administrative units in which they are located.~~

15 **"§ 115C-238.52. Participation by other education partners.**

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

- 19 ~~(1) A constituent institution of The University of North Carolina.~~
- 20 ~~(2) A private college or university located in North Carolina.~~
- 21 (3) A private business or organization.
- 22 (4) The county board of commissioners in the county in which the
23 program is located.

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

- 26 (1) Jointly apply with the local board of education and the local board of
27 trustees ~~of the community college~~ to establish a cooperative innovative
28 program under this Part.
- 29 (2) Be identified in the application.
- 30 (3) Sign the written agreement under G.S. 115C-238.53(b).

31 **"§ 115C-238.53. Program operation.**

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

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

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

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

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

54 (f) Except as provided in this Part and ~~pursuant to~~ under the terms of the
55 agreement, a program is exempt from laws and rules applicable to a local board of

1 education, a local school administrative unit, a community college, a constituent
2 institution, or a local board of ~~trustees of a community college~~-trustees.

3 **"§ 115C-238.54. Funds for programs.**

4 (a) The Department of Public Instruction shall assign a school code for each
5 program that is approved under this Part. All positions and other State and federal
6 allotments that are generated for this program shall be assigned to that school code.
7 Notwithstanding G.S. 115C-105.25, once funds are assigned to that school code, the
8 local board of education may use these funds for the program and may transfer these
9 funds between funding allotment categories.

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

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

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

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

21 **"§ 115C-238.55. Evaluation of programs.**

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

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

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

- 46 (1) Programmatic design including location, curriculum, student access,
47 and calendar,
- 48 (2) Projected costs of operation, including instructional, administrative,
49 transportation, capital, and other costs,
- 50 (3) Any plans for coordination with institutes of higher education,
- 51 (4) Proposed implementation schedule.

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

54 **FUNDS FOR EDUCATION OF STUDENTS AT ECKERD YOUTH**
55 **ALTERNATIVES THERAPEUTIC CAMP**

1 **SECTION 7.35.** If a student is placed in an Eckerd Youth Alternatives
2 therapeutic camp on the recommendation of a local school administrative unit, the unit
3 shall transfer to the camp the State funds allocated to the unit for the education of the
4 child. For each day that the child receives educational services at the camp, that unit
5 shall pay 1/180 of the annual amount a charter school located in that unit would receive
6 in State funds for that child, for a maximum of 180 days in a fiscal year. If the child is a
7 child with special needs, the unit shall also be responsible for the State per pupil
8 allocation for children with special needs.
9

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

11 **MINIMIZE TIME DEVOTED TO STANDARDIZED TESTS**

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

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

- 18 (1) Schools shall devote no more than two days of instructional time per
19 year to the taking of practice tests that do not have the primary purpose
20 of assessing current student learning;
- 21 (2) Students in a school shall not be subject to field tests or national tests
22 during the two-week period preceding the administration of
23 end-of-grade tests, end-of-course tests, or the school's regularly
24 scheduled final exams; and
- 25 (3) No school shall participate in more than two field tests at any one
26 grade level during a school year unless that school volunteers, through
27 a vote of its school improvement team, to participate in an expanded
28 number of field tests.

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

39 The State Board of Education may appoint an Advisory Council on Testing to assist
40 in carrying out its responsibilities under this Article."
41

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

43 **EDUCATION CABINET**

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

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

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

- 53 (1) The extent to which school nurses, school social workers, and other
54 instructional support personnel collaborate with each other and with
55 local health, mental health, and social services providers to meet the

- 1 needs of at-risk children and their families and to support the
2 educational achievement of at-risk children; and
3 (2) The need for additional training for school nurses, school social
4 workers, and other instructional support personnel on multidisciplinary
5 assessments and on referral and care coordination for at-risk students
6 and their families.

7 The Education Cabinet shall report the results of its study and its
8 recommendations to the Joint Legislative Education Oversight Committee prior to April
9 15, 2006.

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

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

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

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

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

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

34 **TEACHER WORKING CONDITIONS INITIATIVE**

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

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

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

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

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

54 **SECTION 7.41.(b)** As used in this section, "E-learning" is electronic
55 learning that includes a wide set of applications and processes, such as Web-based

1 learning, computer-based learning, virtual classrooms, and digital collaboration. It
2 includes the delivery of content via Internet, intranet/extranet (LAN/WAN), audiotape,
3 videotape, satellite broadcast, interactive television, and CD-ROM.

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

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

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

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

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

20 **FEASIBILITY STUDY FOR DEVELOPING REGIONAL EDUCATION**
21 **NETWORKS**

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

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

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

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

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

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

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

43
44 (17) A baseline template for:

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

52 **SECTION 7.43.(b)** No later than October 31, 2005, the Department of
53 Public Instruction shall hold regional workshops for local school administrative units to
54 provide guidance in developing local school system technology plans that meet the
55 criteria established in the State school technology plan, including the components added

1 under subsection (a) of this section. The State Chief Information Officer will assist with
2 the regional meetings as needed to provide technical assistance.

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

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

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

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

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

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

25 **ANNUAL REPORT THAT HIGHLIGHTS THE IMPACT OF EDUCATION**
26 **PREPARATION ON ECONOMIC GROWTH**

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

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

34
35 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan

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

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

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

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

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

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

52 **SECTION 7.46.(a)** The Office of State Budget and Management shall
53 conduct a study to determine the feasibility of establishing a State Central Infrastructure
54 Office that would collect and manage information for technology, water, sewer, and

1 other utility infrastructures needed to assist communities in becoming and remaining
2 economically viable.

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

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

9 **SCHOOL EMPLOYEE SALARY STUDY**

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

- 13 (1) Develop a plan to get the State moving toward the national average in
14 teacher salaries by 2008 and toward the top 10 states in the nation by
15 2010.
- 16 (2) Consider strategies for maintaining the lead in teacher salaries in the
17 Southeastern United States.
- 18 (3) Consider the need to reduce the number of steps on the teacher salary
19 schedule, increase the beginning teacher salary, and enable an
20 individual to reach the maximum salary sooner.
- 21 (4) Perform a market-sensitive analysis of the skills and knowledge
22 needed to be a successful teacher to determine what it takes to make
23 the schedule attractive and competitive.
- 24 (4) Consider the placement of appropriate extraordinary increases on
25 schedule for achievement of career status, teacher retention, and other
26 purposes.
- 27 (5) Determine the need to modify the masters schedule differential.
- 28 (6) Determine the need to modify the alternative salary schedules to
29 reward different levels of academic preparation and career
30 accomplishments such as attainment of national certification.
- 31 (7) Consider the appropriate relationship of the school counselor's
32 schedule to the schedules for other members of the school-based staff.
- 33 (8) Determine the need to modify the administrator salary schedule.
- 34 (9) Consider other matters the Committee deems appropriate.

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

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

39 **COMMISSION FOR A SOUND BASIC EDUCATION**

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

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

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

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

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

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

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

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

23 All State departments and agencies and local governments and their
24 subdivisions shall furnish the Commission with any information in their possession or
25 available to them.

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

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

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

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

49 **SECTION 7.48.(k)** Funds in the amount of two hundred thousand dollars
50 (\$200,000) are appropriated in this act to the General Assembly to carry out its work of
51 the North Carolina Commission for a Sound Basic Education.

52 53 **PART VIII. COMMUNITY COLLEGES**

54
55 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:
 - a. If the average faculty salary at a community college is one hundred percent (100%) or more of the national average community college faculty salary, the college may transfer up

1 to eight percent (8%) of the State funds allocated to it for
2 faculty salaries.

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

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

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

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

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

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

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

53 **SECTION 8.3.(g)** Funds appropriated in this act for salary increases shall be
54 used to increase faculty and professional staff salaries by an average of two percent
55 (2%). These increases are in addition to other salary increases provided for in this act

1 and shall be calculated on the average salaries prior to the issuance of the compensation
2 increase. Colleges may provide additional increases from funds available.

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

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

9 **WORKFORCE DEVELOPMENT PROGRAMS**

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

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

16 **"§ 115D-5.1. Workforce Development Programs.**

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

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

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

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

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

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

- 54 (1) The business is making an appreciable capital investment;
- 55 (2) The business is deploying new technology; and

1 (3) The skills of the workers will be enhanced by the assistance.
 2 The State Board shall report on an annual basis to the Joint Legislative Education
 3 Oversight Committee on:

4 (1) The total amount of funds received by a company under the CIT
 5 Program;

6 (2) The amount of funds per trainee received by that company;

7 (3) The amount of funds received per trainee by the community college
 8 delivering the training;

9 (4) The number of trainees trained by the company and community
 10 college; and

11 (5) The number of years that company has been funded.

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

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

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

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

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

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

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

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

38 **EDUCATION PROGRAM AUDITING FUNCTION**

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

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

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

2 **FERRY BOAT OPERATOR TRAINING FEASIBILITY STUDY**

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

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

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

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

18 **EXTEND THE SUNSET ON TRAINING AND REEMPLOYMENT**
19 **CONTRIBUTIONS MADE BY EMPLOYERS**

20 **SECTION 8.8.(a)** Section 8 of S.L. 1999-321, as amended by Section
21 30.5(f) of S.L. 2001-424, reads as rewritten:

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

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

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

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

33 **COMMUNITY COLLEGE INNOVATIVE LEARNING FUND**

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

- 45 (1) The Vision Plan of the Economic Development Partnership where the
46 project will be located;
- 47 (2) The ability of the county to provide funding for the project;
- 48 (3) The maintenance of effort by the county to support the existing
49 mission of the college;
- 50 (4) The impact the innovative learning center will have on economic
51 development in the county and region; and
- 52 (5) The existence of any other innovative learning centers in the region.

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

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

3
4 Requested by: Senators Rand, Lucas, Swindell, Garrou, Dalton, Hagan
5 **CARRYFORWARD FOR COLLEGES IN ECONOMICALLY**
6 **DISADVANTAGED COUNTIES**

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

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

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

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

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

28
29 Requested by: Senators Rand, Lucas, Swindell, Garrou, Dalton, Hagan
30 **DEFENSE TECHNOLOGY INNOVATION CENTER**

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

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

51
52 Requested by: Senators Swindell, Lucas
53 **COMMUNITY COLLEGE CAPITAL FUNDS**

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

4
5 Requested by: Senator Hunt

6 **COMMUNITY COLLEGE TUITION LANGUAGE**

7 **SECTION 8.13.** G.S. 115D-39 reads as rewritten:

8 **"§ 115D-39. Student tuition and fees.**

9 (a) The State Board of Community Colleges shall fix and regulate all tuition and
10 fees charged to students for applying to or attending any institution pursuant to this
11 Chapter.

12 The receipts from all student tuition and fees, other than student activity fees, shall
13 be State funds and shall be deposited as provided by regulations of the State Board of
14 Community Colleges.

15 The legal resident limitation with respect to tuition, set forth in G.S. 116-143.1 and
16 G.S. 116-143.3, shall apply to students attending institutions operating pursuant to this
17 Chapter; provided, however, that when an employer other than the armed services, as
18 that term is defined in G.S. 116-143.3, pays tuition for an employee who is lawfully
19 present in the United States to attend an institution operating pursuant to this Chapter
20 and when the employee works at a North Carolina business location, the employer shall
21 be charged the in-State tuition rate; provided further, however, a community college
22 may charge in-State tuition to up to one percent (1%) of its out-of-state students,
23 rounded up to the next whole number, to accommodate the families transferred by
24 business, the families transferred by industry, or the civilian families transferred by the
25 military, consistent with the provisions of G.S. 116-143.3, into the State.
26 Notwithstanding these requirements, a refugee who lawfully entered the United States
27 States, who remains lawfully within the United States, and who is living in this State
28 shall be deemed to qualify as a domiciliary of this State under G.S. 116-143.1(a)(1) and
29 as a State resident for community college tuition purposes as defined in
30 G.S. 116-143.1(a)(2). ~~Also, a nonresident of the United States who has resided in North~~
31 ~~Carolina for a 12-month qualifying period and has filed an immigrant petition with the~~
32 ~~United States Immigration and Naturalization Service shall be considered a State~~
33 ~~resident for community college tuition purposes.~~

34 (b) In addition, any person lawfully admitted to the United States ~~States,~~ and who
35 remains lawfully present in the United States, and who satisfied the qualifications for
36 assignment to a public school set out under G.S. 115C-366 and graduated from the
37 public school to which the student was assigned shall also be eligible for the State
38 resident community college tuition rate. This subsection does not make a person a
39 resident of North Carolina for any other purpose.

40 (c) In addition, a person sponsored under this subsection who is lawfully
41 admitted to the United States and who remains lawfully present is eligible for the State
42 resident community college tuition rate. For purposes of this subsection, a North
43 Carolina nonprofit entity is a charitable or religious corporation as defined in
44 G.S. 55A-1-40 that is incorporated in North Carolina and that is exempt from taxation
45 under section 501(c)(3) of the Internal Revenue Code, or a civic league incorporated in
46 North Carolina under Chapter 55A of the General Statutes that is exempt from taxation
47 under section 501(c)(4) of the Internal Revenue Code. A nonresident of the United
48 States is sponsored by a North Carolina nonprofit entity if the student resides in North
49 Carolina while attending the community college and the North Carolina nonprofit entity
50 provides a signed affidavit to the community college verifying that the entity accepts
51 financial responsibility for the student's tuition and any other required educational fees.
52 Any North Carolina nonprofit entity that sponsors a nonresident of the United States
53 under this subsection may sponsor no more than five nonresident students annually
54 under this subsection. This subsection does not make a person a resident of North
55 Carolina for any other purpose."

1
2 **PART IX. UNIVERSITIES**
3

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

5 **UNC FLEXIBILITY GUIDELINES**

6 **SECTION 9.1.** The Chancellor of each constituent institution shall report to
7 the Board of Governors of The University of North Carolina on the management
8 flexibility adjustments made to the General Fund budget codes in order to meet the
9 reserve amounts for that institution. The President of The University of North Carolina
10 shall report to the Board of Governors of The University of North Carolina on the
11 reductions made to the General Fund budget codes controlled by the Board in order to
12 meet the reduction reserve amounts for those entities. The Board of Governors shall
13 make a summary report to the Office of State Budget and Management and the Fiscal
14 Research Division by December 31, 2005, on all reductions made by these entities and
15 constituent institutions in order to reduce the budgets by the targeted amounts.
16

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

18 **ENROLLMENT GROWTH FUND/ENCOURAGE PARTNERSHIPS FOR NEW**
19 **2 + 2 PROGRAMS**

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

41 **SECTION 9.2.(b)** The Board of Governors of The University of North
42 Carolina and the State Board of Community Colleges shall strongly encourage the
43 constituent institutions and the community colleges that do not currently have 2 + 2
44 programs that emphasize teacher education to design and enter into formal partnerships
45 to offer those 2 + 2 programs. The Board of Governors and the Board of Community
46 Colleges shall report to the Joint Legislative Education Oversight Committee by
47 February 1, 2006, regarding the status of existing 2 + 2 programs and any new
48 partnerships established.
49

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

51 **UNC-NCCCS JOINT INITIATIVE FOR TEACHER EDUCATION AND**
52 **RECRUITMENT**

53 **SECTION 9.3.(a)** Funds appropriated in this act to The University of North
54 Carolina for the UNC-NCCCS Joint Initiative for Teacher Education and Recruitment
55 shall be used to establish eight positions. These individuals shall have an office in and

1 work with staff in the Regional Alternative Licensure Centers of the Department of
2 Public Instruction. Their responsibilities are to assist in increasing the number of
3 certified teachers in the public schools of North Carolina. To accomplish this, their
4 specific tasks are as follows:

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

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

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

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

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

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

42 **ENROLLMENT GROWTH FUNDING MODEL**

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

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

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

1 **SECTION 9.5.** Funds appropriated in this act to The University of North
2 Carolina and the North Carolina Community College System for the UNC-NCCCS 2+2
3 E-Learning Initiative shall be used to fund further development of online courses for
4 2+2 programs. Based on a mutually agreed upon decision by the State Board of
5 Education Chairman, the President of the North Carolina Community College System,
6 and the President of The University of North Carolina as to the areas of greatest need,
7 funds are available to support joint technology development, systems to track student
8 progress and articulation between a North Carolina community college and a University
9 of North Carolina campus, and to develop technology to support online courses and 2+2
10 programs.

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

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

14 **SECTION 9.6.(a)** There is appropriated from the Escheat Fund income to
15 the Board of Governors of The University of North Carolina the sum of sixty-seven
16 million two hundred forty-eight thousand sixteen dollars (\$67,248,016) for fiscal year
17 2005-2006 and the sum of sixty-seven million six hundred thirty-eight thousand sixteen
18 dollars (\$67,638,016) for fiscal year 2006-2007; and to the State Board of Community
19 Colleges the sum of thirteen million nine hundred eighty-one thousand two hundred two
20 dollars (\$13,981,202) for fiscal year 2005-2006 and the sum of thirteen million nine
21 hundred eighty-one thousand two hundred two dollars (\$13,981,202) for fiscal year
22 2006-2007. These funds shall be allocated by the North Carolina State Educational
23 Assistance Authority (SEAA) for need-based student financial aid in accordance with
24 G.S. 116B-7.

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

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

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

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

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

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

3 **STUDY OF DISTANCE EDUCATION**

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

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

13 **INFORMATION TECHNOLOGY PROCUREMENT**

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

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

27 **BOARD OF GOVERNORS' DENTAL SCHOLARSHIPS**

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

1 **SECTION 9.9.(b)** Any dental scholarship awarded prior to July 1, 2005,
2 shall remain a scholarship and shall not be converted to a scholarship loan unless the
3 recipient agrees to the conversion.
4

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

6 **BOARD OF GOVERNORS' MEDICAL SCHOLARSHIPS**

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

34 **SECTION 9.10.(b)** Any medical scholarship awarded prior to July 1, 2005,
35 shall remain a scholarship and shall not be converted to a scholarship loan unless the
36 recipient agrees to the conversion.
37

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

39 **TEACHER SCHOLARSHIPS FUNDS**

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

42 **"§ 116-209.38. Future Teachers of North Carolina Scholarship Loan Fund.**

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

53 (b) The Board of Governors of The University of North Carolina, in consultation
54 with the State Board of Education and the State Board of Community Colleges, shall
55 develop the criteria for awarding the scholarship loans under this section and shall adopt

1 very stringent standards for awarding these scholarship loans to ensure that only the best
2 students receive them. Additional criteria for awarding a scholarship loan under this
3 section shall include all of the following:

4 (1) The student is one who either: (i) maintained a "B" or better average in
5 college and is enrolled as a junior or senior in a teacher preparation
6 program at any of the institutions described by subsection (a) of this
7 section; or (ii) completed a college transfer curriculum at a community
8 college in the State's community college system, maintained a "B" or
9 better average in the community college courses, and is accepted and
10 enrolled in a teacher preparation program at one of the institutions
11 described by subsection (a) of this section.

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

16 (3) Any additional criteria that the Board of Governors of The University
17 of North Carolina, in consultation with the State Board of Education
18 and the State Board of Community Colleges, considers necessary to
19 administer the Fund effectively.

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

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

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

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

38 **SECTION 9.11.(b)** Of the funds appropriated in this act to the State
39 Education Assistance Authority the sum of six hundred fifty thousand dollars
40 (\$650,000) for the 2005-2006 fiscal year and the sum of one million three hundred
41 thousand dollars (\$1,300,000) for the 2006-2007 fiscal year shall be used to implement
42 this act.

43
44 Requested by: Senators Lucas, Swindell, Nesbitt, Garrou, Dalton, Hagan

45 **UNC-ASHEVILLE RETAIN SALE PROCEEDS**

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

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

55 **UNC BOND PROJECT MODIFICATIONS**

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

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

24 **SECTION 9.13.(c)** Pursuant to Section 2(b) of S.L. 2000-3, the General
25 Assembly finds that it is in the best interest of the State to respond to current
26 educational and research program requirements at the University of North Carolina at
27 Wilmington by the cancellation of "King Hall Classroom Building-Comprehensive
28 Renovation", and by transferring the unused funds to the following projects listed under
29 the portion entitled University of North Carolina at Wilmington: "Academic &
30 Classroom Facilities," "General Classroom Bldg," "Hinton James Hall Classroom Bldg.
31 – Comprehensive Renovation," "Friday Hall Laboratory Bldg. – Comprehensive
32 Renovation," "Kenan Auditorium – Comprehensive Renovation." Section 2(a) of S.L.
33 2000-3 is therefore amended in the portion under the University of North Carolina at
34 Wilmington by:

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

- 1 (5) Increasing the allocation to "Kenan Auditorium – Comprehensive
2 Renovation" by one hundred fifty-one thousand seven hundred
3 forty-nine dollars (\$151,749) to create a total allocation of two million
4 seventy-three thousand seven hundred twenty-four dollars
5 (\$2,073,724).
6 (6) Increasing the allocation to "Friday Hall Laboratory Building –
7 Comprehensive Renovation" by one million one hundred sixty-nine
8 thousand four hundred thirty dollars (\$1,169,430) to create a total
9 allocation of eight million eight hundred sixty-two thousand eight
10 hundred thirty dollars (\$8,862,830).

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

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

33 **SECTION 9.13.(e)** Nothing in this section is intended to supersede any other
34 requirement of law or policy for approval of the substituted capital improvement
35 projects.
36

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

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

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

53 **SECTION 9.14.(b)** This section applies to any eligible student who is
54 enrolled full-time in The University of North Carolina after July 1, 2005.
55

1 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan
 2 **UNC-CHAPEL HILL CONTINUE TO OPERATE HORACE WILLIAMS**
 3 **AIRPORT**

4 **SECTION 9.15.** The University of North Carolina at Chapel Hill shall
 5 operate the Horace Williams Airport and continue air transportation support for the
 6 Area Health Education Centers (AHEC) and the public from that location until AHEC's
 7 Medical Air Operations have access to, or utilize, the Raleigh-Durham International
 8 Airport (RDU) on a basis sufficient to serve adequately the needs of patients,
 9 physicians, and passengers associated with AHEC's statewide programs and activities.
 10 At that time, the University of North Carolina at Chapel Hill may close the Horace
 11 Williams Airport.
 12

13 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan
 14 **NORTH CAROLINA AGRICULTURAL AND TECHNICAL STATE**
 15 **UNIVERSITY FUNDS**

16 **SECTION 9.16.** Of the funds appropriated by this act to the Board of
 17 Governors of The University of North Carolina for the 2005-2006 fiscal year the sum of
 18 one million eighty-eight thousand nine hundred forty-one dollars (\$1,088,941) shall be
 19 allocated to North Carolina Agricultural and Technical State University for agricultural
 20 and research extension programs. It is the intent of the General Assembly to fully fund
 21 these programs for the 2006-2007 fiscal year.
 22

23 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan
 24 **TRANSFER PROSPECTIVE TEACHER SCHOLARSHIP LOAN AND**
 25 **TEACHER ASSISTANT SCHOLARSHIP LOAN TO THE NC STATE**
 26 **EDUCATION ASSISTANCE AUTHORITY**

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

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

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

36 "**§ 116-209.33. Establishment of fund, Scholarship Loan Fund for Prospective**
 37 **Teachers.**

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

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

- 45 (1) Measures of academic performance including grade point averages,
 46 scores on standardized tests, class rank, and recommendations of
 47 guidance counselors and principals.
- 48 (2) North Carolina residency. – For purposes of this section, residency
 49 shall be determined by the same standard as residency for tuition
 50 purposes pursuant to G.S. 116-143.1.
- 51 (3) The geographic areas or subjects of instruction in which the demand
 52 for teachers is greatest.
- 53 (4) To the extent practical, an equal number of scholarships shall be
 54 awarded in each of the State's Congressional Districts.

1 (5) Any additional criteria that the State Education Assistance Authority
 2 considers necessary to administer the Fund effectively, including the
 3 following:

4 a. Consideration of the appropriate numbers of minority applicants
 5 and applicants from diverse socioeconomic backgrounds to
 6 receive scholarships pursuant to this section.

7 b. Consideration of the commitment an individual applying to
 8 receive funds demonstrates to the profession of teaching.

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

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

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

33 **"§ 116-209.34. Fund administered by State Superintendent of Public Instruction;**
 34 **rules and regulations. State Education Assistance Authority; rule-making**
 35 **authority.**

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

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

54 (2) ~~All scholarship loans shall be evidenced by notes made payable to the~~
 55 ~~State Board of Education Authority that bear interest at the rate of ten~~

1 percent (10%) per annum from and after September 1 following
2 fulfillment by a prospective teacher of the requirements for a
3 certificate based upon the entry level degree; or in the case of persons
4 already teaching in the public schools who obtain scholarship loans,
5 the notes shall bear interest at the prescribed rate from and after
6 September 1 of the school year beginning immediately after the use of
7 the scholarship loans; or in the event any such scholarship is
8 terminated under the provisions of subdivision (3) of this section, the
9 notes shall bear interest from the date of termination. A minor
10 recipient who signs a note shall also obtain the endorsement thereon by
11 a parent, if there be a living parent, unless the endorsement is waived
12 by the Superintendent of Public Instruction. The minor recipient shall
13 be obligated upon the note as fully as if the recipient were of age and
14 shall not be permitted to plead such minority as a defense in order to
15 avoid the obligations undertaken upon the notes. year, beginning
16 September 1 after graduation, or immediately after termination of the
17 scholarship loan, whichever is earlier.

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

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

42 (5)(4) For each full school year taught in a North Carolina public school, the
43 recipient of a scholarship loan shall receive credit upon the amount due
44 by reason of the loan equal to the loan amount for a school year as
45 provided in the note plus credit for the total interest accrued on that
46 amount. Also, the recipient of the loan shall receive credit upon the
47 total amount due by reason of all four years of the loan if the recipient
48 teaches for three consecutive years. The Authority shall forgive a
49 four-year loan if, within seven years after graduation, the recipient
50 teaches for four years at a North Carolina public school or at a school
51 operated by the United States government in North Carolina. The
52 Authority shall also forgive a four-year loan if, within seven years
53 after graduation, the recipient teaches for three consecutive years, or
54 for three years interrupted only by an approved leave of absence, at a
55 North Carolina public school that is in a low-performing school system

1 or a school system on warning status at the time the recipient accepts
 2 employment with the local school administrative unit. ~~In lieu of~~
 3 ~~teaching in the public school, a recipient may elect to pay in cash the~~
 4 ~~full amount of scholarship loans received plus interest then due~~
 5 ~~thereon or any part thereof that has not been canceled by the State~~
 6 ~~Board of Education by reason of teaching service rendered.~~ For loans
 7 of less than four years, the Authority shall forgive one year for each
 8 year the recipient teaches, within four years of graduation, at a North
 9 Carolina public school or a school operated by the United States
 10 government in North Carolina.

11 ~~(6)(5) If any recipient of a scholarship loan dies during the period of~~
 12 ~~attendance at a college or university under a scholarship loan or before~~
 13 ~~the scholarship loan is satisfied by payment or teaching service, any~~
 14 ~~balance shall be automatically canceled.~~

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

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

36 (b) The State Education Assistance Authority, in consultation with the State
 37 Board of Education, shall adopt rules to implement G.S. 116-209.33, 116-209.34, and
 38 116-209.35."

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

41 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan
 42 **UNIVERSITY SYSTEM AND COMMUNITY COLLEGE SYSTEM JOINT**
 43 **STUDY OF HIGHER EDUCATION STRATEGY/AMEND REPORTING**
 44 **REQUIREMENT**

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

46 **"SECTION 6.2.** These studies shall be designed to provide information and
 47 recommendations that will assist the General Assembly in setting priorities for funding
 48 to address the strategic higher education needs of the State. The Board of Governors, the
 49 State Board, and their consultant shall periodically report their findings to a higher
 50 education programming subcommittee of the Joint Legislative Education Oversight
 51 Committee. The two boards and their consultant shall report the preliminary results of
 52 the study to the General Assembly and to the Joint Legislative Education Oversight
 53 Committee by ~~April 15, 2005, June 15, 2005,~~ and shall file a final report and
 54

1 recommendations with the General Assembly and the Joint Legislative Education
2 Oversight Committee no later than ~~December 31, 2005.~~ December 31, 2006."

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

5 **UNC RESEARCH INSTITUTIONS MAY INCREASE TUITION**

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

7 "**§ 116-143. State-supported institutions of higher education required to charge**
8 **tuition and fees.**

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

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

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

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

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

38 "**§ 116-143.6. Board of Trustees of a Doctoral/Research University-Extensive**
39 **campus may increase tuition without approval of the Board of**
40 **Governors.**

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

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

53 (b) If a Board of Trustees decides to increase tuition at a constituent institution,
54 the institution shall notify the Board of Governors, the Office of State Budget and
55 Management, and the Fiscal Research Division of the amount of increase, additional

1 receipts anticipated, and the allocation of the funds among various programs in a format
2 prescribed by the Board of Governors of The University of North Carolina."

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

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

7 **NC SPACE GRANT CONSORTIUM FUNDS**

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

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

14 **DISTINGUISHED PROFESSORS ENDOWMENT TRUST FUND**

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

16 "**§ 116-41.15. Distinguished Professors Endowment Trust Fund; allocation;**
17 **administration.**

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

- 21 (1) On the basis of one three hundred thirty-four thousand dollar
22 (\$334,000) challenge grant for each six hundred sixty-six thousand
23 dollars (\$666,000) raised from private sources; or
24 (2) On the basis of one one hundred sixty-seven thousand dollar
25 (\$167,000) challenge grant for each three hundred thirty-three
26 thousand dollars (\$333,000) raised from private ~~sources; or~~
27 (3) On the basis of one challenge grant of up to six hundred sixty-seven
28 thousand dollars (\$667,000) for funds raised from private sources in
29 twice the amount of the challenge grant.

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

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

- 37 (1) On the basis of one five hundred thousand dollar (\$500,000) challenge
38 grant for each five hundred thousand dollars (\$500,000) raised from
39 private sources; or
40 (2) On the basis of one two hundred fifty thousand dollar (\$250,000)
41 challenge grant for each two hundred fifty thousand dollars (\$250,000)
42 raised from private ~~sources; or~~
43 (3) On the basis of one challenge grant of up to one million dollars
44 (\$1,000,000) for funds raised from private sources in the same amount
45 as the challenge grant.

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

51 (c) Matching funds shall come from contributions made after July 1, 1985, and
52 pledged for the purposes specified by G.S. 116-41.14. Each participating constituent
53 institution's board of trustees shall establish its own Distinguished Professors
54 Endowment Trust Fund, and shall maintain it pursuant to the provision of G.S. 116-36
55 to function as a depository for private contributions and for the State matching funds for

1 the challenge grants. The State matching funds shall be transferred to the constituent
2 institution's Endowment Fund upon notification that the institution has received and
3 deposited the appropriate amount required by this section in its own Distinguished
4 Professors Endowment Trust Fund. Only the net income from that account shall be
5 expended in support of the distinguished professorship thereby created."

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

7 **"§ 116-41.16. Distinguished Professors Endowment Trust Fund; contribution**
8 **commitments.**

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

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

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

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

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

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

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

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

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

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

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

54 **"§ 116-41.17. Distinguished Professors Endowment Trust Fund; establishment of**
55 **chairs.**

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

- 3 (1) One million dollars (\$1,000,000), if the sum of funds described in
4 ~~G.S. 116-41.15(1); or G.S. 116-41.15(a)(1) or G.S. 116-41.15(b)(1); or~~
5 (2) Five hundred thousand dollars (\$500,000), if the sum of funds
6 described in ~~G.S. 116-41.15(2); G.S. 116-41.15(a)(2) or~~
7 ~~G.S. 116-41.15(b)(2); or~~
8 (3) An amount up to two million dollars (\$2,000,000), if the sum of funds
9 described in G.S. 116-41.15(a)(3) or G.S. 116-41.15(b)(3);

10 the board of trustees may recommend to the Board, for its approval, the establishment of
11 an endowed chair or chairs. The Board, in considering whether to approve the
12 recommendation, shall include in its consideration the programs already existing in The
13 University of North Carolina. If the Board approves the recommendation, the chair or
14 chairs shall be established. The chair or chairs, the property of the constituent
15 institution, may be named in honor of a donor, benefactor, or honoree of the institution,
16 at the option of the board of trustees."
17

18 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan
19 **UNC MAY ENCOURAGE THE ESTABLISHMENT OF PRIVATE,**
20 **NONPROFIT CORPORATIONS TO SUPPORT THE UNIVERSITY**
21 **SYSTEM AND ASSIGN UNC EMPLOYEES TO ASSIST WITH THOSE**
22 **CORPORATIONS**

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

25 "Part 2B. Private, Nonprofit Corporations.

26 "**§ 116-30.20. Establishment of private, nonprofit corporations.**

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

35 The board of directors of each such private, nonprofit corporation shall secure and
36 pay for the services of The University System's internal auditors or employ a certified
37 public accountant to conduct an audit of the financial accounts of the corporation. The
38 board of directors shall transmit to the Board of Governors a copy of the annual
39 financial audit report of the private, nonprofit corporation."
40

41 Requested by: Senators Lucas, Swindell, Garrou, Dalton, Hagan
42 **ELIMINATE REPORTING REQUIREMENT FOR SCHOOL**
43 **ADMINISTRATOR TRAINING PROGRAMS**

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

45 "**§ 116-74.21. Establishment of a competitive proposal process for school**
46 **administrator programs.**

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

54 (b) No more than 12 school administrator programs shall be established under the
55 competitive proposal program. In selecting campus sites, the Board of Governors shall

1 be sensitive to the racial, cultural, and geographic diversity of the State. Special priority
2 shall be given to the following factors: (i) the historical background of the institutions in
3 training educators; (ii) the ability of the sites to serve the geographic regions of the
4 State, such as, the far west, the west, the triad, the piedmont, and the east; and, (iii)
5 whether the type of roads and terrain in a region make commuting difficult. A school
6 administrator program may provide for instruction at one or more campus sites.

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

14 (d) The Board of Governors shall develop a budget for the programs established
15 under subsection (a) of this section that reflects the resources necessary to establish and
16 operate school administrator programs that meet the vision of the report submitted to the
17 1993 General Assembly by the Educational Leadership Task Force.

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

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

22 **CONTINUE ACADEMIC COMMON MARKET PROGRAM**

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

24 **"ACADEMIC COMMON MARKET PILOT PROGRAM**

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

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

48 **SECTION 31.2.(c)** ~~The pilot programs established under this section shall~~
49 ~~terminate July 1, 2005. However, once~~ Once a student is enrolled in The University of
50 North Carolina system under the Academic Common Market program, the student shall
51 be entitled to pay in-State tuition as long as the student is enrolled in that graduate
52 program. The Board of Governors shall ~~report the success of~~ provide a report on the
53 Academic Common Market program to the Joint Legislative Education Oversight
54 Committee by December 31, 2003, and by January 31, 2005, and the Committee may

1 ~~recommend changes, if any are appropriate, to the pilot program at either of those~~
2 ~~times-September 2007, and each biennium thereafter."~~

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

5 **TUITION WAIVER PROGRAM EXPANSION**

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

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

14 **SECTION 9.25.(b)** The Board of Governors of The University of North
15 Carolina and the State Board of Community Colleges shall study the feasibility of a
16 tuition waiver exchange program under which full-time employees of The University of
17 North Carolina would be allowed to take a specified number of courses at a community
18 college without paying tuition, and full-time employees of a community college would
19 be allowed to take a specified number of courses at a constituent institution of The
20 University of North Carolina without paying tuition. The Boards shall report the results
21 of this study to the Joint Legislative Education Oversight Committee by April 1, 2006.
22

23 Requested by: Senators Lucas, Swindell, Kerr, Jenkins, Garrou, Dalton, Hagan

24 **BRODY SCHOOL OF MEDICINE AT ECU/MEDICARE RECEIPTS/FAMILY**
25 **MEDICINE CENTER**

26 **SECTION 9.26.(a)** G.S. 116-36.6 reads as rewritten:

27 "~~§ 116-36.6. Brody School of Medicine at East Carolina University School of~~
28 ~~Medicine; University; Medicare receipts.~~

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

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

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

7
8 Requested by: Senators Lucas, Swindell, Snow, Garrou, Dalton, Hagan
9 **GRANT-IN-AID/FIRE TRUCK FOR CULLOWHEE VOLUNTEER FIRE DEPT.**
10 **TO HELP ENSURE ADEQUATE FIRE PROTECTION SERVICES TO**
11 **WESTERN CAROLINA UNIVERSITY**

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

18
19 Requested by: Senators Shaw, Lucas, Swindell, Garrou, Dalton, Hagan
20 **WAIVE TUITION FOR A PERSON OF A CERTAIN AGE WHO IS OR WAS A**
21 **WARD OF THE STATE AND WHO ATTENDS CLASSES AT ANY**
22 **CONSTITUENT INSTITUTION OF THE UNIVERSITY OF NORTH**
23 **CAROLINA OR ANY COMMUNITY COLLEGE**

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

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

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

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

34 **PART X. DEPARTMENT OF HEALTH AND HUMAN SERVICES**

35
36
37 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan
38 **INFORMATION TECHNOLOGY**

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

- 41 (1) A detailed business plan.
- 42 (2) An information technology plan directly tied to business requirements.
- 43 (3) An IT architecture.

44 The Department of Health and Human Services shall ensure that the planning
45 documents extend three to five years and include detailed shortfall analyses and
46 associated cost assessments. The Department of Health and Human Services shall
47 forward the documents to the Office of Information Technology Services, the Senate
48 Appropriations Committee on Health and Human Services, the House of
49 Representatives Appropriations Subcommittee on Health and Human Services, and the
50 Fiscal Research Division by December 1, 2005. The Office of Information Technology
51 Services shall review the documents and report its findings and recommendations to the
52 Senate Appropriations Committee on Health and Human Services, the House of
53 Representatives Appropriations Subcommittee on Health and Human Services, and the
54 Fiscal Research Division by January 31, 2006.

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

- 4 (1) A detailed description of the project.
- 5 (2) A description of how the project improves Department operations and
6 service to customers.
- 7 (3) The projected cost of the project by year and phase.
- 8 (4) Deliverables required to implement each phase of the system.
- 9 (5) The date that each deliverable is to be implemented.
- 10 (6) The cost of implementing each deliverable.
- 11 (7) What capabilities each deliverable adds to the project.

12 **SECTION 10.1.(c)** The Department of Health and Human Services shall
13 provide the plans to the Senate Appropriations Committee on Health and Human
14 Services, the House of Representatives Appropriations Subcommittee on Health and
15 Human Services, and the Fiscal Research Division no later than October 1, 2005, with
16 subsequent updates provided quarterly. The Department of Health and Human Services
17 shall notify the Division of Fiscal Research within 10 days when costs, completion
18 dates, or system capabilities change and provide a report detailing the impact of the
19 change.

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

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

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

31 **OFFICE OF POLICY AND PLANNING**

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

34 "Part 34. Office of Policy and Planning.

35 **"§ 143B-216.70. Office of Policy and Planning.**

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

- 41 (1) Coordinate the development of departmental policies, plans, and rules,
42 in consultation with the Divisions of the Department.
- 43 (2) Development of a departmental process for the development and
44 implementation of new policies, plans, and rules.
- 45 (3) Development of a departmental process for the review of existing
46 policies, plans, and rules to ensure that departmental policies, plans,
47 and rules are relevant.
- 48 (4) Coordination and review of all departmental policies before
49 dissemination to ensure that all policies are well-coordinated within
50 and across all programs.
- 51 (5) Implementation of ongoing strategic planning that integrates budget,
52 personnel, and resources with the mission and operational goals of the
53 Department.
- 54 (6) Review, disseminate, monitor, and evaluate best practice models.

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

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

1	7	8,772	21,708	8,800
2	8	9,312	22,220	9,300

3 The eligibility level for children in the Medical Eye Care Program in the
 4 Division of Services for the Blind shall be one hundred percent (100%) of the federal
 5 poverty guidelines, as revised annually by the United States Department of Health and
 6 Human Services and in effect on July 1 of each fiscal year. The eligibility level for
 7 adults 55 years of age or older who qualify for services through the Division of Services
 8 for the Blind, Independent Living Rehabilitation Program, shall be two hundred percent
 9 (200%) of the federal poverty guidelines, as revised annually by the United States
 10 Department of Health and Human Services and in effect on July 1 of each fiscal year.
 11 The eligibility level for adults in the Atypical Antipsychotic Medication Program in the
 12 Division of Mental Health, Developmental Disabilities, and Substance Abuse Services
 13 shall be one hundred fifty percent (150%) of the federal poverty guidelines, as revised
 14 annually by the United States Department of Health and Human Services and in effect
 15 on July 1 of each fiscal year. Additionally, those adults enrolled in the Atypical
 16 Antipsychotic Medication Program who become gainfully employed may continue to be
 17 eligible to receive State support, in decreasing amounts, for the purchase of atypical
 18 antipsychotic medication and related services up to three hundred percent (300%) of the
 19 poverty level.

20 State financial participation in the Atypical Antipsychotic Medication
 21 Program for those enrollees who become gainfully employed is as follows:

22	<u>Income</u>	<u>State Participation</u>	<u>Client Participation</u>
23	(% of poverty)		
24	0-150%	100%	0%
25	151-200%	75%	25%
26	201-250%	50%	50%
27	251-300%	25%	75%
28	300% and over	0%	100%

29 The Department of Health and Human Services shall contract at, or as close
 30 as possible to, Medicaid rates for medical services provided to residents of State
 31 facilities of the Department.
 32

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

34 **PHYSICIAN SERVICES**

35 **SECTION 10.6.** With the approval of the Office of State Budget and
 36 Management, the Department of Health and Human Services may use funds
 37 appropriated in this act for across-the-board salary increases and performance pay to
 38 offset similar increases in the costs of contracting with private and independent
 39 universities for the provision of physician services to clients in facilities operated by the
 40 Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.
 41 This offsetting shall be done in the same manner as is currently done with the
 42 constituent institutions of The University of North Carolina.
 43

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

45 **LIABILITY INSURANCE**

46 **SECTION 10.7.(a)** The Secretary of the Department of Health and Human
 47 Services, the Secretary of the Department of Environment and Natural Resources, and
 48 the Secretary of the Department of Correction may provide medical liability coverage
 49 not to exceed one million dollars (\$1,000,000) per incident on behalf of employees of
 50 the Departments licensed to practice medicine or dentistry, on behalf of all licensed
 51 physicians who are faculty members of The University of North Carolina who work on
 52 contract for the Division of Mental Health, Developmental Disabilities, and Substance
 53 Abuse Services for incidents that occur in Division programs, and on behalf of
 54 physicians in all residency training programs from The University of North Carolina
 55 who are in training at institutions operated by the Department of Health and Human

1 Services. This coverage may include commercial insurance or self-insurance and shall
2 cover these individuals for their acts or omissions only while they are engaged in
3 providing medical and dental services pursuant to their State employment or training.

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

9 **SECTION 10.7.(c)** The coverage provided pursuant to this section shall not
10 require any additional appropriations and shall not apply to any individual providing
11 contractual service to the Department of Health and Human Services, the Department of
12 Environment and Natural Resources, or the Department of Correction, with the
13 exception that coverage may include physicians in all residency training programs from
14 The University of North Carolina who are in training at institutions operated by the
15 Department of Health and Human Services and licensed physicians who are faculty
16 members of The University of North Carolina who work for the Division of Mental
17 Health, Developmental Disabilities, and Substance Abuse Services.

18
19 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan
20 **DHHS PAYROLL DEDUCTION FOR CHILD CARE SERVICES**

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

23 "**§ 143B-139.6B. Department of Health and Human Services; authority to deduct**
24 **payroll for child care services.**

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

30
31 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan
32 **COMMUNITY HEALTH CENTERS FUNDS**

33 **SECTION 10.9.(a)** Of the funds appropriated in this act for Community
34 Health Grants, the sum of two million dollars (\$2,000,000) in recurring funds for the
35 2005-2006 fiscal year, and the sum of two million dollars (\$2,000,000) in recurring
36 funds for the 2006-2007 fiscal year shall be used for federally qualified health centers,
37 for those health centers that meet the criteria for federally qualified health centers, and
38 for State-designated rural health centers and public health departments and other clinics
39 to:

- 40 (1) Increase access to preventative and primary care services by uninsured
41 or medically indigent patients in existing or new health center
42 locations;
- 43 (2) Establish community health center services in counties where no such
44 services exist;
- 45 (3) Create new services or augment existing services provided to
46 uninsured or medically indigent patients, including primary care and
47 preventative medical services, dental services, pharmacy, and
48 behavioral health; and
- 49 (4) Increase capacity necessary to serve the uninsured by enhancing or
50 replacing facilities, equipment, or technologies.

51 Grant funds may not be used to enhance or increase compensation or other
52 benefits of personnel, administrators, directors, consultants, or any other parties. Grant
53 funds may not be used to supplant federal funds traditionally received by federally
54 qualified community health centers and may not be used to finance or satisfy any
55 existing debt.

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

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

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

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

21 **PROVIDER REIMBURSEMENT RATES**

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

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

32 **MEDICAID**

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

38 Services and payment bases:

- 39 (1) Hospital inpatient. – Payment for hospital inpatient services will be
40 prescribed in the State Plan as established by the Department of Health
41 and Human Services.
- 42 (2) Hospital outpatient. – Eighty percent (80%) of allowable costs or a
43 prospective reimbursement plan as established by the Department of
44 Health and Human Services.
- 45 (3) Nursing facilities. – Payment for nursing facility services will be
46 prescribed in the State Plan as established by the Department of Health
47 and Human Services. Nursing facilities providing services to Medicaid
48 recipients who also qualify for Medicare must be enrolled in the
49 Medicare program as a condition of participation in the Medicaid
50 program. State facilities are not subject to the requirement to enroll in
51 the Medicare program. Residents of nursing facilities who are eligible
52 for Medicare coverage of nursing facility services must be placed in a
53 Medicare-certified bed. Medicaid shall cover facility services only
54 after the appropriate services have been billed to Medicare. The
55 Division of Medical Assistance shall allow nursing facility providers

1 sufficient time from the effective date of this act to certify additional
2 Medicare beds if necessary. In determining the date that the
3 requirements of this subdivision become effective, the Division of
4 Medical Assistance shall consider the regulations governing
5 certification of Medicare beds and the length of time required for this
6 process to be completed.

- 7 (4) Intermediate care facilities for the mentally retarded. – As prescribed
8 in the State Plan as established by the Department of Health and
9 Human Services.
- 10 (5) Drugs. – Drug costs as allowed by federal regulations plus a
11 professional services fee per month, excluding refills for the same drug
12 or generic equivalent during the same month. Reimbursement shall be
13 available for up to six prescriptions per recipient per month, including
14 refills. The Department may override the six-prescription limit up to
15 two additional prescriptions for a total of not more than eight
16 prescriptions per recipient per month, for recipients that meet the
17 Department's override policy requirements. Payments for drugs are
18 subject to the provisions of subsection (h) of this section and to the
19 provisions at the end of this subsection or in accordance with the State
20 Plan adopted by the Department of Health and Human Services,
21 consistent with federal reimbursement regulations. Payment of the
22 professional services fee shall be made in accordance with the State
23 Plan adopted by the Department of Health and Human Services,
24 consistent with federal reimbursement regulations. The professional
25 services fee shall be five dollars and sixty cents (\$5.60) per
26 prescription for generic drugs and four dollars (\$4.00) per prescription
27 for brand-name drugs. Adjustments to the professional services fee
28 shall be established by the General Assembly. In addition to the
29 professional services fee, the Department may pay an enhanced fee for
30 pharmacy services.
- 31 (6) Physicians, chiropractors, podiatrists, optometrists, dentists, certified
32 nurse midwife services, nurse practitioners. – Fee schedules as
33 developed by the Department of Health and Human Services.
34 Payments for dental services are subject to the provisions of subsection
35 (g) of this section.
- 36 (7) Community Alternative Program, EPSDT screens. – Payment to be
37 made in accordance with the rate schedule developed by the
38 Department of Health and Human Services.
- 39 (8) Home health and related services, private duty nursing, clinic services,
40 prepaid health plans, durable medical equipment. – Payment to be
41 made according to reimbursement plans developed by the Department
42 of Health and Human Services.
- 43 (9) Medicare Buy-In. – Social Security Administration premium.
- 44 (10) Ambulance services. – Uniform fee schedules as developed by the
45 Department of Health and Human Services. Public ambulance
46 providers will be reimbursed at cost.
- 47 (11) Hearing aids. – Wholesale cost plus a dispensing fee to the provider.
- 48 (12) Rural health clinic services. – Provider-based, reasonable cost;
49 nonprovider-based, single-cost reimbursement rate per clinic visit.
- 50 (13) Family planning. – Negotiated rate for local health departments. For
51 other providers, see specific services, for instance, hospitals,
52 physicians.
- 53 (14) Independent laboratory and X-ray services. – Uniform fee schedules as
54 developed by the Department of Health and Human Services.

- 1 (15) Optical supplies. – Payment for materials is made to a contractor in
2 accordance with 42 C.F.R. § 431.54(d). Fees paid to dispensing
3 providers are negotiated fees established by the State agency based on
4 industry charges.
- 5 (16) Ambulatory surgical centers. – Payment as prescribed in the
6 reimbursement plan established by the Department of Health and
7 Human Services.
- 8 (17) Medicare crossover claims. – By not later than October 1, 2005, the
9 Department shall apply Medicaid medical policy to Medicare claims
10 for dually eligible recipients. The Department shall pay an amount up
11 to the actual coinsurance or deductible or both, in accordance with the
12 State Plan, as approved by the Department of Health and Human
13 Services.
- 14 (18) Physical therapy and speech therapy. – Services limited to
15 EPSDT-eligible children. Payments are to be made only to qualified
16 providers at rates negotiated by the Department of Health and Human
17 Services. Physical therapy (including occupational therapy) and speech
18 therapy services are subject to prior approval and utilization review.
- 19 (19) Personal care services. – Payment in accordance with the State Plan
20 approved by the Department of Health and Human Services.
- 21 (20) Case management services. – Reimbursement in accordance with the
22 availability of funds to be transferred within the Department of Health
23 and Human Services.
- 24 (21) Hospice. – Services may be provided in accordance with the State Plan
25 developed by the Department of Health and Human Services.
- 26 (22) Other mental health services. – Unless otherwise covered by this
27 section, coverage is limited to:
- 28 a. Services as defined by the Division of Mental Health,
29 Developmental Disabilities, and Substance Abuse Services and
30 approved by the Centers for Medicare and Medicaid Services
31 (CMS) when provided in agencies meeting the requirements of
32 the rules established by the Commission for Mental Health,
33 Developmental Disabilities, and Substance Abuse Services and
34 reimbursement is made in accordance with a State Plan
35 developed by the Department of Health and Human Services
36 not to exceed the upper limits established in federal regulations,
37 and
- 38 b. For children eligible for EPSDT services provided by:
- 39 1. Licensed or certified psychologists, licensed clinical
40 social workers, certified clinical nurse specialists in
41 psychiatric mental health advanced practice, nurse
42 practitioners certified as clinical nurse specialists in
43 psychiatric mental health advanced practice, licensed
44 psychological associates, licensed professional
45 counselors, licensed marriage and family therapists,
46 certified clinical addictions specialists, and certified
47 clinical supervisors, when Medicaid-eligible children are
48 referred by the Community Care of North Carolina
49 primary care physician, a Medicaid-enrolled psychiatrist,
50 or the area mental health program or local management
51 entity, and
- 52 2. Institutional providers of residential services as defined
53 by the Division of Mental Health, Developmental
54 Disabilities, and Substance Abuse Services and approved
55 by the Centers for Medicare and Medicaid Services

- 1 (CMS) for children and Psychiatric Residential
2 Treatment Facility services that meet federal and State
3 requirements as defined by the Department.
- 4 c. For Medicaid-eligible adults, services provided by licensed or
5 certified psychologists, licensed clinical social workers,
6 certified clinical nurse specialists in psychiatric mental health
7 advanced practice, and nurse practitioners certified as clinical
8 nurse specialists in psychiatric mental health advanced practice,
9 licensed psychological associates, licensed professional
10 counselors, licensed marriage and family therapists, certified
11 clinical addictions specialists, and certified clinical supervisors,
12 Medicaid-eligible adults may be self-referred.
- 13 d. Payments made for services rendered in accordance with this
14 subdivision shall be to qualified providers in accordance with
15 approved policies and the State Plan. Nothing in
16 sub-subdivision b. or c. of this subdivision shall be interpreted
17 to modify the scope of practice of any service provider,
18 practitioner, or licensee, nor to modify or attenuate any
19 collaboration or supervision requirement related to the
20 professional activities of any service provider, practitioner, or
21 licensee. Nothing in sub-subdivision b. or c. of this subdivision
22 shall be interpreted to require any private health insurer or
23 health plan to make direct third-party reimbursements or
24 payments to any service provider, practitioner, or licensee.
- 25 e. The Department of Health and Human Services shall not enroll
26 licensed psychological associates, licensed professional
27 counselors, licensed marriage and family therapists, certified
28 clinical addiction specialists, and certified clinical supervisors
29 until all of the following conditions have been met:
- 30 1. The fiscal impact of payments to these qualified
31 providers has been projected;
 - 32 2. Funding for any projected requirements in excess of
33 budgeted Division of Medical Assistance funding has
34 been identified from within State funds appropriated to
35 the Department of Health and Human Services, Division
36 of Mental Health, Developmental Disabilities, and
37 Substance Abuse Services to support area mental health
38 programs or county programs, or identified from other
39 sources; and
 - 40 3. Approval has been obtained from the Office of State
41 Budget and Management to transfer these State or other
42 source funds from the Division of Mental Health,
43 Developmental Disabilities, and Substance Abuse
44 Services to the Division of Medical Assistance. Upon
45 approval and implementation, the Department of Health
46 and Human Services shall, on a quarterly basis, provide a
47 status report to the Office of State Budget and
48 Management and the Fiscal Research Division.
- 49 Notwithstanding G.S. 150B-21.1(a), the Department of Health and
50 Human Services may adopt temporary rules in accordance with
51 Chapter 150B of the General Statutes further defining the
52 qualifications of providers and referral procedures in order to
53 implement this subdivision. Coverage policy for services defined by
54 the Division of Mental Health, Developmental Disabilities, and

- 1 Substance Abuse Services under sub-subdivisions a. and b.2 of this
2 subdivision shall be established by the Division of Medical Assistance.
- 3 (23) Medically necessary prosthetics or orthotics. – Reimbursement in
4 accordance with the State Plan approved by the Department of Health
5 and Human Services, except that in order to be eligible for
6 reimbursement, providers must be Board certified not later than July 1,
7 2005. Medically necessary prosthetics and orthotics are subject to prior
8 approval and utilization review.
- 9 (24) Health insurance premiums. – Payments to be made in accordance
10 with the State Plan adopted by the Department of Health and Human
11 Services consistent with federal regulations.
- 12 (25) Medical care/other remedial care. – Services not covered elsewhere in
13 this section include related services in schools; health professional
14 services provided outside the clinic setting to meet maternal and infant
15 health goals; and services to meet federal EPSDT mandates. Services
16 addressed by this subdivision are limited to those prescribed in the
17 State Plan as established by the Department of Health and Human
18 Services.
- 19 (26) Pregnancy-related services. – Covered services for pregnant women
20 shall include nutritional counseling, psychosocial counseling, and
21 predelivery and postpartum home visits by maternity care coordinators
22 and public health nurses.

23 Services and payment bases may be changed with the approval of the Director of the
24 Budget.

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

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

45 **SECTION 10.11.(b)** Allocation of Nonfederal Cost of Medicaid. – The State
46 shall pay eighty-five percent (85%); the county shall pay fifteen percent (15%) of the
47 nonfederal costs of all applicable services listed in this section. In addition, the State
48 shall pay eighty-five percent (85%); the county shall pay fifteen percent (15%) of the
49 federal Medicare Part D clawback payments under the Medicare Modernization Act of
50 2004.

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

SECTION 10.11.(d) Medicaid and Work First Family Assistance, Income Eligibility Standards. – The maximum net family annual income eligibility standards for Medicaid and Work First Family Assistance and the Standard of Need for Work First Family Assistance shall be as follows:

Family Size	<u>Categorically Needy</u>	<u>Medically Needy</u>	
	<u>WFFA*</u>	Families and Children	Income
	<u>Standard of Need</u>	<u>Level</u>	<u>AA, AB, AD*</u>
1	\$4,344	\$2,172	\$2,900
2	5,664	2,832	3,800
3	6,528	3,264	4,400
4	7,128	3,564	4,800
5	7,776	3,888	5,200
6	8,376	4,188	5,600
7	8,952	4,476	6,000
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

1 the phrase "medically necessary". An initial prescription order for an atypical
2 antipsychotic drug or a drug listed in the narrow therapeutic drug index that does not
3 contain the phrase "medically necessary" shall be considered an order for the drug by its
4 established or generic name, except that a pharmacy shall not substitute a generic or
5 established name prescription drug for subsequent brand or trade name prescription
6 orders of the same prescription drug without explicit oral or written approval of the
7 prescriber given at the time the order is filled. Generic drugs shall be dispensed at a
8 lower cost to the Medical Assistance Program rather than trade or brand name drugs. As
9 used in this subsection, "brand name" means the proprietary name the manufacturer
10 places upon a drug product or on its container, label, or wrapping at the time of
11 packaging; and "established name" has the same meaning as in section 502(e)(3) of the
12 Federal Food, Drug, and Cosmetic Act as amended, 21 U.S.C. § 352(e)(3).

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

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

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

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

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

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

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

- 49 (1) Pregnant women with incomes equal to or less than one hundred
50 eighty-five percent (85%) of the federal poverty guidelines as revised
51 each April 1 shall be covered for Medicaid benefits.
- 52 (2) Infants under the age of one with family incomes equal to or less than
53 one hundred eighty-five percent (85%) of the federal poverty
54 guidelines as revised each April 1 shall be covered for Medicaid
55 benefits.

- 1 (3) Children aged one through five with family incomes equal to or less
2 than one hundred thirty-three percent (133%) of the federal poverty
3 guidelines as revised each April 1 shall be covered for Medicaid
4 benefits.
5 (4) Children aged six through 18 with family incomes equal to or less than
6 the federal poverty guidelines as revised each April 1 shall be covered
7 for Medicaid benefits.
8 (5) The Department of Health and Human Services shall provide Medicaid
9 coverage for adoptive children with special or rehabilitative needs
10 regardless of the adoptive family's income.

11 Services to pregnant women eligible under this subsection continue
12 throughout the pregnancy but include only those related to pregnancy and to those other
13 conditions determined by the Department as conditions that may complicate pregnancy.
14 In order to reduce county administrative costs and to expedite the provision of medical
15 services to pregnant women, to infants, and to children described in subdivisions (3) and
16 (4) of this subsection, no resources test shall be applied.

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

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

24 **SECTION 10.11.(r)** If first approved by the Office of State Budget and
25 Management, the Division of Medical Assistance, Department of Health and Human
26 Services, may use funds that are identified to support the cost of development and
27 acquisition of equipment and software through contractual means to improve and
28 enhance information systems that provide management information and claims
29 processing. The Department of Health and Human Services shall identify adequate
30 funds to support the implementation and first year's operational costs that exceed the
31 currently allocated funds for the new contract for the fiscal agent for the Medicaid
32 Management Information System.

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

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

51 **SECTION 10.11.(u)** Upon approval of a demonstration waiver by the
52 Centers for Medicare and Medicaid Services (CMS), the Department of Health and
53 Human Services may provide Medicaid coverage for family planning services to men
54 and women of childbearing age with family incomes equal to or less than one hundred

1 eighty-five percent (185%) of the federal poverty level. Coverage shall be contingent
2 upon federal approval of the waiver.

3 **SECTION 10.11.(v)** The Department of Health and Human Services may
4 apply federal transfer of assets policies, as described in Title XIX, section 1917(c) of the
5 Social Security Act, including the attachment of liens, to real property excluded as
6 "income producing", tenancy-in-common, or as nonhomesite property made "income
7 producing" under Title XIX, section 1902(r)(2) of the Social Security Act. The transfer
8 of assets policy shall apply only to an institutionalized individual or the individual's
9 spouse as defined in Title XIX, section 1917(c) of the Social Security Act. This
10 subsection becomes effective no earlier than October 1, 2001. Federal transfer of asset
11 policies and attachment of liens to properties excluded as tenancy-in-common or as
12 nonhomesite property made "income producing" in accordance with this subsection
13 shall become effective not earlier than November 1, 2002.

14 **SECTION 10.11.(w)** When implementing the Supplemental Security
15 Income (SSI) method for considering equity value of income producing property, the
16 Department shall, to the maximum extent possible, employ procedures to mitigate the
17 hardship to Medicaid enrollees occurring from application of the Supplemental Security
18 Income (SSI) method.

19 **SECTION 10.11.(x)** Unless required for compliance with federal law, the
20 Department shall not change medical policy affecting the amount, sufficiency, duration,
21 and scope of health care services and who may provide services until the Division of
22 Medical Assistance has prepared a five-year fiscal analysis documenting the increased
23 cost of the proposed change in medical policy and submitted it for Departmental review.
24 If the fiscal impact indicated by the fiscal analysis for any proposed medical policy
25 change exceeds three million dollars (\$3,000,000) in total requirements for a given
26 fiscal year, then the Department shall submit the proposed policy change with the fiscal
27 analysis to the Office of State Budget and Management and the Fiscal Research
28 Division. The Department shall not implement any proposed medical policy change
29 exceeding three million dollars (\$3,000,000) in total requirements for a given fiscal year
30 unless the source of State funding is identified and approved by the Office of State
31 Budget and Management. The Department shall provide the Office of State Budget and
32 Management and the Fiscal Research Division a quarterly report itemizing all medical
33 policy changes with total requirements of less than three million dollars (\$3,000,000).

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

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

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

9 **SECTION 10.11.(z)** For the purposes of investigating and reducing client
10 fraud and abuse, the Department of Health and Human Services, Division of Medical
11 Assistance, shall include in the Medicaid enrollment process the requirement that the
12 applicant for Medicaid consent to or authorize in writing the release of the applicant's
13 medical records for the three years immediately preceding the application for Medicaid
14 benefits. The Department shall obtain and use information from the applicant's medical
15 records in a manner and form that complies with the Health Insurance Portability and
16 Accountability Act of 1996 ("HIPAA"), P.L. 104-191, as amended, and that protects the
17 privacy of the information as required by other applicable federal or State law. In
18 addition to fraud and abuse detection, the Department may require the applicant's
19 consent for other purposes permitted by HIPAA and required or authorized by other
20 applicable federal or State law.

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

23 **DISPOSITION OF DISPROPORTIONATE SHARE RECEIPTS**

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

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

35
36 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

37 **COUNTY MEDICAID COST SHARE**

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

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

46
47 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

48 **MEDICAID COST CONTAINMENT ACTIVITIES**

49 **SECTION 10.14.** The Department of Health and Human Services may use
50 not more than three million dollars (\$3,000,000) in the 2005-2006 fiscal year and not
51 more than three million dollars (\$3,000,000) in the 2006-2007 fiscal year in Medicaid
52 funds budgeted for program services to support the cost of administrative activities
53 when cost-effectiveness and savings are demonstrated. The funds shall be used to
54 support activities that will contain the cost of the Medicaid Program, including
55 contracting for services or hiring additional staff. Medicaid cost-containment activities

1 may include prospective reimbursement methods, incentive-based reimbursement
2 methods, service limits, prior authorization of services, periodic medical necessity
3 reviews, revised medical necessity criteria, service provision in the least costly settings,
4 plastic magnetic stripped Medicaid identification cards for issuance to Medicaid
5 enrollees, fraud detection software or other fraud detection activities, technology that
6 improves clinical decision making, credit balance recovery and data mining services,
7 and other cost-containment activities. Funds may be expended under this section only
8 after the Office of State Budget and Management has approved a proposal for the
9 expenditure submitted by the Department. Proposals for expenditure of funds under this
10 section shall include the cost of implementing the cost-containment activity and
11 documentation of the amount of savings expected to be realized from the
12 cost-containment activity. The Department shall provide a copy of proposals for
13 expenditures under this section to the Fiscal Research Division.
14

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

16 **MEDICAID RESERVE FUND TRANSFER**

17 **SECTION 10.15.** Of the funds transferred to the Department of Health and
18 Human Services for Medicaid programs pursuant to G.S. 143-23.2, the sum of fifty
19 million dollars (\$50,000,000) for the 2005-2006 fiscal year and the sum of fifty million
20 dollars (\$50,000,000) for the 2006-2007 fiscal year shall be allocated as prescribed by
21 G.S. 143-23.2(b) for Medicaid programs. Notwithstanding the prescription in
22 G.S. 143-23.2(b) that these funds not reduce State general revenue funding, these funds
23 shall replace the reduction in general revenue funding effected in this act.
24

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

26 **NO PRIOR AUTHORIZATION FOR CERTAIN PRESCRIPTION DRUGS**
27 **UNDER MEDICAID**

28 **SECTION 10.16.** The Department of Health and Human Services, Division
29 of Medical Assistance, shall not establish prior authorization requirements or other
30 restrictions under the State Medical Assistance Program for FDA-approved medications
31 indicated for the treatment of life-threatening respiratory conditions due to chronic
32 obstructive pulmonary disease (COPD) or stroke. In developing a disease management
33 program, the Department of Health and Human Services shall include initiatives that
34 positively impact COPD and stroke-related health care costs.
35

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

37 **EXPAND COMMUNITY CARE OF NORTH CAROLINA MANAGEMENT TO**
38 **ADDITIONAL MEDICAID RECIPIENTS**

39 **SECTION 10.17.(a)** The Department of Health and Human Services shall
40 expand the scope of Community Care of NC care management model to recipients of
41 Medicaid and dually eligible individuals with a chronic condition and long-term care
42 needs. In expanding the scope, the Department shall focus on the Aged, Blind, and
43 Disabled, and CAP-DA populations for improvement in management,
44 cost-effectiveness, and local coordination of services through Community Care of NC
45 and in collaboration with local providers of care. The Department shall target personal
46 care services, private duty nursing, home health, durable medical equipment, ancillary
47 professional services, specialty care, residential services, including skilled nursing
48 facilities, home infusion therapy, pharmacy, and other services determined
49 target-worthy by the Department. The Department shall pilot communitywide
50 initiatives and shall expand statewide successful models.

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

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

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

9
10 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

11 **TICKET TO WORK/MEDICAID ELIGIBILITY**

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

14 **"§ 108A-54.1. Medicaid buy-in for workers with disabilities.**

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

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

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

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

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

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

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

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

30 (2) The individual meets Social Security Disability criteria, or the
31 individual has been enrolled in HCWD and then becomes medically
32 improved as defined in Ticket to Work and as further specified by the
33 Department. An individual shall be determined to be eligible under this
34 section without regard to the individual's ability to engage in, or actual
35 engagement in, substantial gainful activity as defined in section 223 of
36 the Social Security Act (42 U.S.C. § 423(d)(4)). In conducting annual
37 redetermination of eligibility, the Department may not determine that
38 an individual participating in HCWD is no longer disabled based
39 solely on the individual's participation in employment or earned
40 income;

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

52 (4) The individual is engaged in a substantial and reasonable work effort
53 (employed) as provided in this subdivision and as further defined by
54 the Department and allowable under federal law. For purposes of this

1 subsection, "engaged in substantial and reasonable work effort" means
2 all of the following:

- 3 a. Working in a competitive, inclusive work setting, or
4 self-employed.
5 b. Earning at least the applicable minimum wage.
6 c. Having monthly earnings above the SSI basic sixty-five-dollar
7 (\$65.00) earned-income disregard.
8 d. Being able to provide evidence of paying applicable Medicare,
9 Social Security, and State and federal income taxes.

10 The Department may impose additional earnings requirements in
11 defining "engaged in substantial and reasonable work effort" for
12 individuals who are eligible for HCWD based on medical
13 improvement.

14 Individuals who participate in HCWD but thereafter become
15 unemployed for involuntary reasons, including health reasons, shall
16 have continued eligibility in HCWD for up to 12 months from the time
17 of involuntary unemployment, so long as the individual (i) maintains a
18 connection with the workforce, as determined by the Department, (ii)
19 meets all other eligibility criteria for HCWD during the period, and
20 (iii) pays applicable fees, premiums, and co-payments.

21 (d) Fees, Premiums, and Co-Payments. – Individuals who participate in HCWD
22 and have countable income greater than one hundred fifty percent (150%) of FPG shall
23 pay an annual enrollment fee of fifty dollars (\$50.00) to their county department of
24 social services. Individuals who participate in HCWD and have countable income
25 greater than or equal to two hundred percent (200%) of FPG shall pay a monthly
26 premium in addition to the annual fee. The Department shall set a sliding scale for
27 premiums, which is consistent with applicable federal law. An individual with countable
28 income equal to or greater than four hundred fifty percent (450%) of FPG shall pay not
29 less than one hundred percent (100%) of the cost of the premium, as determined by the
30 Department. The premium shall be based on the experience of all individuals
31 participating in the Medical Assistance Program. Individuals who participate in HCWD
32 are subject to co-payments equal to those required under the North Carolina Health
33 Choice Program."

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

38 **SECTION 10.18.(c)** Subsection (b) of this section becomes effective July 1,
39 2006. Subsection (a) of this section becomes effective January 1, 2007. The remainder
40 of this section is effective when it becomes law.

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

43 **MEDICAID PERSONAL CARE SERVICES LIMITATIONS**

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

- 47 (1) Personal care services shall not exceed three hours per day and 40
48 hours per month.
49 (2) Before services are authorized, the individual must be assessed by a
50 physician who has examined the individual. The assessing physician
51 must use an assessment tool identified by the Division.
52 (3) The physician must see the individual at least every six months after
53 service is approved to determine if the need for services continues to
54 exist.

- 1 (4) The provider of personal care services must ensure that a nurse
 2 reviews the individual's services every 90 days or less, as determined
 3 by the Division of Medical Assistance.

4 The Division may include additional criteria for eligibility for personal care
 5 services.

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

9 **SECTION 10.19.(c)** The Division of Medical Assistance shall study and
 10 determine appropriate utilization/prior authorization systems for personal care services
 11 and other home and community-based services that can be provided to individuals who
 12 meet medical criteria and that can be implemented when the new MMIS goes into
 13 effect. The Department of Health and Human Services, Division of Medical Assistance,
 14 shall report the plan for implementation of this section, including costs, not later than
 15 May 1, 2006, to the Senate Appropriations Committee on Health and Human Services,
 16 the House of Representatives Appropriations Subcommittee on Health and Human
 17 Services, and the Fiscal Research Division.

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

20 **CAP-DA CHANGES**

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

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

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

32 **SECTION 10.20.(c)** Not later than May 1, 2006, the Department of Health
 33 and Human Services, Division of Medical Assistance, shall report on the development
 34 of the new system, including an implementation schedule. Full implementation of the
 35 new system shall be not later than January 1, 2007. The Department shall submit the
 36 report to the Senate Appropriations Committee on Health and Human Services, the
 37 House of Representatives Appropriations Subcommittee on Health and Human
 38 Services, and the Fiscal Research Division.

39
 40 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

41 **DMA ACCESS TO HEALTH INSURANCE INFORMATION TO ENSURE**
 42 **RECOUPMENT OF MEDICAID FUNDS SPENT ON MEDICAL CARE**
 43 **COVERED BY INSURANCE**

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

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

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

- 49 (1) 'Department' means the Department of Health and Human Services.
 50 (2) 'Division' means the Division of Medical Assistance of the Department
 51 of Health and Human Services.
 52 (3) 'Health benefit plan' and 'insurer' have the meaning applicable under
 53 G.S. 58-3-167.
 54 (4) 'Medical assistance' means medical assistance benefits provided under
 55 the State Medical Assistance Plan.

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

8 **(1)** Cooperate with the Division to determine whether a named individual
 9 who is a recipient of medical assistance may be covered under the
 10 insurer's health benefit plan and eligible to receive benefits under the
 11 health benefit plan for services provided under the State Medical
 12 Assistance Plan;

13 **(2)** Accept the Division's authorization for the provision of medical
 14 services on behalf of the recipient of medical assistance as the insurer's
 15 authorization for the provision of the services; and

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

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

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

24 **"§ 108A-70. Recoupment of amounts spent on medical care.**

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

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

31 **(2)** Has received payment from a third party for the costs of such services;
 32 but

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

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

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

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

46
 47 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

48 **NC HEALTH CHOICE APPROPRIATIONS; CLAIMS PROCESSING**

49 **SECTION 10.22.(a)** Of the funds appropriated in this act to the Department
 50 of Health and Human Services for the NC Health Choice Program, the sum of fourteen
 51 million six hundred seventy thousand six hundred sixty-nine dollars (\$14,670,669) for
 52 the 2005-2006 fiscal year, and the sum of thirty-five million four hundred seventy-five
 53 thousand three hundred ninety-nine dollars (\$35,475,399) for the 2006-2007 fiscal year,
 54 shall be used to continue enrolling children in the NC Health Choice Program. The total
 55 amount of funds appropriated for the NC Health Choice Program for the 2005-2007

1 fiscal biennium may be increased through budget transfers, subject to the approval of
2 the Office of State Budget and Management, if needed to match available federal funds
3 to support Program expenditures.

4 **SECTION 10.22.(b)** It is the intent of the General Assembly to address the
5 shortfall in federal funding for the NC Health Choice Program in the second year of the
6 2005 fiscal biennium by directing the Department of Health and Human Services to
7 develop strategies and recommendations for maximizing available federal funds for the
8 Medicaid Program and the NC Health Choice Program and for maximizing
9 administrative efficiencies in the NC Health Choice Program. The purpose of the
10 strategies and recommendations is to produce savings in State and federal funds so as to
11 ensure the ability of the State to continue enrolling children in the NC Health Choice
12 Program and to avoid the necessity of freezing enrollment due to the potential shortage
13 of federal funds. To this end, the Department of Health and Human Services shall
14 develop a Plan for changes to the administration and claims processing of the NC
15 Health Choice Program. The Plan may include issuance of a Request for Proposal,
16 changes incorporated into existing contracts, or by other means that will result in greater
17 savings in administrative costs. The Plan shall provide for full implementation of
18 changes to administration and claims processing not later than July 1, 2007. In
19 developing the Plan, the Department shall consider the fiscal impact of paying NC
20 Health Choice Program claims at Medicaid rates and the impact a change in rates would
21 have on access to services. The Department shall report on the development of the Plan
22 and recommendations for actions by the General Assembly, not later than January 1,
23 2006. The Department shall submit the report to the Senate Appropriations Committee
24 on Health and Human Services, the House of Representatives Appropriations
25 Subcommittee on Health and Human Services, and the Fiscal Research Division.

26
27 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan
28 **LONG-TERM PLAN FOR MEETING MENTAL HEALTH,**
29 **DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES**
30 **NEEDS**

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

- 37 (1) The services needed at the community level within each LME in order
38 to ensure an adequate level of services to the average number of
39 persons needing the services based on population projections.
- 40 (2) The full continuum of services needed for each disability group within
41 an LME, including:
 - 42 a. Which services could be regional or multi-LME based;
 - 43 b. What percent of the population each LME would expect to use
44 State-level facilities; and
 - 45 c. An inventory of existing services within each LME for each
46 disability group, and the gaps that exist;
- 47 (3) Projected growth in services for each disability group within each
48 LME or region that can reasonably be managed over the ensuing
49 five-year period; and
- 50 (4) Projected start-up costs and the total funding needed in each year from
51 the Trust Fund for Mental Health, Developmental Disabilities, and
52 Substance Abuse Services and Bridge Funding Needs to implement the
53 long-range plan.

54 Funds shall not be transferred from the Trust Fund for Mental Health,
55 Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs

1 until the Secretary has consulted with the Joint Legislative Commission on
2 Governmental Operations, the Joint Legislative Oversight Committee on Mental Health,
3 Developmental Disabilities, and Substance Abuse Services, and the Chairs of the Senate
4 Appropriations Committee on Health and Human Services and the House of
5 Representatives Appropriations Subcommittee on Health and Human Services.

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

11 **SECTION 10.24.(c)** Not later than January 1, 2006, the Department of
12 Health and Human Services shall report on the implementation of this section to the
13 Senate Appropriations Committee on Health and Human Services, the House of
14 Representatives Appropriations Subcommittee on Health and Human Services, and the
15 Fiscal Research Division.

16
17 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

18 **COMPREHENSIVE TREATMENT SERVICES PROGRAM**

19 **SECTION 10.25.(a)** The Department of Health and Human Services shall
20 continue the Comprehensive Treatment Services Program for children at risk for
21 institutionalization or other out-of-home placement. The Program shall be implemented
22 by the Department in consultation with the Department of Juvenile Justice and
23 Delinquency Prevention, the Department of Public Instruction, and other affected State
24 agencies. The purpose of the Program is to provide appropriate and medically
25 necessary residential and nonresidential treatment alternatives for children at risk of
26 institutionalization or other out-of-home placement. Program funds shall be targeted for
27 non-Medicaid eligible children. Program funds may also be used to expand a
28 system-of-care approach for services to children and their families statewide. The
29 program shall include the following:

- 30 (1) Behavioral health screening for all children at risk of
31 institutionalization or other out-of-home placement.
- 32 (2) Appropriate and medically necessary residential and nonresidential
33 services for deaf children.
- 34 (3) Appropriate and medically necessary residential and nonresidential
35 treatment services including placements for sexually aggressive youth.
- 36 (4) Appropriate and medically necessary residential and nonresidential
37 treatment services including placements for youths needing substance
38 abuse treatment services and children with serious emotional
39 disturbances.
- 40 (5) Multidisciplinary case management services, as needed.
- 41 (6) A system of utilization review specific to the nature and design of the
42 Program.
- 43 (7) Mechanisms to ensure that children are not placed in department of
44 social services custody for the purpose of obtaining mental health
45 residential treatment services.
- 46 (8) Mechanisms to maximize current State and local funds and to expand
47 use of Medicaid funds to accomplish the intent of this Program.
- 48 (9) Other appropriate components to accomplish the Program's purpose.
- 49 (10) The Secretary of the Department of Health and Human Services may
50 enter into contracts with residential service providers.
- 51 (11) A system of identifying and tracking children placed outside of the
52 family unit in group homes, therapeutic foster care home settings, and
53 other out-of-home placements.

54 **SECTION 10.25.(b)** In order to ensure that children at risk for
55 institutionalization or other out-of-home placement are appropriately served by the

1 mental health, developmental disabilities, and substance abuse services system, the
2 Department of Health and Human Services, Division of Mental Health, Developmental
3 Disabilities, and Substance Abuse Services, shall do the following with respect to
4 services provided to these children:

- 5 (1) Provide only those treatment services that are medically necessary.
- 6 (2) Implement utilization review of services provided.
- 7 (3) Adopt the following guiding principles for the provision of services:
 - 8 a. Service delivery system must be outcome-oriented and
9 evaluation-based.
 - 10 b. Services should be delivered as close as possible to the child's
11 home.
 - 12 c. Services selected should be those that are most efficient in
13 terms of cost and effectiveness.
 - 14 d. Services should not be provided solely for the convenience of
15 the provider or the client.
 - 16 e. Families and consumers should be involved in decision making
17 throughout treatment planning and delivery.
- 18 (4) Implement all of the following cost-reduction strategies:
 - 19 a. Preauthorization for all services except emergency services.
 - 20 b. Levels of care to assist in the development of treatment plans.
 - 21 c. Clinically appropriate services.

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

28 **SECTION 10.25.(d)** The Department shall not allocate funds appropriated
29 for Program services until a Memorandum of Agreement has been executed between the
30 Department of Health and Human Services, the Department of Public Instruction, and
31 other affected State agencies. The Memorandum of Agreement shall address
32 specifically the roles and responsibilities of the various departmental divisions and
33 affected State agencies involved in the administration, financing, care, and placement of
34 children at risk of institutionalization or other out-of-home placement. The Department
35 shall not allocate funds appropriated in this act for the Program until Memoranda of
36 Agreement between local departments of social services, area mental health programs,
37 local education agencies, and the Administrative Office of the Courts and the
38 Department of Juvenile Justice and Delinquency Prevention, as appropriate, are
39 executed to effectuate the purpose of the Program. The Memoranda of Agreement shall
40 address issues pertinent to local implementation of the Program, including provision for
41 the immediate availability of student records to a local school administrative unit
42 receiving a child placed in a residential setting outside the child's home county.

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

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

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

- 55 (1) The number and other demographic information of children served.

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

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

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

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

SERVICES TO MULTIPLY DIAGNOSED ADULTS

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

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

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

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

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

SECTION 10.26.(d) The Department shall submit a progress report on implementation of this section not later than February 1, 2006, and a final report not later than May 1, 2006, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Joint Legislative Oversight Committee on Mental Health,

1 Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research
2 Division.

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

4
5 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan
6 **EXTEND MENTAL HEALTH CONSUMER ADVOCACY PROGRAM**
7 **CONTINGENT UPON FUNDS APPROPRIATED BY THE 2007 GENERAL**
8 **ASSEMBLY**

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

12 "**SECTION 4.** Sections 1.1 through 1.21(b) of this act become effective July 1,
13 2002. ~~Section 2 of this act becomes effective only if funds are appropriated by the 2005~~
14 ~~General Assembly for that purpose.~~ Section 2 of this act becomes effective July 1 of the
15 fiscal year for which funds are appropriated by the ~~2005~~ General Assembly for that
16 purpose. The remainder of this act is effective when it becomes law."
17

18 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan
19 **TRANSITION PLANNING FOR STATE PSYCHIATRIC HOSPITALS**

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

- 28 (1) Individuals shall be provided acute psychiatric care in non-State
29 facilities when appropriate.
- 30 (2) Individuals shall be provided acute psychiatric care in State facilities
31 only when non-State facilities are unavailable.
- 32 (3) Individuals shall receive evidenced-based psychiatric services and care
33 that are cost-efficient.
- 34 (4) The State shall minimize cost shifting to other State and local facilities
35 or institutions.

36 **SECTION 10.28.(b)** The Department of Health and Human Services shall
37 conduct an analysis of the individual patient service needs and shall develop and
38 implement an individual transition plan, as appropriate, for patients in each hospital.
39 The State shall ensure that each individual transition plan, as appropriate, shall take into
40 consideration the availability of appropriate alternative placements based on the needs
41 of the patient and within resources available for the mental health, developmental
42 disabilities, and substance abuse services system. In developing each plan, the
43 Department shall consult with the patient and the patient's family or other legal
44 representative.

45 **SECTION 10.28.(c)** In accordance with the plan established in subsections
46 (a) and (b) of this section, any nonrecurring savings in State appropriations that result
47 from reductions in beds or services shall be placed in the Trust Fund for Mental Health,
48 Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs.
49 These funds shall be used to facilitate the transition of clients into appropriate
50 community-based services and supports in accordance with G.S. 143-15.3D. Recurring
51 savings realized through implementation of this section shall be retained by the
52 Department of Health and Human Services, Division of Mental Health, Developmental
53 Disabilities, and Substance Abuse Services, (i) for implementation of subsections (a)
54 and (b) of this section and (ii) to support the recurring costs of additional

1 community-based placements from Division facilities in accordance with Olmstead vs.
2 L.C. & E.W.

3 **SECTION 10.28.(d)** The Department of Health and Human Services shall
4 submit reports on the status of implementation of this section to the Joint Legislative
5 Commission on Governmental Operations, the Senate Appropriations Committee on
6 Health and Human Services, the House of Representatives Appropriations
7 Subcommittee on Health and Human Services, the Joint Legislative Oversight
8 Committee on Mental Health, Developmental Disabilities, and Substance Abuse
9 Services, and the Fiscal Research Division. These reports shall be submitted on
10 December 1, 2005, and May 1, 2006.

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

13 **MENTAL RETARDATION CENTER DOWNSIZING**

14 **SECTION 10.29.(a)** In accordance with the Department of Health and
15 Human Services' plan for downsizing the State's regional mental retardation facilities by
16 four percent (4%) each year, the Department shall implement cost-containment and
17 reduction strategies to ensure the corresponding financial and staff downsizing of each
18 facility. The Department shall manage the client population of the mental retardation
19 centers in order to ensure that placements for ICF/MR level of care shall be made in
20 non-State facilities. Admissions to State ICF/MR facilities are permitted only as a last
21 resort and only upon approval of the Department. The corresponding budgets for each
22 of the State mental retardation centers shall be reduced, and positions shall be
23 eliminated as the census of each facility decreases. At no time shall mental retardation
24 center positions be transferred to other units within a facility or assigned nondirect care
25 activities such as outreach.

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

- 29 (1) The Department shall place nonrecurring savings in the Trust Fund for
30 Mental Health, Developmental Disabilities, and Substance Abuse
31 Services and Bridge Funding Needs and use the savings to facilitate
32 the transition of clients into appropriate community-based services and
33 support in accordance with G.S. 143-15.3D;
- 34 (2) The Department of Health and Human Services, Division of Mental
35 Health, Developmental Disabilities, and Substance Abuse Services,
36 shall retain recurring savings realized through implementation of this
37 section to support the recurring costs of additional community-based
38 placements from Division facilities in accordance with Olmstead vs.
39 L.C. & E.W. In determining the savings in this section, savings shall
40 include all savings realized from the downsizing of the State mental
41 retardation centers, including the savings in direct State appropriations
42 in the budgets of the State mental retardation centers; and
- 43 (3) The Department of Health and Human Services, Division of Medical
44 Assistance, shall transfer any recurring Medicaid savings resulting
45 from the downsizing of State-operated MR centers from the ICF-MR
46 line in Medicaid to the CAP-MR/DD line.

47 **SECTION 10.29.(c)** The Department of Health and Human Services shall
48 report on its progress in complying with this section 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. The Department shall submit the progress report no later than January 15,
52 2006, and submit a final report no later than May 1, 2006.

53 **SECTION 10.29.(d)** The Department of Health and Human Services shall
54 maintain downsizing of mental retardation centers occurring in the 2005-2006 fiscal
55 year for the 2006-2007 fiscal year. The Department shall accomplish downsizing in

1 accordance with this section and the State Plan for Mental Health, Developmental
2 Disabilities, and Substance Abuse Services. The Department shall use all savings
3 resulting from downsizing occurring on and after July 1, 2005, as set forth in subsection
4 (b) of this section.
5

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

7 **PRIVATE AGENCY UNIFORM COST FINDING REQUIREMENT**

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

16 **SECTION 10.30.(b)** If a private agency fails to timely and accurately
17 complete the required agency-wide uniform cost finding in a manner acceptable to the
18 Department's controller's office, the Department may suspend all Department funding
19 and payment to the private agency until such time as an acceptable cost finding has been
20 completed by the private agency and approved by the Department's controller's office.
21

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

23 **DHHS POLICIES AND PROCEDURES IN DELIVERING COMMUNITY**
24 **MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND**
25 **SUBSTANCE ABUSE SERVICES**

26 **SECTION 10.31.** The Department of Health and Human Services, Division
27 of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall in
28 cooperation with area mental health authorities and county programs, identify and
29 eliminate administrative and fiscal barriers created by existing State and local policies
30 and procedures in the delivery of community-based mental health, developmental
31 disabilities, and substance abuse services provided through the area programs and
32 county programs, including services provided through the Comprehensive Treatment
33 Services Program for Children and services delivered to multiply diagnosed adults. The
34 Department shall implement changes in policies and procedures in order to facilitate all
35 of the following:

- 36 (1) The provision of services to adults and children as defined in the
37 Mental Health System Reform State Plan as priority or targeted
38 populations.
- 39 (2) A revised system of allocating State and federal funds to area mental
40 health authorities and county programs that reflects projected needs,
41 including the impact of system reform efforts rather than historical
42 allocation practices and spending patterns.
- 43 (3) The provision of services to children not deemed eligible for the
44 Comprehensive Treatment Services Program for Children, but who
45 would otherwise be in need of medically necessary treatment services
46 to prevent out-of-home placement.
- 47 (4) The provision of services in the community to adults remaining in and
48 being placed in State institutions addressed in Olmstead v. L.C.

49 Area mental health, developmental disabilities, and substance abuse services
50 authorities and county programs shall use all funds appropriated for and necessary to
51 provide mental health, developmental disabilities, and substance abuse services to meet
52 the need for these services. If excess funds are available after expending appropriated
53 funds to fully meet service needs, one-half of these excess funds shall not revert to the
54 General Fund but shall be transferred to the Trust Fund for Mental Health,
55 Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs,

1 except that one-half of the funds appropriated for the Comprehensive Treatment
2 Services Program for Children that are unexpended and unencumbered shall not revert
3 to the General Fund but shall be carried forward and used only for services for children
4 and adolescents.

5 The Department, in consultation with the area mental health authorities and
6 county programs, shall report to the House of Representatives Appropriations
7 Subcommittee on Health and Human Services, the Senate Appropriations Committee on
8 Health and Human Services, and the Joint Legislative Oversight Committee on Mental
9 Health, Developmental Disabilities, and Substance Abuse Services on the progress in
10 implementing these changes. The report shall be submitted on October 1, 2005, and
11 February 1, 2006.

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

14 **IMMUNITY FOR REPORTING ABUSE AND NEGLECT**

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

16 "**§ 122C-66. Protection from abuse and exploitation; reporting.**

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

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

26 (b) An employee of a facility who witnesses or has knowledge of a violation of
27 subsection (a) or of an accidental injury to a client shall report the violation or
28 accidental injury to authorized personnel designated by the facility. No employee
29 making a report may be threatened or harassed by any other employee or volunteer on
30 account of the report. Violation of this subsection is a Class 3 misdemeanor punishable
31 only by a fine, not to exceed five hundred dollars (\$500.00).

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

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

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

46 (f) The facility shall investigate or provide for the investigation of all reports
47 made under the provisions of this section."
48

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

50 **RULES PERTAINING TO CONFLICT OF INTEREST IN REFERRALS TO**
51 **PROVIDER AGENCIES**

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

53 "**§ 122C-26. Powers of the Commission.**

54 In addition to other powers and duties, the Commission shall exercise the following
55 powers and duties:

- 1 (1) Adopt, amend, and repeal rules consistent with the laws of this State
- 2 and the laws and regulations of the federal government to implement
- 3 the provisions and purposes of this Article;
- 4 (2) Issue declaratory rulings needed to implement the provisions and
- 5 purposes of this Article;
- 6 (3) Adopt rules governing appeals of decisions to approve or deny
- 7 licensure under this Article;
- 8 (4) Adopt rules for the waiver of rules adopted under this Article; and
- 9 (5) Adopt rules applicable to facilities licensed under this Article:
 - 10 a. Establishing personnel requirements of staff employed in
 - 11 facilities;
 - 12 b. Establishing qualifications of facility administrators or
 - 13 directors;
 - 14 c. Establishing requirements for death reporting including
 - 15 confidentiality provisions related to death reporting; ~~and~~
 - 16 d. Establishing requirements for patient ~~advocates~~; advocates; and
 - 17 Requiring facility personnel who refer clients to provider
 - 18 agencies to disclose any pecuniary interest the referring person
 - 19 has in the provider agency, or other interest that may give rise
 - 20 to the appearance of impropriety."
 - 21

22 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan
 23 **LEGISLATIVE OVERSIGHT COMMITTEE ON MENTAL HEALTH,**
 24 **DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES**
 25 **TO STUDY OVERSIGHT AND MONITORING BY DEPARTMENT OF**
 26 **HEALTH AND HUMAN SERVICES OF SERVICES TO MENTAL HEALTH**
 27 **CONSUMERS**

28 **SECTION 10.34.** The Legislative Oversight Committee on Mental Health,
 29 Developmental Disabilities, and Substance Abuse Services shall study the oversight and
 30 monitoring roles and activities of the Divisions of: Social Services, Facility Services,
 31 Medical Assistance, and Mental Health, Developmental Disabilities, and Substance
 32 Abuse Services, of the Department of Health and Human Services. The study shall
 33 focus on how the oversight and monitoring activities benefit consumers of mental
 34 health, developmental disabilities, and substance abuse services in residential settings,
 35 and shall include in its report recommendations on ensuring quality of care and
 36 increasing efficiency in the provision of services. The Oversight Committee shall report
 37 its findings and recommendations to the Senate Appropriations Committee on Health
 38 and Human Services, the House of Representatives Appropriations Subcommittee on
 39 Health and Human Services, and the Fiscal Research Division not later than April 1,
 40 2006.

41
 42 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan
 43 **APPEALS PROCESS FOR CLIENTS OF MENTAL HEALTH,**
 44 **DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES**
 45 **PROGRAMS**

46 **SECTION 10.35.** G.S. 122C-151.2 reads as rewritten:
 47 **"§ 122C-151.2. Appeal by area authorities and county ~~programs~~; rules**
 48 **governing appeals process for clients of area authorities or county**
 49 **programs.**

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

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

1 **(b1)** The Commission shall adopt rules governing an appeals process for clients to
2 the Division of Mental Health, Developmental Disabilities, and Substance Abuse
3 Services and the Secretary. The appeals process shall ensure that area authority and
4 county program services meet the requirements of applicable statutes and the rules of
5 the Commission and the Secretary.

6 **(c)** Appeals shall be conducted according to rules adopted by the Commission
7 and Secretary and in accordance with Chapter 150B of the General Statutes."
8

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

10 **CONTROLLED SUBSTANCES REPORTING**

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

13 "Article 5D.

14 "North Carolina Controlled Substances Reporting Act.

15 **"§ 90-113.60. Short title.**

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

18 **"§ 90-113.61. Legislative findings.**

19 The General Assembly makes the following findings:

- 20 (1) North Carolina is experiencing an epidemic of poisoning deaths from
21 unintentional drug overdoses.
- 22 (2) Since 1997, the number of deaths from unintentional drug overdoses
23 has increased threefold, from 228 deaths in 1997 to 690 deaths in
24 2003.
- 25 (3) The number of unintentional deaths from illicit drugs in North
26 Carolina has decreased since 1992 while unintentional deaths from
27 licit drugs, primarily prescriptions, have increased.
- 28 (4) Licit drugs are now responsible for over half of the fatal unintentional
29 poisonings in North Carolina.
- 30 (5) Over half of the prescription drugs associated with unintentional
31 deaths are narcotics (opioids).
- 32 (6) Of these licit drugs, deaths from methadone, usually prescribed as an
33 analgesic for severe pain, have increased sevenfold since 1997.
- 34 (7) Methadone from opioid treatment program clinics is a negligible
35 source of the methadone that has contributed to the dramatic increase
36 in unintentional methadone-related deaths in North Carolina.
- 37 (8) Review of the experience of the 19 states that have active controlled
38 substances reporting systems clearly documents that implementation of
39 these reporting systems do not create a "chilling" effect on prescribing.
- 40 (9) Review of data from controlled substances reporting systems help:
 - 41 a. Support the legitimate medical use of controlled substances.
 - 42 b. Identify and prevent diversion of prescribed controlled
43 substances.
 - 44 c. Reduce morbidity and mortality from unintentional drug
45 overdoses.
 - 46 d. Reduce the costs associated with the misuse and abuse of
47 controlled substances.
 - 48 e. Assist clinicians in identifying and referring for treatment
49 patients misusing controlled substances.
 - 50 f. Reduce the cost for law enforcement of investigating cases of
51 diversion and misuse.
 - 52 g. Inform the public, including health care professionals, of the
53 use and abuse trends related to prescription drugs.

54 **"§ 90-113.62. Definitions.**

55 The following definitions apply in this Article:

- 1 (1) "Controlled substance" means a controlled substance as defined in
2 G.S. 90-87(5).
3 (2) "Department" means the Department of Health and Human Services.
4 (3) "Dispenser" means a person who delivers a Schedule II through V
5 controlled substance to an ultimate user in North Carolina, but does
6 not include any of the following:
7 a. A licensed hospital or long-term care pharmacy that dispenses
8 such substances for the purpose of inpatient administration.
9 b. A person authorized to administer such a substance pursuant to
10 Chapter 90 of the General Statutes.
11 c. A wholesale distributor of a Schedule II through V controlled
12 substance.
13 (4) "Ultimate user" means a person who has lawfully obtained, and who
14 possesses, a Schedule II through V controlled substance for his or her
15 own use, for the use of a member of his or her household, or for the
16 use of an animal owned or controlled by him or her or by a member of
17 his or her household.

18 **"§ 90-113.63. Requirements for controlled substances reporting system.**

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

26 **"§ 90-113.64. Confidentiality.**

27 (a) Prescription information submitted to the Department shall be confidential
28 and shall not be public records pursuant to G.S. 132-1. The Department may use such
29 information for purposes of administration and enforcement. Any contractor shall be
30 bound to maintain the confidentiality of prescription information in accordance with this
31 section. The information may only be disclosed in accordance with subsections (b) and
32 (c) of this section.

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

- 35 (1) Persons authorized to prescribe or dispense controlled substances for
36 the purpose of providing medical or pharmaceutical care for their
37 patients.
38 (2) An individual who requests the individual's own controlled substances
39 reporting system information.
40 (3) Other agencies authorized to have access to such information pursuant
41 to the provisions of G.S. 90-107.
42 (4) Primary monitoring authorities for other states if information concerns
43 the dispensing of a Schedule II through V controlled substance to an
44 ultimate user who resides in such state or the dispensing of a Schedule
45 II through V controlled substance prescribed by a licensed health care
46 practitioner whose principal place of business is located in such other
47 state.
48 (5) To a court pursuant to a lawful court order.

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

52 **"§ 90-113.65. Commission for Mental Health, Developmental Disabilities, and**
53 **Substance Abuse Services to adopt rules.**

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

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

2
3 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

4 **SENIOR CENTER OUTREACH**

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

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

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

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

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

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

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

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

20 **SECTION 10.37.(c)** State funding shall not exceed seventy-five percent
21 (75%) of reimbursable costs.

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

24 **STATE/COUNTY SPECIAL ASSISTANCE**

25 **SECTION 10.38.(a)** The eligibility of Special Assistance recipients residing
26 in adult care homes on August 1, 1995, shall not be affected by an income reduction in
27 the Special Assistance eligibility criteria resulting from adoption of the Rate Setting
28 Methodology Report and Related Services, providing these recipients are otherwise
29 eligible. The maximum monthly rate for these residents in adult care home facilities
30 shall be one thousand two hundred thirty-one dollars (\$1,231) per month per resident.

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

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

40 (1) The eligibility of Special Assistance recipients who resided in adult
41 care homes on September 30, 2003, and remain continuously eligible
42 shall not be affected by an income reduction in the Special Assistance
43 eligibility criteria, providing these recipients are otherwise eligible.
44 The maximum monthly rate for these residents in adult care home
45 facilities shall be one thousand ninety-one dollars (\$1,091) per month
46 per resident; and

47 (2) The standard of need level for coverage eligibility under State/County
48 Special Assistance, for individuals not enrolled or recipients of the
49 program on September 30, 2003, shall be not less than one thousand
50 ninety-one dollars (\$1,091) per month per individual, but the monthly
51 reimbursement rate for such individuals shall be the amount
52 established under subsections (c) and (d) of this section. However, the
53 Department of Health and Human Services, in its determination of
54 reimbursement rates, may establish a minimum monthly
55 reimbursement rate of not more than five dollars (\$5.00) per month for

1 any resident of an adult care home facility meeting the established
2 standard of need level for coverage.

3 **SECTION 10.38.(d)** Notwithstanding any other provision of this section, the
4 Department of Health and Human Services shall review activities and costs related to
5 the provision of care in adult care homes and shall determine what costs may be
6 considered to properly maximize allowable reimbursement available through Medicaid
7 personal care services for adult care homes (ACH-PCS) under federal law. As
8 determined, and with any necessary approval from the Centers for Medicare and
9 Medicaid Services (CMS), and the approval of the Office of State Budget and
10 Management, the Department may transfer necessary funds from the State/County
11 Special Assistance program within the Division of Social Services to the Division of
12 Medical Assistance and may use those funds as State match to draw down federal
13 matching funds to pay for such activities and costs under Medicaid's personal care
14 services for adult care homes (ACH-PCS), thus maximizing available federal funds.
15 The established rate for State/County Special Assistance set forth in subsection (c) of
16 this section shall be adjusted by the Department to reflect any transfer of funds from the
17 Division of Social Services to the Division of Medical Assistance, and related transfer
18 costs and responsibilities from State/County Special Assistance to the Medicaid
19 personal care services for adult care homes (ACH-PCS). Such rate adjustments to the
20 Special Assistance rate shall be effective with the effective date of increased
21 reimbursement under ACH-PCS. In no event shall the reimbursement for services
22 through the ACH-PCS exceed the average cost of such services as determined by the
23 Department from review of cost reports as required and submitted by adult care homes.
24 The Department shall report any transfers of funds and modifications of rates to the
25 House of Representatives Appropriations Subcommittee on Health and Human
26 Services, the Senate Appropriations Committee on Health and Human Services, and the
27 Fiscal Research Division.

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

30 **SPECIAL ASSISTANCE IN-HOME**

31 **SECTION 10.39.(a)** The Department of Health and Human Services may
32 use funds from the existing State-County Special Assistance for Adults budget to
33 provide Special Assistance payments to eligible individuals in in-home living
34 arrangements. These payments may be made for up to 800 individuals during the
35 2005-2006 fiscal year and the 2006-2007 fiscal year. The standard monthly payment to
36 individuals enrolled in the Special Assistance in-home program shall be fifty percent
37 (50%) of the monthly payment the individual would receive if the individual resided in
38 an adult care home and qualified for Special Assistance, except if a lesser payment
39 amount is appropriate for the individual as determined by the local case manager. For
40 State fiscal year 2005-2006, qualified individuals shall not receive payments at rates
41 less than they would have been eligible to receive in State fiscal year 2004-2005. The
42 Department shall implement Special Assistance in-home eligibility policies and
43 procedures to assure that in-home program participants are those individuals who need
44 and, but for the in-home program, would seek placement in an adult care home facility.
45 The Department's policies and procedures shall include the use of a functional
46 assessment. The Department shall make this in-home option available to all counties on
47 a voluntary basis. To the maximum extent possible, the Department shall consider
48 geographic balance in the dispersion of payments to individuals across the State.

49 **SECTION 10.39.(b)** The Department shall report on or before January 1,
50 2006, and on or before January 1, 2007, to the cochairs of the House of Representatives
51 Appropriations Committee, the House of Representatives Appropriations Subcommittee
52 on Health and Human Services, the cochairs of the Senate Appropriations Committee,
53 and the cochairs of the Senate Appropriations Committee on Health and Human
54 Services. This report shall include the following information:

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

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

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

LICENSURE OF RESIDENTIAL TREATMENT FACILITIES

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

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

The General Assembly finds:

- (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

1 specify the number of existing beds in the same type of facility in the catchment area
2 and the projected need for additional beds of the same type of facility. As used in this
3 subsection, "residential treatment facility" means a "residential facility" as defined in
4 and licensed under this Chapter, but not subject to Certificate of Need requirements
5 under Article 9 of Chapter 131E of the General Statutes.

6 **SECTION 10.40.(b)** This section applies to license applications pending
7 and license applications submitted on and after the effective date of this act.
8

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

10 **PLAN FOR STAR-RATING SYSTEM FOR ADULT CARE HOMES**

11 **SECTION 10.41.** The Department of Health and Human Services shall
12 develop a plan for implementing a star-rating system for adult care homes to improve
13 quality of care. The Department shall report on the status and details of the plan,
14 including a recommended timeline for implementation, to the Senate Appropriations
15 Committee on Health and Human Services, the House of Representatives
16 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research
17 Division not later than March 1, 2006.
18

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

20 **SOCIAL SERVICES COMMISSION TECHNICAL CORRECTION**

21 **SECTION 10.42.** G.S. 108A-14(a)(8) reads as rewritten:

22 **"§ 108A-14. Duties and responsibilities.**

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

25 ...

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

28"
29

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

31 **CHILD SUPPORT PROGRAM/ENHANCED STANDARDS**

32 **SECTION 10.43.(a)** The Department of Health and Human Services shall
33 develop and implement performance standards for each of the State and county child
34 support enforcement offices across the State. To develop these performance standards,
35 the Department of Health and Human Services shall evaluate other private and public
36 child support models and national standards as well as other successful collections
37 models. These performance standards shall include the following:

38 (1) Cost per collections.

39 (2) Consumer satisfaction.

40 (3) Paternity establishments.

41 (4) Administrative costs.

42 (5) Orders established.

43 (6) Collections on arrearages.

44 (7) Location of absent parents.

45 (8) Other related performance measures.

46 The Department of Health and Human Services shall monitor the
47 performance of each office and shall implement a system of reporting that allows each
48 local office to review its performance as well as the performance of other local offices.
49 The Department of Health and Human Services shall publish an annual performance
50 report that shall include the statewide and local office performance of each child support
51 office.

52 **SECTION 10.43.(b)** The Department of Health and Human Services shall
53 report on its progress, in compliance with this section, to the Senate Appropriations
54 Committee on Health and Human Services, the House of Representatives

1 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research
2 Division by May 1, 2006.

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

5 **CHILD WELFARE SYSTEM STUDY**

6 **SECTION 10.44.** The Department of Health and Human Services shall
7 conduct a study to document variations in the implementation of the Child Welfare
8 System within North Carolina counties. The study shall include recommendations for
9 correcting identified disparities. The study shall identify systemic issues associated with
10 North Carolina's Child Welfare System and provide recommendations for resolving
11 these issues. The Department shall report the results of its study to the Senate
12 Appropriations Committee on Health and Human Services, the House of
13 Representatives Appropriations Subcommittee on Health and Human Services, and the
14 Fiscal Research Division no later than January 1, 2006.

15
16 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

17 **MULTIPLE RESPONSE SYSTEM**

18 **SECTION 10.45.(a)** The Department of Health and Human Services,
19 Division of Social Services, shall continue working with local departments of social
20 services to implement an alternative response system of child protection. Local
21 departments of social services shall continue systems already in place. The alternative
22 response system shall provide a family-centered approach to child protective services in
23 which local departments of social services use family assessment tools and family
24 support principles when responding to selected reports of suspected child abuse,
25 neglect, and dependency, including establishing a system of care with child and family
26 teams.

27 **SECTION 10.45.(b)** The Department of Health and Human Services shall
28 expand this project using both State appropriations and any non-State funding sources
29 that can be identified for this purpose. Counties may also implement the system using
30 existing resources.

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

33 **FOSTER CARE AND ADOPTION ASSISTANCE PAYMENTS**

34 **SECTION 10.46.(a)** The maximum rates for State participation in the foster
35 care assistance program are established on a graduated scale as follows:

- 36 (1) \$390.00 per child per month for children aged birth through 5;
37 (2) \$440.00 per child per month for children aged 6 through 12; and
38 (3) \$490.00 per child per month for children aged 13 through 18.

39 Of these amounts, fifteen dollars (\$15.00) is a special needs allowance for the
40 child.

41 **SECTION 10.46.(b)** The maximum rates for State participation in the
42 adoption assistance program are established on a graduated scale as follows:

- 43 (1) \$390.00 per child per month for children aged birth through 5;
44 (2) \$440.00 per child per month for children aged 6 through 12; and
45 (3) \$490.00 per child per month for children aged 13 through 18.

46 **SECTION 10.46.(c)** In addition to providing board payments to foster and
47 adoptive families of HIV-infected children, as prescribed in Section 23.28 of Chapter
48 324 of the 1995 Session Laws, any additional funds remaining that were appropriated
49 for this purpose shall be used to provide medical training in avoiding HIV transmission
50 in the home.

51 **SECTION 10.46.(d)** The maximum rates for the State participation in HIV
52 foster care and adoption assistance are established on a graduated scale as follows:

- 53 (1) \$800.00 per child per month with indeterminate HIV status;
54 (2) \$1,000 per child per month confirmed HIV-infected, asymptomatic;
55 (3) \$1,200 per child per month confirmed HIV-infected, symptomatic; and

1 (4) \$1,600 per child per month terminally ill with complex care needs.

2
3 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

4 **CHILD CARING INSTITUTIONS**

5 **SECTION 10.47.(a)** The Office of the State Auditor shall conduct an audit
6 to evaluate overhead rates and reimbursements for child caring institutions receiving
7 State funding. Of the funds appropriated to the Department of Health and Human
8 Services, Office of the Controller, the sum of one hundred fifty thousand dollars
9 (\$150,000) shall be transferred to the State Auditor to conduct the audit. The audit shall
10 include the following:

- 11 (1) A detailed evaluation of each child caring institution's cost allocation
12 processes.
- 13 (2) A determination of whether the allocated costs are consistent in
14 different agencies.
- 15 (3) A determination of the basis used for cost allocation by each agency.
- 16 (4) The methodology used to assign direct and indirect costs to specific
17 child caring institution programs.
- 18 (5) A determination of whether the overhead charged is reasonable for that
19 specific type of nonprofit, based on national surveys.
- 20 (6) A determination of how agency utilization rates impact the child
21 caring institutions' cost allocation and subsequent State
22 reimbursements.
- 23 (7) An examination of rate-setting methodologies used by other states and
24 how North Carolina's payment to child caring institutions compare to
25 other states.
- 26 (8) Recommendations on how to develop equitable, reasonable rates.
- 27 (9) An examination of the feasibility of providing child caring institutions
28 with the opportunity to compete based on providing the best service at
29 least cost.

30 The Office of the State Auditor shall report to the Senate Appropriations
31 Committee on Health and Human Services, the House of Representatives
32 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research
33 Division no later than March 1, 2006. The written report shall include copies of working
34 papers developed during the course of the audit.

35 **SECTION 10.47.(b)** The Department of Health and Human Services shall
36 establish standardized rates for child caring institutions in this State. These rates shall be
37 effective January 1, 2006, and shall be updated annually on July 1. Rate-setting
38 recommendations provided by the Office of the State Auditor shall be incorporated into
39 the Department of Social Services rate-setting methodology.

40 **SECTION 10.47.(c)** Until standardized rates are set, child caring
41 institutions' maximum reimbursement shall not exceed the rate established for the
42 specific child caring institution by the Department of Health and Human Services Office
43 of the Controller. In determining the maximum reimbursement, counties shall include
44 county and IV-E reimbursements.

45 **SECTION 10.47.(d)** Minimum reimbursement for foster parents providing
46 services through child caring institutions shall not be lower than the rates established by
47 the General Assembly.

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

50 **SPECIAL CHILDREN ADOPTION FUND**

51 **SECTION 10.48.(a)** Of the funds appropriated to the Department of Health
52 and Human Services in this act, the sum of one hundred thousand dollars (\$100,000)
53 shall be used to support the Special Children Adoption Fund for the 2005-2006 fiscal
54 year. The Division of Social Services, in consultation with the North Carolina
55 Association of County Directors of Social Services and representatives of licensed

1 private adoption agencies, shall develop guidelines for the awarding of funds to licensed
2 public and private adoption agencies upon the adoption of children described in
3 G.S. 108A-50 and in foster care. Payments received from the Special Children Adoption
4 Fund by participating agencies shall be used exclusively to enhance the adoption
5 services. No local match shall be required as a condition for receipt of these funds. In
6 accordance with State rules for allowable costs, the Special Children Adoption Fund
7 may be used for post-adoption services for families whose income exceeds two hundred
8 percent (200%) of the federal poverty level.

9 **SECTION 10.48.(b)** Of the total funds appropriated for the Special Children
10 Adoption Fund each year, twenty percent (20%) of the total funds available shall be
11 reserved for payment to participating private adoption agencies. If the funds reserved in
12 this subsection for payments to private agencies have not been spent on or before March
13 31, 2006, the Division of Social Services may reallocate those funds, in accordance with
14 this section, to other participating adoption agencies.

15 **SECTION 10.48.(c)** The Division of Social Services shall monitor the total
16 expenditures in the Special Children Adoption Fund and redistribute unspent funds to
17 ensure that the funds are used according to the guidelines established in subsection (a)
18 of this section. The Division shall implement strategies to ensure that funds that have
19 historically reverted for this program are used for the intended purpose. The Division
20 shall report to the House of Representatives Appropriations Subcommittee on Health
21 and Human Services, the Senate Appropriations Committee on Health and Human
22 Services, and the Fiscal Research Division on the expenditures and activities of the
23 program no later than December 1, 2005, and June 30, 2006.

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

26 **STUDY TO IDENTIFY ADOPTION INCENTIVES FOR CHILDREN WHO**
27 **ARE DIFFICULT TO PLACE**

28 **SECTION 10.49.** The Department of Health and Human Services shall
29 conduct a study to identify potential incentives for adoption of children who are difficult
30 to place and the associated costs for each incentive. The study shall identify incentives
31 currently in place in individual counties and the associated costs. The study shall
32 identify funding sources available to support each incentive. The Department shall
33 report the results of its study to the Senate Appropriations Committee on Health and
34 Human Services, the House of Representatives Appropriations Subcommittee on Health
35 and Human Services, and the Fiscal Research Division no later than October 1, 2005.

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

38 **LIMITATION ON STATE ABORTION FUND**

39 **SECTION 10.50.** The limitations on funding of the performance of abortion
40 established in Section 23.27 of Chapter 324 of the 1995 Session Laws, as amended by
41 Section 23.8A of Chapter 507 of the 1995 Session Laws, apply to the 2005-2006 and
42 2006-2007 fiscal years.

43
44 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

45 **TANF BENEFIT IMPLEMENTATION**

46 **SECTION 10.51.(a)** The General Assembly approves the plan titled "North
47 Carolina Temporary Assistance for Needy Families State Plan FY 2005-2007", prepared
48 by the Department of Health and Human Services and presented to the General
49 Assembly as revised in accordance with subsection (b) of this section, except that the
50 provision contained in the approved North Carolina Temporary Assistance for Needy
51 Families State Plan FY 2005-2007 eliminating pay-after-performance as a benefit
52 delivery method for two-parent families will only be implemented if the federal
53 two-parent work participation rate is eliminated. The North Carolina Temporary
54 Assistance for Needy Families State Plan covers the period October 1, 2005, through
55 September 30, 2007. The Department shall submit the State Plan, as revised in

1 accordance with subsection (b) of this section, to the United States Department of
2 Health and Human Services, as amended by this act or any other act of the 2005
3 General Assembly.

4 **SECTION 10.51.(b)** The counties approved as Electing Counties in North
5 Carolina's Temporary Assistance for Needy Families State Plan FY 2005-2007 as
6 approved by this section are: Beaufort, Caldwell, Catawba, Iredell, Lenoir, Lincoln,
7 Macon, McDowell, Sampson, and Stokes.

8 **SECTION 10.51.(c)** Counties that submitted the letter of intent to remain as
9 an Electing County or to be redesignated as an Electing County and the accompanying
10 county plan for fiscal years 2005 through 2007, pursuant to G.S. 108A-27(e), shall
11 operate under the Electing County budget requirements effective July 1, 2005. For
12 programmatic purposes, all counties referred to in this subsection shall remain under
13 their current county designation through September 30, 2005.

14
15 Requested by: Senators Purcell, Malone, Garrou, Dalton, Hagan

16 **RESIDENTIAL SCHOOLS REPORTING**

17 **SECTION 10.52.** The Office of Education Services shall report not later
18 than December 1, 2005, to the Senate Appropriations Committee on Health and Human
19 Services, the House of Representatives Appropriations Subcommittee on Health and
20 Human Services, and the Fiscal Research Division on the activities of the Eastern North
21 Carolina School for the Deaf at Wilson, the North Carolina School for the Deaf at
22 Morganton, and the Governor Morehead School for the Blind. The report shall include
23 enrollment numbers at the schools, the budgets, and the academic status of the schools
24 as defined under the ABCs program.

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

27 **FUNDS FOR SCHOOL NURSES**

28 **SECTION 10.53.** Of the funds appropriated in this act to the Department of
29 Health and Human Services, the sum of two million five hundred thousand dollars
30 (\$2,500,000) for the 2005-2006 fiscal year, and the sum of two million five hundred
31 thousand dollars (\$2,500,000) for the 2006-2007 fiscal year shall be used for the school
32 nurse funding initiative. The Department of Health and Human Services, Division of
33 Public Health, in conjunction with the Department of Public Instruction, shall provide
34 funds to communities to hire school nurses. The program will fund 50 permanent local
35 nurses. The criteria shall include determining the areas in greatest need for school
36 nurses with the greatest inability to pay for these nurses. Other criteria to be considered
37 shall include: (i) the current nurse-to-student ratio; (ii) the economic status of the
38 community; and (iii) the health needs of area children.

39 There shall be no supplanting of local, State, or federal funds with these
40 funds. Communities shall maintain their current level of effort and funding for school
41 nurses. These funds shall not be used for funding nurses for State agencies. All funding
42 shall be used for direct services.

43 The Department of Health and Human Services shall report on the use of
44 funds allocated under this section by December 1, 2005, to the Senate Appropriations
45 Committee on Health and Human Services, the House of Representatives
46 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research
47 Division.

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

50 **EARLY INTERVENTION REPORTING AND EVALUATION**

51 **SECTION 10.54.(a)** The Department of Health and Human Services,
52 Division of Public Health, shall report on Early Intervention services. The report shall
53 include the number of children served, the number and types of services and evaluations
54 provided, and the budget for each Children's Developmental Services Agency. In
55 addition, the Division of Public Health shall evaluate its Early Intervention Program

1 provider network, including provider certification and continuing education
2 requirements.

3 **SECTION 10.54.(b)** The Department of Health and Human Services shall
4 analyze the reimbursement rates for Early Intervention services, and may adjust rates
5 according to the findings of the analysis.

6 **SECTION 10.54.(c)** The Division of Public Health shall analyze the
7 program funding for the Children with Special Needs Program and shall develop a plan
8 to utilize these funds within the Early Intervention Program. The Division shall report
9 its findings and recommendations to the Senate Appropriations Committee on Health
10 and Human Services, the House of Representatives Appropriations Subcommittee on
11 Health and Human Services, and the Fiscal Research Division not later than December
12 1, 2005.

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

15 **CONTRACTING FOR MORE EFFECTIVE COMBINATION VACCINES**

16 **SECTION 10.55.** The Department of Health and Human Services may
17 contract for the purchase of new combination vaccines that are more expensive than
18 currently used combination or single component vaccines only if the new, more
19 expensive combination vaccine is more effective than the currently used combination or
20 single component vaccine it replaces.

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

23 **CHRONIC DISEASE PREVENTION ACTIVITIES INVENTORY**

24 **SECTION 10.56.** In order to reduce costs and eliminate duplication of
25 effort, the Department of Health and Human Services shall create an inventory of all
26 chronic disease prevention activities, funding, staffing, and other resources for these
27 activities, including funding and resources for related task forces and committees. The
28 inventory shall include at a minimum, heart disease, stroke, diabetes, osteoporosis, and
29 cancer. The Department shall create a plan to combine task forces and activities for
30 chronic disease prevention and shall explore collapsing these task forces and
31 committees into the Healthy Carolinians structure. The Department shall report on the
32 inventory and the Department's recommendations not later than February 1, 2006, to the
33 Senate Appropriations Committee on Health and Human Services, the House of
34 Representatives Appropriations Subcommittee on Health and Human Services, and the
35 Fiscal Research Division.

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

38 **PILOT PROGRAM FOR AUTOMATIC EXTERNAL DEFIBRILLATORS IN**
39 **PUBLIC BUILDINGS**

40 **SECTION 10.57.(a)** The Department of Health and Human Services,
41 Division of Public Health, shall develop a pilot program to place Automated External
42 Defibrillators (AED) in public buildings, including public gymnasiums, that do not have
43 an operational AED in place. In selecting pilot sites, the Department shall ensure
44 geographic representation of the State.

45 **SECTION 10.57.(b)** Of the funds appropriated in this act to the Department
46 of Health and Human Services, the sum of seventeen thousand dollars (\$17,000) for the
47 2005-2006 fiscal year, and the sum of six thousand dollars (\$6,000) for the 2006-2007
48 fiscal year shall be used to purchase AED units, conduct on-site training at the pilot
49 sites, and conduct ongoing education and awareness campaigns to the general public in
50 the piloted sites. The Department shall ensure that training in the use of an AED shall be
51 conducted in accordance with G.S. 90-21.15(b)(3). The Heart Disease and Stroke
52 Prevention Branch of the Division of Public Health shall be responsible for the purchase
53 of AEDs, the training of pilot program participants, and evaluation of the pilot program.

54 **SECTION 10.57.(c)** The Department of Health and Human Services shall
55 report on the location, establishment, and implementation of the pilot sites to the Senate

1 Appropriations Committee on Health and Human Services, the House of
2 Representatives Appropriations Subcommittee on Health and Human Services, and the
3 Fiscal Research Division on or before March 1, 2006.

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

6 **IMMUNIZATION PROGRAM FUNDING**

7 **SECTION 10.58.(a)** Of the funds appropriated in this act to the Department
8 of Health and Human Services for childhood immunization programs for positions,
9 operating support, equipment, and pharmaceuticals, the sum of one million dollars
10 (\$1,000,000) for the 2005-2006 fiscal year and the sum of one million dollars
11 (\$1,000,000) for the 2006-2007 fiscal year may be used for projects and activities that
12 are also designed to increase childhood immunization rates in North Carolina. These
13 projects and activities shall include the following:

14 (1) Outreach efforts at the State and local levels to improve service
15 delivery of vaccines. Outreach efforts may include educational
16 seminars, media advertising, support services to parents to enable
17 children to be transported to clinics, longer operating hours for clinics,
18 and mobile vaccine units.

19 (2) Continued development of an automated immunization registry.

20 **SECTION 10.58.(b)** Funds authorized to be used for immunization efforts
21 under subsection (a) of this section shall not be used to fund additional State positions in
22 the Department of Health and Human Services or contracts, except for contracts to
23 develop an automated immunization registry or contracts with local health departments
24 for outreach.

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

27 **AIDS DRUG ASSISTANCE PROGRAM**

28 **SECTION 10.59.(a)** For the 2005-2006 fiscal year and for the 2006-2007
29 fiscal year, HIV-positive individuals with incomes at or below one hundred twenty-five
30 percent (125%) of the federal poverty level are eligible for participation in ADAP.
31 Eligibility for participation in ADAP during the 2005-2007 fiscal biennium shall not be
32 extended to individuals with incomes above one hundred twenty-five percent (125%) of
33 the federal poverty level.

34 **SECTION 10.59.(b)** The Department of Health and Human Services shall
35 make an interim report on ADAP program utilization by January 1, 2006, and a final
36 report on ADAP program utilization by May 1, 2006, to the Senate Appropriations
37 Committee on Health and Human Services, the House of Representatives
38 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research
39 Division on ADAP. The reports shall include ADAP program utilization as follows:

40 (1) Monthly data on total cumulative AIDS/HIV cases reported in North
41 Carolina.

42 (2) Monthly data on the number of individuals who have applied to
43 participate in ADAP that have been determined to be ineligible.

44 (3) Monthly data on the income level of participants in ADAP and of
45 individuals who have applied to participate in ADAP who have been
46 determined to be ineligible.

47 (4) Monthly data on fiscal year-to-date expenditures of ADAP. The
48 interim report shall contain monthly data on the calendar year-to-date
49 expenditures of ADAP.

50 (5) An update on the status of the information management system.

51 (6) Monthly data on ADAP usage patterns and demographics of
52 participants in ADAP.

53 (7) Fiscal year-to-date budget information.

- 1 (8) The status of the new system of management for ADAP, the costs
 2 savings realized from the new system, and recommendations for
 3 improving the system.
 4

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

6 **CHILD CARE FUNDS MATCHING REQUIREMENT**

7 **SECTION 10.60.** No local matching funds may be required by the
 8 Department of Health and Human Services as a condition of any locality's receiving any
 9 State child care funds appropriated by this act unless federal law requires a match. This
 10 shall not prohibit any locality from spending local funds for child care services.
 11

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

13 **CHILD CARE ALLOCATION FORMULA**

14 **SECTION 10.61.(a)** The Department of Health and Human Services shall
 15 allocate child care subsidy voucher funds to pay the costs of necessary child care for
 16 minor children of needy families. The mandatory thirty percent (30%) Smart Start
 17 subsidy allocation under G.S. 143B-168.15(g) shall constitute the base amount for each
 18 county's child care subsidy allocation. The Department of Health and Human Services
 19 shall use the following method when allocating federal and State child care funds, not
 20 including the aggregate mandatory thirty percent (30%) Smart Start subsidy allocation:

- 21 (1) Funds shall be allocated based upon the projected cost of serving
 22 children in a county under age 11 in families with all parents working
 23 who earn less than seventy-five percent (75%) of the State median
 24 income.
 25 (2) No county's allocation shall be less than ninety percent (90%) of its
 26 State Fiscal Year 2001-2002 initial child care subsidy allocation.

27 **SECTION 10.61.(b)** The Department of Health and Human Services may
 28 reallocate unused child care subsidy voucher funds in order to meet the child care needs
 29 of low-income families. Any reallocation of funds shall be based upon the expenditures
 30 of all child care subsidy voucher funding, including Smart Start funds, within a county.
 31

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

33 **CHILD CARE SUBSIDY RATES**

34 **SECTION 10.62.(a)** The maximum gross annual income for initial
 35 eligibility, adjusted biennially, for subsidized child care services shall be seventy-five
 36 percent (75%) of the State median income, adjusted for family size.

37 **SECTION 10.62.(b)** Fees for families who are required to share in the cost
 38 of care shall be established based on a percent of gross family income and adjusted for
 39 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%.

44 **SECTION 10.62.(c)** Payments for the purchase of child care services for
 45 low-income children shall be in accordance with the following requirements:

- 46 (1) Religious-sponsored child care facilities operating pursuant to
 47 G.S. 110-106 and licensed child care centers and homes that meet the
 48 minimum licensing standards that are participating in the subsidized
 49 child care program shall be paid the one-star county market rate or the
 50 rate they charge privately paying parents, whichever is lower.
 51 (2) Licensed child care centers and homes with two or more stars shall
 52 receive the market rate for that rated license level for that age group or
 53 the rate they charge privately paying parents, whichever is lower.

1 (3) Nonlicensed homes shall receive fifty percent (50%) of the county
2 market rate or the rate they charge privately paying parents, whichever
3 is lower.

4 (4) Maximum payment rates shall also be calculated periodically by the
5 Division of Child Development and School Readiness for
6 transportation to and from child care provided by the child care
7 provider, individual transporter, or transportation agency, and for fees
8 charged by providers to parents. These payment rates shall be based
9 upon information collected by market rate surveys.

10 **SECTION 10.62.(d)** Provisions of payment rates for child care providers in
11 counties that do not have at least 50 children in each age group for center-based and
12 home-based care are as follows:

13 (1) Except as applicable in subdivision (2) of this subsection, payment
14 rates shall be set at the statewide or regional market rate for licensed
15 child care centers and homes.

16 (2) If it can be demonstrated that the application of the statewide or
17 regional market rate to a county with fewer than 50 children in each
18 age group is lower than the county market rate and would inhibit the
19 ability of the county to purchase child care for low-income children,
20 then the county market rate may be applied.

21 **SECTION 10.62.(e)** A market rate shall be calculated for child care centers
22 and homes at each rated license level for each county and for each age group or age
23 category of enrollees and shall be representative of fees charged to unsubsidized
24 privately paying parents for each age group of enrollees within the county. The Division
25 of Child Development and School Readiness shall also calculate a statewide rate and
26 regional market rates for each rated license level for each age category.

27 **SECTION 10.62.(f)** Facilities licensed pursuant to Article 7 of Chapter 110
28 of the General Statutes and facilities operated pursuant to G.S. 110-106 may participate
29 in the program that provides for the purchase of care in child care facilities for minor
30 children of needy families. No separate licensing requirements shall be used to select
31 facilities to participate. In addition, child care facilities shall be required to meet any
32 additional applicable requirements of federal law or regulations. Child care
33 arrangements exempt from State regulation pursuant to Article 7 of Chapter 110 of the
34 General Statutes shall meet the requirements established by other State law and by the
35 Social Services Commission.

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

40 **SECTION 10.62.(g)** Payment for subsidized child care services provided
41 with Work First Block Grant funds shall comply with all regulations and policies issued
42 by the Division of Child Development and School Readiness for the subsidized child
43 care program.

44 **SECTION 10.62.(h)** Noncitizen families who reside in this State legally
45 shall be eligible for child care subsidies if all other conditions of eligibility are met. If
46 all other conditions of eligibility are met, noncitizen families who reside in this State
47 illegally shall be eligible for child care subsidies only if at least one of the following
48 conditions is met:

49 (1) The child for whom a child care subsidy is sought is receiving child
50 protective services or foster care services.

51 (2) The child for whom a child care subsidy is sought is developmentally
52 delayed or at risk of being developmentally delayed.

53 (3) The child for whom a child care subsidy is sought is a citizen of the
54 United States.
55

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

2 **CHILD CARE REVOLVING LOAN**

3 **SECTION 10.63.** Notwithstanding any law to the contrary, funds budgeted
4 for the Child Care Revolving Loan Fund may be transferred to and invested by the
5 financial institution contracted to operate the Fund. The principal and any income to the
6 Fund may be used to make loans, reduce loan interest to borrowers, serve as collateral
7 for borrowers, pay the contractor's cost of operating the Fund, or pay the Department's
8 cost of administering the program.
9

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

11 **EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES**
12 **ENHANCEMENTS**

13 **SECTION 10.64.(a)** Administrative costs shall be equivalent to, on an
14 average statewide basis for all local partnerships, not more than eight percent (8%) of
15 the total statewide allocation to all local partnerships. For purposes of this subsection,
16 administrative costs shall include costs associated with partnership oversight, business
17 and financial management, general accounting, human resources, budgeting,
18 purchasing, contracting, and information systems management.

19 **SECTION 10.64.(b)** The North Carolina Partnership for Children, Inc., and
20 all local partnerships shall use competitive bidding practices in contracting for goods
21 and services on contract amounts as follows:

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

31 **SECTION 10.64.(c)** The North Carolina Partnership for Children, Inc., and
32 all local partnerships shall, in the aggregate, be required to match no less than fifty
33 percent (50%) of the total amount budgeted for the program in each fiscal year of the
34 biennium as follows: contributions of cash equal to at least fifteen percent (15%) and
35 in-kind donated resources equal to no more than five percent (5%) for a total match
36 requirement of twenty percent (20%) for each fiscal year. The North Carolina
37 Partnership for Children, Inc., may carry-forward any amount in excess of the required
38 match for a fiscal year in order to meet the match requirement of the succeeding fiscal
39 year. Only in-kind contributions that are quantifiable shall be applied to the in-kind
40 match requirement. Volunteer services may be treated as an in-kind contribution for the
41 purpose of the match requirement of this subsection. Volunteer services that qualify as
42 professional services shall be valued at the fair market value of those services. All other
43 volunteer service hours shall be valued at the statewide average wage rate as calculated
44 from data compiled by the Employment Security Commission in the Employment and
45 Wages in North Carolina Annual Report for the most recent period for which data are
46 available. Expenses, including both those paid by cash and in-kind contributions,
47 incurred by other participating non-State entities contracting with the North Carolina
48 Partnership for Children, Inc., or the local partnerships, also may be considered
49 resources available to meet the required private match. In order to qualify to meet the
50 required private match, the expenses shall:

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

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

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

21 **SECTION 10.64.(d)** The Department of Health and Human Services shall
22 continue to implement the performance-based evaluation system.

23 **SECTION 10.64.(e)** The Department of Health and Human Services and the
24 North Carolina Partnership for Children, Inc., shall ensure that the allocation of funds
25 for Early Childhood Education and Development Initiatives for State fiscal years
26 2005-2006 and 2006-2007 shall be administered and distributed in the following
27 manner:

- 28 (1) Capital expenditures are prohibited for fiscal years 2005-2006 and
29 2006-2007. For the purposes of this section, "capital expenditures"
30 means expenditures for capital improvements as defined in
31 G.S. 143-34.40.
- 32 (2) Expenditures of State funds for advertising and promotional activities
33 are prohibited for fiscal years 2005-2006 and 2006-2007.

34 **SECTION 10.64.(f)** A county may use the county's allocation of State and
35 federal child care funds to subsidize child care according to the county's Early
36 Childhood Education and Development Initiatives Plan as approved by the North
37 Carolina Partnership for Children, Inc. The use of federal funds shall be consistent with
38 the appropriate federal regulations. Child care providers shall, at a minimum, comply
39 with the applicable requirements for State licensure pursuant to Article 7 of Chapter 110
40 of the General Statutes.

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

43 **SMART START FUNDING STUDY**

44 **SECTION 10.65.(a)** The North Carolina Partnership for Children, Inc., shall
45 study its allocation of funds to local partnerships. The North Carolina Partnership for
46 Children, Inc., shall study funding equity among all counties and local partnerships
47 based on population, the number of children from birth to five years of age residing in
48 the county region, economic indicators, and the quality of existing child care. The North
49 Carolina Partnership for Children, Inc., shall develop strategies to alleviate the inequity
50 of funds to local partnerships.

51 **SECTION 10.65.(b)** The North Carolina Partnership for Children, Inc., shall
52 report its findings and recommendations to the Senate Appropriations Committee on
53 Health and Human Services, the House of Representatives Appropriations
54 Subcommittee on Health and Human Services, and the Fiscal Research Division on or
55 before March 1, 2006.

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

3 **ANALYZE CHILD CARE SUBSIDY REIMBURSEMENT SYSTEM**

4 **SECTION 10.66.(a)** The Department of Health and Human Services,
5 Division of Child Development and School Readiness, shall conduct an analysis of the
6 child care subsidy reimbursement system. The Division of Child Development and
7 School Readiness shall conduct the analysis as follows:

- 8 (1) Compare surveyed rates from the 2005 child care market survey to
9 existing reimbursement rates and identify counties and levels of
10 disparity of current market rates to subsidy reimbursements.
11 (2) Compare overall compensation for child care workers by county and
12 determine if there is a correlation with child care quality and subsidy
13 reimbursements.
14 (3) Examine the impact of North Carolina Partnership for Children, Inc.,
15 funding on child care market rates and quality of child care by
16 comparing the length of time local partnerships have been present in
17 counties, the amount local partnerships spend on child care quality
18 initiatives, the number of higher quality child care centers and homes,
19 and the allocation to the county by percentage of need.
20 (4) Examine, by county, the prevalence of child care providers who charge
21 parents a differential fee to make up the difference between private and
22 subsidy reimbursement rates.
23 (5) Examine the impact that child care reimbursement rates have on
24 providing families access to all levels of child care.

25 **SECTION 10.66.(b)** The Division of Child Development and School
26 Readiness shall develop strategies to implement market rate equity among counties and
27 submit a report of its findings and recommendations to the Senate Appropriations
28 Committee on Health and Human Services, the House of Representatives
29 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research
30 Division by January 30, 2006.

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

33 **MORE AT FOUR**

34 **SECTION 10.67.(a)** Of the funds appropriated in this act to the Department
35 of Health and Human Services, the sum of sixty-six million five hundred forty-six
36 thousand six hundred fifty-three dollars (\$66,546,653) for the 2005-2006 fiscal year and
37 the sum of seventy-nine million one hundred nine thousand seven hundred seventy-nine
38 dollars (\$79,109,779) for the 2006-2007 fiscal year shall be used to implement "More
39 At Four", a voluntary prekindergarten program for at-risk four-year-olds.

40 **SECTION 10.67.(b)** The Department of Health and Human Services,
41 Division of Child Development and School Readiness, shall continue the
42 implementation of the "More At Four" prekindergarten program for at-risk
43 four-year-olds who are at risk of failure in kindergarten. The program is available
44 statewide to all counties that choose to participate, including underserved areas. The
45 goal of the program is to provide quality prekindergarten services to a greater number of
46 at-risk children in order to enhance kindergarten readiness for these children. The
47 program shall be consistent with standards and assessments established jointly by the
48 Department of Health and Human Services and the Department of Public Instruction.
49 The program shall include:

- 50 (1) A process and system for identifying children at risk of academic
51 failure.
52 (2) A process and system for identifying children who are not being
53 served first priority in formal early education programs, such as child
54 care, public or private preschools, Head Start, Early Head Start, early
55 intervention programs, or other such programs, who demonstrate

- 1 educational needs, and who are eligible to enter kindergarten the next
2 school year, as well as children who are underserved.
- 3 (3) A curriculum or several curricula that are recommended by the North
4 Carolina Child Development and School Readiness Task Force
5 (hereinafter "Task Force"). The Task Force will identify and approve
6 appropriate research-based curricula. These curricula shall: (i) focus
7 primarily on oral language and emergent literacy; (ii) engage children
8 through key experiences and provide background knowledge requisite
9 for formal learning and successful reading in the early elementary
10 years; (iii) involve active learning; (iv) promote measurable
11 kindergarten language-readiness skills that focus on emergent literacy
12 and mathematical skills; and (v) develop skills that will prepare
13 children emotionally and socially for kindergarten.
- 14 (4) An emphasis on ongoing family involvement with the prekindergarten
15 program.
- 16 (5) Evaluation of child progress through pre- and postassessment of
17 children in the statewide evaluation, as well as ongoing assessment of
18 the children by teachers.
- 19 (6) Guidelines for a system to reimburse local school boards and systems,
20 private child care providers, and other entities willing to establish and
21 provide prekindergarten programs to serve at-risk children.
- 22 (7) A system built upon existing local school boards and systems, private
23 child care providers, and other entities that demonstrate the ability to
24 establish or expand prekindergarten capacity.
- 25 (8) A quality-control system. Participating providers shall comply with
26 standards and guidelines as established by the Department of Health
27 and Human Services, the Department of Public Instruction, and the
28 Task Force. The Department may use the child care rating system to
29 assist in determining program participation.
- 30 (9) Standards for minimum teacher qualifications. A portion of the
31 classroom sites initially funded shall have at least one teacher who is
32 certified or provisionally certified in birth-to-kindergarten education.
- 33 (10) A local contribution. Programs must demonstrate that they are
34 accessing resources other than "More At Four".
- 35 (11) A system of accountability.
- 36 (12) Consideration of the reallocation of existing funds. In order to
37 maximize current funding and resources, the Department of Health and
38 Human Services, the Department of Public Instruction, and the Task
39 Force shall consider the reallocation of existing funds from State and
40 local programs that provide prekindergarten-related care and services.

41 **SECTION 10.67.(c)** The Department of Health and Human Services shall
42 plan for expansion of the "More At Four" program within existing resources to include
43 four- and five-star-rated centers and schools serving four-year-olds and develop
44 guidelines for these programs. The Department shall analyze guidelines for use of the
45 "More At Four" funds, State subsidy funds, and Smart Start subsidy funds and devise a
46 complementary plan for administration of funds for all four-year-old classrooms. The
47 four- and five-star-rated centers that choose to become a "More At Four" program shall,
48 at a minimum, receive curricula and access to training and workshops for "More At
49 Four" programs and be considered along with other "More At Four" programs for
50 T.E.A.C.H. funding. The Department shall ensure that no individual receives funding
51 from more than one source for the same purpose or activity during the same funding
52 period. For purposes of this subsection, sources shall include T.E.A.C.H., W.A.G.E.\$.,
53 and T.E.A.C.H. Health Insurance programs for individual recipients.

54 The "More At Four" program shall review the number of slots filled by
55 counties on a monthly basis and shift the unfilled slots to counties with waiting lists.

1 The shifting of slots shall occur through December 30, 2005, at which time any
2 remaining funds for slots unfilled shall be used to meet the needs of the waiting list for
3 subsidized child care.

4 **SECTION 10.67.(d)** The Department of Health and Human Services,
5 Division of Child Development and School Readiness, and the Task Force shall submit
6 a report by February 1, 2006, to the Joint Legislative Commission on Governmental
7 Operations, the Joint Legislative Education Oversight Committee, the Senate
8 Appropriations Committee on Health and Human Services, the House of
9 Representatives Appropriations Subcommittee on Health and Human Services, and the
10 Fiscal Research Division. This final report shall include the following:

- 11 (1) The number of children participating in the program.
- 12 (2) The number of children participating in the program who have never
13 been served in other early education programs, such as child care,
14 public or private preschool, Head Start, Early Head Start, or early
15 intervention programs.
- 16 (3) The expected expenditures for the programs and the source of the local
17 match for each grantee.
- 18 (4) The location of program sites and the corresponding number of
19 children participating in the program at each site.
- 20 (5) Activities involving Child Find in counties.
- 21 (6) A comprehensive cost analysis of the program, including the cost per
22 child served by the program.
- 23 (7) The plan for expansion of "More At Four" through existing resources
24 as outlined in this section.

25 **SECTION 10.67.(e)** For the 2005-2006 and the 2006-2007 fiscal years, the
26 "More At Four" program shall establish income eligibility requirements for the program
27 not to exceed seventy-five percent (75%) of the State median income to make the
28 program consistent with the child care subsidy requirements. Up to twenty percent
29 (20%) of children enrolled may have family incomes in excess of seventy-five percent
30 (75%) of median income if they have other designated risk factors.

31 **SECTION 10.67.(f)** The "More At Four" program funding shall not supplant
32 any funding for classrooms serving four-year-olds as of the 2003-2004 fiscal year.

33 **SECTION 10.67.(g)** The Department of Health and Human Services,
34 Division of Child Development and School Readiness, shall review and evaluate the
35 early literacy project in Davie County and consider incorporation of this curriculum into
36 the "More At Four" program.

37 **SECTION 10.67.(h)** The "More At Four" program shall contract with
38 Prevent Blindness of North Carolina for one hundred fifty thousand dollars (\$150,000)
39 for vision screenings for children in the "More At Four" program and other child care
40 classrooms.

41 **SECTION 10.67.(i)** The "More At Four" program shall provide a grant of
42 one hundred seventy-seven thousand dollars (\$177,000) to the Carolina Children's
43 Communicative Disorders Program at the University of North Carolina at Chapel Hill.

44
45 Requested by: Senators Garrou, Dalton, Hagan

46 **ESTABLISH THE DIVISION OF CHILD DEVELOPMENT AND SCHOOL**
47 **READINESS IN THE DEPARTMENT OF HEALTH AND HUMAN**
48 **SERVICES**

49 **SECTION 10.68.(a)** The Division of Child Development of the Department
50 of Health and Human Services is renamed the Division of Child Development and
51 School Readiness (hereinafter "the Division"). The purpose of the Division is to
52 regulate and license child care facilities, administer the five-star rating system of child
53 care facilities, and ensure school readiness for North Carolina's children through
54 increased coordination and effectiveness of the State's early care and education
55 programs and through improved transitions for at-risk children into kindergarten. In

1 addition, the Division shall have oversight of all prekindergarten programs serving
2 three- and four-year-olds, which includes the More at Four prekindergarten programs,
3 and shall expand the focus of the programs, thereby developing increased collaboration
4 between local Head Start programs and the State's prekindergarten programs as well as
5 private child care programs. The Division shall collaborate with the Department of
6 Public Instruction to develop a common statewide assessment and to promote improved
7 transition practices for children entering kindergarten.

8 **SECTION 10.68.(b)** The More at Four Prekindergarten Program is
9 transferred from the Office of the Governor to the Department of Health and Human
10 Services, Division of Child Development and School Readiness. This transfer shall
11 have all the elements of a Type I transfer, as defined in G.S. 143A-6.

12 **SECTION 10.68.(c)** The Head Start Collaboration Office shall remain in the
13 Department of Health and Human Services under the Division of Child Development
14 and School Readiness.

15 **SECTION 10.68.(d)** The North Carolina Partnership for Children, Inc., shall
16 continue to be funded through, and work cooperatively with, the Department of Health
17 and Human Services, the Division of Child Development and School Readiness.

18 **SECTION 10.68.(e)** The More at Four Task Force shall be reconstituted and
19 renamed the North Carolina Child Development and School Readiness Task Force. The
20 Secretary of the Department of Health and Human Services shall appoint the members
21 of the North Carolina Child Development and School Readiness Task Force from
22 representatives of publicly funded programs and services for children age birth to five
23 years, including the More at Four Prekindergarten Program, the North Carolina
24 Partnership for the Children, Inc., Early Intervention, preschool programs in the public
25 schools and other stakeholders, including Head Start.

26 The Task Force shall study the integration of public funds and programs to
27 ensure that all North Carolina's children age birth to five years are prepared to come to
28 school ready to achieve. In conducting the study, the Task Force shall consider and
29 develop recommendations for the following:

- 30 (1) Creating principles, rationale, strategies, structure, and outcomes for
31 the integration of all funding and programs that serve children age
32 birth to five years to achieve improved school readiness;
- 33 (2) Eliminating the duplication of programs;
- 34 (3) Enhancing the quality and performance of current programs;
- 35 (4) Creating performance measures that will document outcomes for
36 programs and children and will provide accessible service for families;
- 37 (5) Creating effective transition plans as children move from one program
38 or service to another;
- 39 (6) Documenting all current funding and programs for children ages birth
40 to kindergarten entry and coordination of existing data systems; and
- 41 (7) Equalizing the funding of the various programs that provide services to
42 children from birth to the age of five years to ensure equity in
43 accessibility to these programs.

44 The Task Force shall submit a report by April 1, 2006, to the President Pro
45 Tempore of the Senate, the Speaker of the House of Representatives, the Chairs of the
46 Senate Appropriations Committee on Health and Human Services, the Chairs of the
47 House of Representatives Appropriations Subcommittee on Health and Human
48 Services, and the Fiscal Research Division.

49 **SECTION 10.68.(f)** The Revisor of Statutes shall substitute the term
50 "Division of Child Development and School Readiness" for the term "Division of Child
51 Development" everywhere those terms appear in the following sections of the General
52 Statutes:

- 53 G.S. 110-90.2. Mandatory child care providers' criminal history checks.
- 54 G.S. 110-102. Information for parents.
- 55 G.S. 114-19.5. Criminal record checks of child care providers.

1 G.S. 143B-138.1. Department of Health and Human Service functions and
2 organization.

3 **SECTION 10.68.(g)** This section becomes effective July 1, 2005, for
4 organizational changes. The budgetary adjustments required by this section become
5 effective October 1, 2005.

6
7 **PART XI. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

8
9 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

10 **PESTICIDE DISPOSAL PROGRAM**

11 **SECTION 11.1.** G.S. 143-468(b) reads as rewritten:

12 "(b) The Pesticide Environmental Trust Fund is established as a nonreverting
13 account within the Department of Agriculture and Consumer Services. The Department
14 of Agriculture and Consumer Services shall administer the Fund. The additional
15 assessment imposed by G.S. 143-442(b) on the registration of a brand or grade of
16 pesticide shall be credited to the Fund. The Department shall distribute money in the
17 Fund as follows:

- 18 (1) Two and one-half percent (2.5%) to North Carolina State University
19 Cooperative Extension Service to enhance its agromedicine efforts in
20 cooperation with East Carolina University School of Medicine.
21 (2) Two and one-half percent (2.5%) to East Carolina University School
22 of Medicine to enhance its agromedicine efforts in cooperation with
23 North Carolina State University Cooperative Extension Service.
24 (3) Twenty percent (20%) to North Carolina State University, Department
25 of Toxicology, to establish and maintain an extension agromedicine
26 specialist position.
27 (4) Seventy-five percent (75%) to the Department of Agriculture and
28 Consumer Services for the costs of administering its pesticide disposal
29 program, including the salaries and support of staff for the pesticide
30 disposal program, and for its environmental programs, as directed by
31 the Board, including establishing a pesticide container management
32 program to enhance its pesticide disposal program and its water quality
33 initiatives."

34
35 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

36 **TIMBER SALES RECEIPTS FOR CAPITAL IMPROVEMENTS AT**
37 **AGRICULTURAL RESEARCH STATIONS AND FARMS**

38 **SECTION 11.2.** The sum of one million thirty-three thousand one hundred
39 dollars (\$1,033,100) shall be transferred from the Department of Agriculture and
40 Consumer Services' timber sales capital improvement account in the Department of
41 Agriculture and Consumer Services as such funds become available during the
42 2005-2006 fiscal year, and used by the Department for the following capital
43 improvements projects at agricultural research stations and research farms:

- 44 (1) \$378,000 for improvements at the swine facility at the Cherry
45 Research Farm.
46 (2) \$285,500 for renovation of dairy facilities at the Cherry Research
47 Farm.
48 (3) \$369,600 for land acquisition and development at the Tidewater
49 Research Station.

50
51 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

52 **PLANT CONSERVATION PROGRAM FUNDS**

53 **SECTION 11.3.** From funds received from the sale of timber that are
54 deposited with the State Treasurer pursuant to G.S. 146-30 to the credit of the
55 Department of Agriculture and Consumer Services in a capital improvement account,

1 the sum of twenty thousand dollars (\$20,000) shall be transferred to the Department of
2 Agriculture and Consumer Services to be used by the Department for its plant
3 conservation program under Article 19B of Chapter 106 of the General Statutes for
4 costs incidental to the acquisition of land, such as land appraisals, land surveys, title
5 searches, and environmental studies.

6
7 Requested by: Senators Kerr, Garrou, Dalton, Hagan

8 **INCREASE FUNDS FOR NORTH CAROLINA GRAPE GROWERS COUNCIL**

9 **SECTION 11.4.** G.S. 105-113.81A reads as rewritten:

10 **"§ 105-113.81A. Distribution of part of wine taxes attributable to North Carolina**
11 **wine.**

12 The Secretary shall on a quarterly basis credit to the Department of Agriculture and
13 Consumer Services the net proceeds of the excise tax collected on unfortified wine
14 bottled in North Carolina during the previous quarter and the net proceeds of the excise
15 tax collected on fortified wine bottled in North Carolina during the previous quarter,
16 except that the amount credited to the Department of Agriculture and Consumer
17 Services under this section shall not exceed ~~three hundred fifty thousand dollars~~
18 ~~(\$350,000)~~ five hundred thousand dollars (\$500,000) per fiscal year. The Department of
19 Agriculture and Consumer Services shall allocate the funds received under this section
20 to the North Carolina Grape Growers Council to be used to promote the North Carolina
21 grape and wine industry and to contract for research and development services to
22 improve viticultural and enological practices in North Carolina. Any funds credited to
23 the Department of Agriculture and Consumer Services under this section that are not
24 expended by June 30 of any fiscal year may not revert to the General Fund, but shall
25 remain available to the Department for the uses set forth in this section."

26
27 **PART XII. DEPARTMENT OF ENVIRONMENT AND NATURAL**
28 **RESOURCES**

29
30 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

31 **STATE MATCH FOR FEDERAL SAFE DRINKING WATER ACT FUNDS**

32 **SECTION 12.1.** Notwithstanding the provisions of Chapter 159G of the
33 General Statutes, the Department of Environment and Natural Resources may transfer
34 from the General Water Supply Revolving Loan Account up to one million five hundred
35 thousand dollars (\$1,500,000) to the Department of Environment and Natural Resources
36 to be used to match the federal grant moneys authorized by section 1452 of the federal
37 Safe Drinking Water Act amendments of 1996 for the 2005-2006 fiscal year. The
38 General Water Supply Revolving Loan Account is an account under the Clean Water
39 Revolving Loan and Grant Fund and is established under G.S. 159G-4. The Clean
40 Water Revolving Loan and Grant Fund is established by G.S. 159G-5.

41
42 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

43 **EXPAND EXPRESS REVIEW PROGRAM STATEWIDE**

44 **SECTION 12.2.(a)** Part 1 of Article 7 of Chapter 143B of the General
45 Statutes is amended by adding two new sections to read:

46 **"§ 143B-279.13. Express permit and certification reviews.**

47 **(a) The Department of Environment and Natural Resources shall develop an**
48 **express review program to provide express permit and certification reviews in all of its**
49 **regional offices. Participation in the express review program is voluntary, and the**
50 **program is to become supported by the fees determined pursuant to subsection (b) of**
51 **this section. The Department of Environment and Natural Resources shall determine the**
52 **project applications to review under the express review program from those who request**
53 **to participate in the program. The express review program may be applied to any one or**
54 **all of the permits, approvals, or certifications in the following programs: the erosion and**
55 **sedimentation control program, the coastal management program, and the water quality**

1 programs, including water quality certifications and stormwater management. The
2 express review program shall focus on the following permits or certifications:

- 3 (1) Stormwater permits under Part 1 of Article 21 of Chapter 143 of the
4 General Statutes.
- 5 (2) Stream origination certifications under Article 21 of Chapter 143 of
6 the General Statutes.
- 7 (3) Water quality certification under Article 21 of Chapter 143 of the
8 General Statutes.
- 9 (4) Erosion and sedimentation control permits under Article 4 of Chapter
10 113A of the General Statutes.
- 11 (5) Permits under the Coastal Area Management Act (CAMA), Part 4 of
12 Article 7 of Chapter 113A of the General Statutes.

13 (b) The Department of Environment and Natural Resources may determine the
14 fees for express application review under the express review program. Notwithstanding
15 G.S. 143-215.3D, the maximum permit application fee to be charged under subsection
16 (a) of this section for the express review of a project application requiring all of the
17 permits under subdivisions (1) through (5) of subsection (a) of this section shall not
18 exceed five thousand five hundred dollars (\$5,500). Notwithstanding G.S. 143-215.3D,
19 the maximum permit application fee to be charged for the express review of a project
20 application requiring all of the permits under subdivisions (1) through (4) of subsection
21 (a) of this section shall not exceed four thousand five hundred dollars (\$4,500).
22 Notwithstanding G.S. 143-215.3D, the maximum permit application fee charged for the
23 express review of a project application for any other combination of permits under
24 subdivisions (1) through (5) of subsection (a) of this section shall not exceed four
25 thousand dollars (\$4,000). Express review of a project application involving additional
26 permits or certifications issued by the Department of Environment and Natural
27 Resources other than those under subdivisions (1) through (5) of subsection (a) of this
28 section may be allowed by the Department, and, notwithstanding G.S. 143-215.3D or
29 any other statute or rule that sets a permit fee, the maximum permit application fee
30 charged for the express review of a project application shall not exceed four thousand
31 dollars (\$4,000), plus one hundred fifty percent (150%) of the fee that would otherwise
32 apply by statute or rule for that particular permit or certification. Additional fees, not to
33 exceed fifty percent (50%) of the original permit application fee under this section, may
34 be charged for subsequent reviews due to the insufficiency of the permit applications.
35 The Department of Environment and Natural Resources may establish the procedure by
36 which the amount of the fees under this subsection is determined, and the fees and
37 procedures are not rules under G.S. 150B-2(8a) for the express review program under
38 this section.

39 (c) No later than March 1 of each year, the Department of Environment and
40 Natural Resources shall report to the Fiscal Research Division and the Environmental
41 Review Commission its findings on the success of the program under this section and
42 any other findings or recommendations, including any legislative proposals that it
43 deems pertinent.

44 **"§ 143B-279.14. Express Review Fund.**

45 The Express Review Fund is created as a special nonreverting fund. All fees
46 collected under G.S. 143B-279.13 shall be credited to the Express Review Fund. The
47 Express Review Fund shall be used for the costs of implementing the express review
48 program under G.S. 143B-279.13 and the costs of administering the program, including
49 the salaries and support of the program's staff. If the express review program is
50 abolished, the funds in the Express Review Fund shall be credited to the General Fund."

51 **SECTION 12.2.(b)** The Department of Environment and Natural Resources
52 shall expand to a statewide program that operates in each regional office of the
53 Department the Express Review Pilot Program established by Section 11.4A of S.L.
54 2003-284 and expanded by Section 12.9 of S.L. 2004-124, and the provisions of

1 G.S. 143B-279.13, as enacted by subsection (a) of this section, shall apply to this
2 statewide program.

3 **SECTION 12.2.(c)** The Department of Environment and Natural Resources
4 shall establish and support 12 additional positions to administer the statewide express
5 review program under G.S. 143B-279.13, as enacted by subsection (a) of this section.
6 Up to seven hundred thirty-six thousand six hundred twenty-nine dollars (\$736,629) for
7 the 2005-2006 fiscal year and up to six hundred seventy-one thousand four hundred
8 nine dollars (\$671,409) for the 2006-2007 fiscal year shall be allocated from the
9 Express Review Fund created in G.S. 143B-279.14, as enacted by subsection (a) of this
10 section, to establish and support these 12 positions.

11 **SECTION 12.2.(d)** The Department of Environment and Natural Resources
12 shall continue and support the four positions established under Section 12.9(c) of S.L.
13 2004-124 to administer the statewide express review program under G.S. 143B-279.13,
14 as enacted by subsection (a) of this section. Up to two hundred twenty-three thousand
15 eight hundred three dollars (\$223,803) for the 2005-2006 fiscal year and up to two
16 hundred twenty-three thousand eight hundred three dollars (\$223,803) for the
17 2006-2007 fiscal year shall be allocated from the Express Review Fund created in
18 G.S. 143B-279.14, as enacted by subsection (a) of this section, to continue and support
19 these four positions.

20
21 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

22 **SEDIMENTATION EDUCATION FUNDS**

23 **SECTION 12.3.** The Department of Environment and Natural Resources
24 shall use the funds appropriated in this act to the Department of Environment and
25 Natural Resources for the 2005-2006 fiscal year and for the 2006-2007 fiscal year for
26 sedimentation education for only the following:

- 27 (1) Sedimentation education activities that provide technical assistance to
28 local erosion and sedimentation control programs under G.S. 113A-60;
29 or
30 (2) Sedimentation education to professionals involved in developing
31 erosion and sedimentation control plans for which prior approval is
32 required under Article 4 of Chapter 113A of the General Statutes.

33
34 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

35 **FUNDS TO IMPLEMENT FISHING LICENSE REQUIREMENTS**
36 **LEGISLATION/CONTINGENT REPEAL OF SALTWATER FISHING**
37 **LICENSE REQUIREMENT**

38 **SECTION 12.4.(a)** The Wildlife Resources Commission may disburse up to
39 one million dollars (\$1,000,000) from the Wildlife Resources Fund to implement Senate
40 Bill 1126 (Amend Fishing License Requirements-2) or House Bill 1092 (Amend
41 Fishing License Requirements) if either bill becomes law no later than 30 days after
42 adjournment of the 2005 Regular Session.

43 **SECTION 12.4.(b)** The State Treasurer shall transfer a sum equal to the sum
44 of funds disbursed pursuant to subsection (a) of this section from the Marine Resources
45 Fund to the Wildlife Resources Fund on July 1, 2010.

46 **SECTION 12.4.(c)** Sections 1 through 4 and Sections 6 through 12 of S.L.
47 2004-187 and Section 12.16 of S.L. 2004-124 are repealed unless Senate Bill 1126
48 (Amend Fishing License Requirements-2) or House Bill 1092 (Amend Fishing License
49 Requirements) becomes law no later than 30 days after the adjournment in 2005 of the
50 2005 Regular Session under a joint resolution.

51
52 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

53 **GRASSROOTS SCIENCE PROGRAM**

54 **SECTION 12.5.(a)** Of the funds appropriated in this act to the Department
55 of Environment and Natural Resources for the Grassroots Science Program, the sum of

1 three million one hundred ninety-seven thousand seven hundred sixty-two dollars
 2 (\$3,197,762) for the 2005-2006 fiscal year is allocated as grants-in-aid for each fiscal
 3 year as follows:

	2005-2006
4	
5	
6	\$59,057
7	\$161,007
8	\$112,174
9	\$133,429
10	\$74,545
11	\$662,865
12	\$50,000
13	\$50,000
14	\$80,742
15	
16	\$56,422
17	\$135,076
18	
19	
20	\$134,499
21	\$79,268
22	\$86,034
23	\$50,000
24	\$74,192
25	\$186,354
26	
27	\$379,826
28	\$72,254
29	\$229,547
30	
31	\$146,499
32	\$112,879
33	\$71,093
34	
35	\$3,197,762

36 **SECTION 12.5.(b)** No later than March 1, 2006, the Department of
 37 Environment and Natural Resources shall report to the Fiscal Research Division all of
 38 the following information for each museum that receives funds under this section:

- 39 (1) The operating budget for the 2004-2005 fiscal year.
- 40 (2) The operating budget for the 2005-2006 fiscal year.
- 41 (3) The total attendance at the museum during the 2005 calendar year.

42
 43 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

44 **MORATORIUM ON NEW LEASE PURCHASE CONTRACTS FOR**
 45 **FORESTRY EQUIPMENT FOR DIVISION OF FOREST RESOURCES**

46 **SECTION 12.6.** The Division of Forest Resources of the Department of
 47 Environment and Natural Resources shall not enter into any new lease purchase
 48 contracts for the purchase of forestry equipment. The Department of Administration
 49 shall not enter into any new lease purchase contracts for the purchase of forestry
 50 equipment on behalf of the Division of Forest Resources. This section does not apply to
 51 existing lease purchase contracts entered into by, or on behalf of, the Division.

52
 53 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

54 **EXTEND AND EXPAND PILOT PROGRAM FOR INSPECTION OF ANIMAL**
 55 **WASTE MANAGEMENT SYSTEMS**

1 **SECTION 12.7.(a)** Section 15.4(a) of S.L. 1997-443, as amended by
2 Section 3.1 of S.L. 1999-329, Section 5 of S.L. 2001-254, Section 1.1 of S.L. 2002-176,
3 and Section 6.1 of S.L. 2003-340, reads as rewritten:

4 "(a) The Department of Environment and Natural Resources shall develop and
5 implement a pilot program to begin no later than 1 November 1997, and to terminate 1
6 September ~~2005, 2007~~, regarding the annual inspections of animal operations that are
7 subject to a permit under Article 21 of Chapter 143 of the General Statutes. The
8 Department shall select two counties located in a part of the State that has a high
9 concentration of swine farms to participate in this pilot program. In addition, Brunswick
10 County and Pender County shall be added to the program. Notwithstanding
11 G.S. 143-215.10F, the Division of Soil and Water Conservation of the Department of
12 Environment and Natural Resources shall conduct inspections of all animal operations
13 that are subject to a permit under Article 21 of Chapter 143 of the General Statutes in
14 these ~~three-four~~ counties at least once a year to determine whether any animal waste
15 management system is causing a violation of water quality standards and whether the
16 system is in compliance with its animal waste management plan or any other condition
17 of the permit. The personnel of the Division of Soil and Water Conservation who are to
18 conduct these inspections in each of these ~~three-four~~ counties shall be located in an
19 office in the county in which that person will be conducting inspections. As part of this
20 pilot program, the Department of Environment and Natural Resources shall establish
21 procedures whereby resources within the local Soil and Water Conservation Districts
22 serving the ~~three-four~~ counties are used for the quick response to complaints and
23 reported problems previously referred only to the Division of Water Quality of the
24 Department of Environment and Natural Resources."

25 **SECTION 12.7.(b)** Section 3.3 of S.L. 1999-329, as amended by Section 6
26 of S.L. 2001-254, Section 1.2 of S.L. 2002-176, and Section 6.2 of S.L. 2003-340, reads
27 as rewritten:

28 "Section 3.3. The Department of Environment and Natural Resources, in
29 consultation with both the Division of Water Quality and the Division of Soil and Water
30 Conservation, shall submit semiannual interim reports no later than 15 April and 15
31 October of each year beginning 15 October 1999 ~~and shall submit a final report no later~~
32 ~~than 15 October 2005~~ to the Environmental Review ~~Commission and to Commission,~~
33 the Fiscal Research Division, Division, and the Appropriations Subcommittees on
34 Natural and Economic Resources in both the Senate and the House of Representatives.
35 These reports shall indicate whether the pilot program has increased the effectiveness of
36 the annual inspections program or the response to complaints and reported problems,
37 specifically whether the pilot program had resulted in identifying violations earlier,
38 taking corrective actions earlier, increasing compliance with the animal waste
39 management plans and permit conditions, improving the time to respond to discharges,
40 complaints, and reported problems, improving communications between farmers and
41 Department employees, and any other consequences deemed pertinent by the
42 Department. These reports shall also compare the costs of conducting operations
43 reviews and inspections under the pilot program with the costs of conducting operations
44 reviews and inspections pursuant to G.S. 143-215.10D and G.S. 143-215.10F and the
45 resources that would be required to expand the pilot program to all counties. ~~The final~~
46 ~~report shall include a recommendation as to whether to continue or expand the pilot~~
47 ~~program under this act. The Environmental Review Commission may recommend to the~~
48 ~~General Assembly whether to continue or expand the pilot program under this act and~~
49 ~~may make any related legislative proposals."~~

50 **SECTION 12.7.(c)** No later than October 15, 2005, the Department of
51 Environment and Natural Resources shall recommend to the Environmental Review
52 Commission and the General Assembly whether to continue or expand the pilot
53 program under this section. The Environmental Review Commission shall recommend
54 to the 2006 Session of the General Assembly whether to continue or expand the pilot
55 program under this section and may make any related legislative proposals.

1
2 **PART XIII. DEPARTMENT OF COMMERCE**
3

4 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

5 **WANCHESE SEAFOOD INDUSTRIAL PARK/OREGON INLET FUNDS**

6 **SECTION 13.1.(a)** Funds appropriated to the Department of Commerce for
7 the 2004-2005 fiscal year for the Wanchese Seafood Industrial Park that are unexpended
8 and unencumbered as of June 30, 2005, shall not revert to the General Fund on June 30,
9 2005, but shall remain available to the Department to be expended by the Wanchese
10 Seafood Industrial Park for operations, maintenance, repair, and capital improvements
11 in accordance with Article 23C of Chapter 113 of the General Statutes.

12 **SECTION 13.1.(b)** Funds appropriated to the Department of Commerce for
13 the 2004-2005 fiscal year for the Oregon Inlet Project that are unexpended and
14 unencumbered as of June 30, 2005, shall not revert to the General Fund on June 30,
15 2005.

16 **SECTION 13.1.(c)** This section becomes effective June 30, 2005.
17

18 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

19 **COUNCIL OF GOVERNMENT FUNDS**

20 **SECTION 13.2.(a)** Of the funds appropriated in this act to the Department
21 of Commerce, eight hundred thirty-two thousand one hundred fifty dollars (\$832,150)
22 for the 2005-2006 fiscal year and eight hundred thirty-two thousand one hundred fifty
23 dollars (\$832,150) for the 2006-2007 fiscal year shall only be used as provided by this
24 section. Each regional council of government or lead regional organization is allocated
25 up to forty-eight thousand nine hundred fifty dollars (\$48,950) for the 2005-2006 and
26 the 2006-2007 fiscal years.

27 **SECTION 13.2.(b)** A regional council of government may use funds
28 appropriated by this section only to assist local governments in grant applications,
29 economic development, community development, support of local industrial
30 development activities, and other activities as deemed appropriate by the member
31 governments.

32 **SECTION 13.2.(c)** Funds appropriated by this section shall be paid by
33 electronic transfer in two equal installments, the first no later than September 1, 2005,
34 and the second subsequent to acceptable submission of the annual report due to the Joint
35 Legislative Commission on Governmental Operations and the Fiscal Research Division
36 by January 15, 2006, as specified in subdivision (e)(2) of this section.

37 **SECTION 13.2.(d)** Funds appropriated by this section shall not be used for
38 payment of dues or assessments by the member governments and shall not supplant
39 funds appropriated by the member governments.

40 **SECTION 13.2.(e)** Each council of government or lead regional
41 organization shall do the following:

42 (1) By January 15, 2006, and more frequently as requested, report to the
43 Joint Legislative Commission on Governmental Operations and the
44 Fiscal Research Division the following information:

- 45 a. State fiscal year 2004-2005 program activities, objectives, and
46 accomplishments;
47 b. State fiscal year 2004-2005 itemized expenditures and fund
48 sources;
49 c. State fiscal year 2005-2006 planned activities, objectives, and
50 accomplishments, including actual results through December
51 31, 2005; and
52 d. State fiscal year 2005-2006 estimated itemized expenditures
53 and fund sources, including actual expenditures and fund
54 sources through December 31, 2005.

- 1 (2) By January 15, 2007, and more frequently as requested, report to the
 2 Joint Legislative Commission on Governmental Operations and the
 3 Fiscal Research Division the following information:
 4 a. State fiscal year 2005-2006 program activities, objectives, and
 5 accomplishments;
 6 b. State fiscal year 2005-2006 itemized expenditures and fund
 7 sources;
 8 c. State fiscal year 2006-2007 planned activities, objectives, and
 9 accomplishments, including actual results through December
 10 31, 2006; and
 11 d. State fiscal year 2006-2007 estimated itemized expenditures
 12 and fund sources, including actual expenditures and fund
 13 sources through December 31, 2006.
 14 (3) Provide to the Fiscal Research Division a copy of the organization's
 15 annual audited financial statement within 30 days of issuance of the
 16 statement.
 17

18 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

19 **TOURISM PROMOTION FUNDS**

20 **SECTION 13.3.** Funds appropriated in this act to the Department of
 21 Commerce for tourism promotion grants shall be allocated to counties in an effort to
 22 direct funds to counties most in need. Determinations of which counties are most in
 23 need shall focus on those with the lowest per capita income, highest unemployment, and
 24 slowest population growth in the following manner:

- 25 (1) Counties 1 through 20 are each eligible to receive a maximum grant of
 26 seven thousand five hundred dollars (\$7,500) for each fiscal year,
 27 provided these funds are matched on the basis of one non-State dollar
 28 (\$1.00) for every four State dollars (\$4.00).
 29 (2) Counties 21 through 50 are each eligible to receive a maximum grant
 30 of three thousand five hundred dollars (\$3,500) for two of the next
 31 three fiscal years, provided these funds are matched on the basis of one
 32 non-State dollar (\$1.00) for every three State dollars (\$3.00).
 33 (3) Counties 51 through 100 are each eligible to receive a maximum grant
 34 of three thousand five hundred dollars (\$3,500) for alternating fiscal
 35 years, beginning with the 1991-1992 fiscal year, provided these funds
 36 are matched on the basis of four non-State dollars (\$4.00) for every
 37 one State dollar (\$1.00).
 38

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

40 **EMPLOYMENT SECURITY FUNDS**

41 **SECTION 13.4.** There is appropriated from the Special Employment
 42 Security Administration Fund to the Employment Security Commission of North
 43 Carolina the sum of six million three hundred thousand dollars (\$6,300,000) for the
 44 2005-2006 fiscal year to be used for the following purposes:

- 45 (1) Six million dollars (\$6,000,000) for the operation and support of local
 46 offices.
 47 (2) Two hundred thousand dollars (\$200,000) for the State Occupational
 48 Information Coordinating Committee to develop and operate an
 49 interagency system to track former participants in State education and
 50 training programs.
 51 (3) One hundred thousand dollars (\$100,000) to maintain compliance with
 52 Chapter 96 of the General Statutes, which directs the Commission to
 53 employ the Common Follow-Up Management Information System to
 54 evaluate the effectiveness of the State's job training, education, and
 55 placement programs.

1
2 Requested by: Senator Hartsell

3 **TRADE JOBS FOR SUCCESS REPORTING**

4 **SECTION 13.4A.(a)** In addition to the statutory reporting requirements
5 pursuant to G.S. 143B-438.17, the Employment Security Commission, Department of
6 Commerce, and the Community Colleges System Office shall make a joint written
7 progress report on their compliance with Section 13.7A of S.L. 2004-124, as to the
8 following:

- 9 (1) The actions taken to obtain from the U.S. Department of Labor as
10 quickly as possible a waiver under the Trade Adjustment Act to allow
11 the Trade Jobs for Success initiative to (i) serve persons regardless of
12 their age, (ii) use unemployment funds to provide direct monetary
13 incentives to participating employers and direct income to eligible
14 workers in the retraining program, and (iii) use funds for in-State
15 relocation assistance.
16 (2) Whether waivers have been sought for other program components.
17 (3) The progress made in implementing the Trade Jobs for Success
18 initiative in the counties hardest hit by trade-impacted job losses,
19 particularly the counties having an unemployment rate of eight percent
20 (8%) and the extent to which these counties have received priority
21 consideration.
22 (4) The efforts of the Department of Commerce seeking and receiving
23 private grants and federal funds for the Trade Jobs for Success
24 initiative.
25 (5) Any reasons why legislative mandates have not been followed or the
26 statutory goals have not been achieved.

27 The progress report shall be submitted to the Joint Legislative Commission on
28 Governmental Operations and to the Chairs of the Appropriations Committees of the
29 Senate and the House of Representatives by August 1, 2005.

30 **SECTION 13.4A.(b)** G.S. 143B-438.17 reads as rewritten:

31 **"§ 143B-438.17. Reporting.**

32 (a) Beginning July 1, 2005, the Department of Commerce, in conjunction
33 with the Employment Security Commission and the Community Colleges System
34 Office, shall publish a quarterly-monthly written report on the Trade Jobs for Success
35 (TJS) initiative. The monthly report shall provide information on the commitment,
36 disbursement, and use of funds and the status of any grant proposals or waivers
37 requested on behalf of the Trade Jobs for Success initiative. The monthly report shall be
38 submitted to the Governor and to the Fiscal Research Division of the General Assembly.

39 (b) Beginning October 1, 2005, the Department of Commerce, in conjunction
40 with the Employment Security Commission and the Community Colleges System
41 Office, shall publish a quarterly written report on the Trade Jobs for Success initiative.
42 The quarterly report shall also include legislative proposals and recommendations
43 regarding statutory changes needed to maximize the effectiveness and flexibility of the
44 TJS initiative. Copies of the quarterly report shall be provided to the Joint Legislative
45 Commission on Governmental Operations, to the chairs of the Senate and House of
46 Representatives Appropriations Committees, and to the Fiscal Research Division of the
47 General Assembly.

48 (c) Beginning January 1, 2006, the Department of Commerce, in conjunction
49 with the Employment Security Commission and the Community Colleges System
50 Office, shall publish a comprehensive annual written report on the Trade Jobs for
51 Success initiative. The annual report shall include a detailed explanation of outcomes
52 and future planning for the TJS initiative. Copies of the annual report shall be provided
53 to the Governor, to the Joint Legislative Commission on Governmental Operations, to
54 the chairs of the Senate and House of Representatives Appropriations Committees, and
55 to the Fiscal Research Division of the General Assembly."

1
2 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

3 **INDUSTRIAL DEVELOPMENT FUND**

4 **SECTION 13.5.** G.S. 143B-437.01 reads as rewritten:

5 **"§ 143B-437.01. Industrial Development Fund.**

6 (a) Creation and Purpose of Fund. – There is created in the Department of
7 Commerce the Industrial Development Fund to provide funds to assist the local
8 government units of the most economically distressed counties in the State in creating
9 jobs in certain industries. The Department of Commerce shall adopt rules providing for
10 the administration of the program. Those rules shall include the following provisions,
11 which shall apply to each grant from the fund:

12
13 (i) The funds shall be used for (i) installation of or purchases of
14 equipment for eligible industries, (ii) structural repairs, improvements,
15 or renovations of existing buildings to be used for expansion of
16 eligible industries, or (iii) construction of or improvements to new or
17 existing water, sewer, gas, telecommunications, high-speed broadband,
18 ~~or~~ electrical utility distribution lines or ~~equipment~~equipment, or
19 transportation infrastructure for existing or new or proposed industrial
20 buildings to be used for eligible industries. To be eligible for funding,
21 the water, sewer, gas, telecommunications, high-speed broadband, ~~or~~
22 electrical utility lines or ~~facilities~~facilities, or transportation
23 infrastructure shall be located on the site of the building or, if not
24 located on the site, shall be directly related to the operation of the
25 specific eligible industrial activity.

26
27 (b1) Utility Account. – There is created within the Industrial Development Fund a
28 special account to be known as the Utility Account to provide funds to assist the local
29 government units of enterprise tier one, two, and three areas, as defined in
30 G.S. 105-129.3, in creating jobs in eligible industries. The Department of Commerce
31 shall adopt rules providing for the administration of the program. Except as otherwise
32 provided in this subsection, those rules shall be consistent with the rules adopted with
33 respect to the Industrial Development Fund. The rules shall provide that the funds in the
34 Utility Account may be used only for construction of or improvements to new or
35 existing water, sewer, gas, telecommunications, high-speed broadband, ~~or~~ electrical
36 utility distribution lines or ~~equipment~~equipment, or transportation infrastructure for
37 existing or new or proposed industrial buildings to be used for eligible industrial
38 operations. To be eligible for funding, the water, sewer, gas, telecommunications,
39 high-speed broadband, ~~or~~ electrical utility lines or ~~facilities~~facilities, or transportation
40 infrastructure shall be located on the site of the building or, if not located on the site,
41 shall be directly related to the operation of the specific industrial activity. There shall be
42 no maximum funding amount per new job to be created or per project.

43"

44
45 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

46 **ONE NORTH CAROLINA FUND**

47 **SECTION 13.6.** Of the funds appropriated in Section 1(a) of S.L. 2004-88
48 to the One North Carolina Fund, the Department of Commerce may use up to three
49 hundred thousand dollars (\$300,000) to cover its expenses in administering the One
50 North Carolina Fund and other economic development incentive grant programs in the
51 2005-2006 fiscal year.

52
53 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

54 **REGIONAL ECONOMIC DEVELOPMENT COMMISSION ALLOCATIONS**

1 **SECTION 13.7.(a)** Funds appropriated in this act to the Department of
2 Commerce for regional economic development commissions shall be allocated to the
3 following Commissions in accordance with subsection (b) of this section: Western
4 North Carolina Regional Economic Development Commission, Research Triangle
5 Regional Commission, Southeastern North Carolina Regional Economic Development
6 Commission, Piedmont Triad Partnership, Northeastern North Carolina Regional
7 Economic Development Commission, Global TransPark Development Commission,
8 and Carolinas Partnership, Inc.

9 **SECTION 13.7.(b)** Funds appropriated pursuant to subsection (a) of this
10 section shall be allocated to each Regional Economic Development Commission as
11 follows:

- 12 (1) First, the Department shall establish each Commission's allocation by
13 determining the sum of allocations to each county that is a member of
14 that Commission. Each county's allocation shall be determined by
15 dividing the county's enterprise factor by the sum of the enterprise
16 factors for eligible counties and multiplying the resulting percentage
17 by the amount of the appropriation. As used in this subdivision, the
18 term "enterprise factor" means a county's enterprise factor as
19 calculated under G.S. 105-129.3; and
- 20 (2) Next, the Department shall subtract from funds allocated to the Global
21 TransPark Development Commission the sum of one hundred eighteen
22 thousand one hundred twenty-nine dollars (\$118,129) in the
23 2005-2006 fiscal year and one hundred eighteen thousand four
24 hundred seventy-seven dollars (\$118,477) in the 2006-2007 fiscal
25 year, which sum represents the interest earnings in each fiscal year on
26 the estimated balance of seven million five hundred thousand dollars
27 (\$7,500,000) appropriated to the Global TransPark Development Zone
28 in Section 6 of Chapter 561 of the 1993 Session Laws; and
- 29 (3) Next, the Department shall redistribute the sum of one hundred
30 eighteen thousand one hundred twenty-nine dollars (\$118,129) in the
31 2005-2006 fiscal year and one hundred eighteen thousand four
32 hundred seventy-seven dollars (\$118,477) in the 2006-2007 fiscal year
33 to the seven Regional Economic Development Commissions named in
34 subsection (a) of this section. Each Commission's share of this
35 redistribution shall be determined according to the enterprise factor
36 formula set out in subdivision (1) of this subsection. This
37 redistribution shall be in addition to each Commission's allocation
38 determined under subdivision (1) of this subsection.
39

40 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

41 **REGIONAL ECONOMIC DEVELOPMENT COMMISSION REPORTS**

42 **SECTION 13.8.(a)** By February 15 of each fiscal year, the seven regional
43 economic development commissions shall report to the Joint Legislative Commission
44 on Governmental Operations and the Fiscal Research Division the following
45 information:

- 46 (1) The preceding fiscal year's program activities, objectives, and
47 accomplishments.
- 48 (2) The preceding fiscal year's itemized expenditures and fund sources.
- 49 (3) Demonstration of how the commission's regional economic
50 development and marketing strategy aligns with the State's overall
51 economic development and marketing strategies.
- 52 (4) To the extent they are involved in promotion activities such as trade
53 shows, visits to prospects and consultants, advertising and media
54 placement, the commissions shall demonstrate how they have
55 generated qualified leads.

1 **SECTION 13.8.(b)** Each of the commissions shall provide to the Fiscal
2 Research Division a copy of their annual audited financial statement within 30 days of
3 issuance of the statement.

4 **SECTION 13.8.(c)** The reporting requirements for regional economic
5 development commissions, as provided in subsection (a) of this section, shall be
6 reviewed annually by the North Carolina Partnership for Economic Development, and
7 recommendations for changes to the reporting requirements shall be made to the Fiscal
8 Research Division, the President Pro Tempore of the Senate, and the Speaker of the
9 House of Representatives.

10 **SECTION 13.8.(d)** Regional economic development commissions shall
11 receive quarterly allocations of the funds appropriated in this act to the Department of
12 Commerce for regional economic development commissions.

13 **SECTION 13.8.(e)** Regional economic development commissions shall
14 remain in the Department of Commerce's Budget Code 14601 with other State-aided
15 nonprofit entities.

16
17 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

18 **NONPROFIT REPORTING REQUIREMENTS**

19 **SECTION 13.9.(a)** The N.C. Institute for Minority Economic Development,
20 Inc., Land Loss Prevention Project, North Carolina Minority Support Center, North
21 Carolina Community Development Initiative, Inc., North Carolina Association of
22 Community Development Corporations, Inc., Coalition of Farm and Rural Families, and
23 Partnership for the Sounds, Inc., shall do the following:

- 24 (1) By January 15, 2006, 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 2004-2005 program activities, objectives, and
28 accomplishments;
29 b. State fiscal year 2004-2005 itemized expenditures and fund
30 sources;
31 c. State fiscal year 2005-2006 planned activities, objectives, and
32 accomplishments including actual results through December 31,
33 2005; and
34 d. State fiscal year 2005-2006 estimated itemized expenditures
35 and fund sources including actual expenditures and fund
36 sources through December 31, 2005.
37 (2) By January 15, 2007, and more frequently as requested, report to the
38 Joint Legislative Commission on Governmental Operations and the
39 Fiscal Research Division the following information:
40 a. State fiscal year 2005-2006 program activities, objectives, and
41 accomplishments;
42 b. State fiscal year 2005-2006 itemized expenditures and fund
43 sources;
44 c. State fiscal year 2006-2007 planned activities, objectives, and
45 accomplishments including actual results through December 31,
46 2006; and
47 d. State fiscal year 2006-2007 estimated itemized expenditures
48 and fund sources including actual expenditures and fund
49 sources through December 31, 2006.
50 (3) Provide to the Fiscal Research Division a copy of the organization's
51 annual audited financial statement within 30 days of issuance of the
52 statement.

53 **SECTION 13.9.(b)** No funds appropriated under this act shall be released to
54 a nonprofit organization listed in subsection (a) of this section until the organization has
55 satisfied the reporting requirement for January 15, 2005. Fourth quarter allotments shall

1 not be released to any nonprofit organization that does not satisfy the reporting
 2 requirements by January 15, 2006, or January 15, 2007.

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

5 **BIOTECHNOLOGY CENTER**

6 **SECTION 13.10.(a)** The North Carolina Biotechnology Center shall
 7 recapture funds spent in support of successful research and development efforts in the
 8 for-profit private sector.

9 **SECTION 13.10.(b)** The North Carolina Biotechnology Center shall
 10 provide funding for biotechnology, biomedical, and related bioscience applications
 11 under its Business and Science Technology Programs.

12 **SECTION 13.10.(c)** The North Carolina Biotechnology Center shall:

13 (1) By January 15, 2006, and more frequently as requested, report to the
 14 Joint Legislative Commission on Governmental Operations and the
 15 Fiscal Research Division the following information:

- 16 a. State fiscal year 2004-2005 program activities, objectives, and
 17 accomplishments;
- 18 b. State fiscal year 2004-2005 itemized expenditures and fund
 19 sources;
- 20 c. State fiscal year 2005-2006 planned activities, objectives, and
 21 accomplishments, including actual results through December
 22 31, 2005; and
- 23 d. State fiscal year 2005-2006 estimated itemized expenditures
 24 and fund sources, including actual expenditures and fund
 25 sources through December 31, 2005.

26 (2) By January 15, 2007, and more frequently as requested, report to the
 27 Joint Legislative Commission on Governmental Operations and the
 28 Fiscal Research Division the following information:

- 29 a. State fiscal year 2005-2006 program activities, objectives, and
 30 accomplishments;
- 31 b. State fiscal year 2005-2006 itemized expenditures and fund
 32 sources;
- 33 c. State fiscal year 2006-2007 planned activities, objectives, and
 34 accomplishments, including actual results through December
 35 31, 2006; and
- 36 d. State fiscal year 2006-2007 estimated itemized expenditures
 37 and fund sources, including actual expenditures and fund
 38 sources through December 31, 2006.

39 (3) Provide to the Fiscal Research Division a copy of the organization's
 40 annual audited financial statement within 30 days of issuance of the
 41 statement.

42 **SECTION 13.10.(d)** The North Carolina Biotechnology Center shall
 43 provide a report containing detailed budget, personnel, and salary information to the
 44 Office of State Budget and Management and to the Fiscal Research Division in the same
 45 manner as State departments and agencies in preparation for biennium budget requests.

46
 47 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

48 **RURAL ECONOMIC DEVELOPMENT CENTER**

49 **SECTION 13.11.(a)** Of the funds appropriated in this act to the Rural
 50 Economic Development Center, Inc., the sum of two million twenty-five thousand six
 51 hundred ninety-seven dollars (\$2,025,697) for the 2005-2006 fiscal year and the sum of
 52 two million twenty-five thousand six hundred ninety-seven dollars (\$2,025,697) for the
 53 2006-2007 fiscal year shall be allocated as follows:

	2005-2006	2006-2007
54 Research and Demonstration Grants	\$370,000	\$370,000

1	Technical Assistance and Center		
2	Administration of Research		
3	and Demonstration Grants	444,399	444,399
4	Center Administration, Oversight,		
5	and Other Programs	604,298	604,298
6	Administration of Clean Water/		
7	Natural Gas Critical Needs		
8	Bond Act of 1998	199,722	199,722
9	Additional Administration of Supplemental		
10	Funding Program	138,278	138,278
11	Administration of Capacity Building		
12	Assistance Program (1998 Bond Act)	125,000	125,000
13	Institute for Rural Entrepreneurship	144,000	144,000.

14 **SECTION 13.11.(b)** The Rural Economic Development Center, Inc., shall
 15 provide a report containing detailed budget, personnel, and salary information to the
 16 Office of State Budget and Management in the same manner as State departments and
 17 agencies in preparation for biennium budget requests.

18 **SECTION 13.11.(c)** For purposes of this section, the term "community
 19 development corporation" means a nonprofit corporation:

- 20 (1) Chartered pursuant to Chapter 55A of the General Statutes;
- 21 (2) Tax-exempt pursuant to section 501(c)(3) of the Internal Revenue
 22 Code of 1986;
- 23 (3) Whose primary mission is to develop and improve low-income
 24 communities and neighborhoods through economic and related
 25 development;
- 26 (4) Whose activities and decisions are initiated, managed, and controlled
 27 by the constituents of those local communities; and
- 28 (5) Whose primary function is to act as deal-maker and packager of
 29 projects and activities that will increase their constituencies'
 30 opportunities to become owners, managers, and producers of small
 31 businesses, affordable housing, and jobs designed to produce positive
 32 cash flow and curb blight in the targeted community.

33 **SECTION 13.11.(d)** Of the funds appropriated in this act to the Rural
 34 Economic Development Center, Inc., the sum of two million four hundred fifteen
 35 thousand nine hundred ten dollars (\$2,415,910) for the 2005-2006 fiscal year and the
 36 sum of two million four hundred fifteen thousand nine hundred ten dollars (\$2,415,910)
 37 for the 2006-2007 fiscal year shall be allocated as follows:

- 38 (1) \$1,047,410 in each fiscal year for community development grants to
 39 support development projects and activities within the State's minority
 40 communities. Any community development corporation as defined in
 41 this section is eligible to apply for funds. The Rural Economic
 42 Development Center, Inc., shall establish performance-based criteria
 43 for determining which community development corporation will
 44 receive a grant and the grant amount. The Rural Economic
 45 Development Center, Inc., shall allocate these funds as follows:
 46 a. \$997,410 for direct grants to local community development
 47 corporations to support operations and project activities.
 48 b. \$50,000 in each fiscal year to the Rural Economic Development
 49 Center, Inc., to be used to cover expenses in administering this
 50 section.
- 51 (2) \$195,000 in each fiscal year to the Microenterprise Loan Program to
 52 support the loan fund and operations of the Program; and
- 53 (3) \$983,000 in each fiscal year shall be used for a program to provide
 54 supplemental funding for matching requirements for projects and

1 activities authorized under this subsection. The Center shall allocate
2 these funds as follows:

- 3 a. \$675,000 in each fiscal year to make grants to local
4 governments and nonprofit corporations to provide funds
5 necessary to match federal grants or other grants for:
6 1. Necessary economic development projects and activities
7 in economically distressed areas;
8 2. Necessary water and sewer projects and activities in
9 economically distressed communities to address health
10 or environmental quality problems except that funds
11 shall not be expended for the repair or replacement of
12 low-pressure pipe wastewater systems. If a grant is
13 awarded under this sub-subdivision, then the grant shall
14 be matched on a dollar-for-dollar basis in the amount of
15 the grant awarded; or
16 3. Projects that demonstrate alternative water and waste
17 management processes for local governments. Special
18 consideration should be given to cost-effectiveness,
19 efficacy, management efficiency, and the ability of the
20 demonstration project to be replicated.
- 21 b. \$208,000 in each fiscal year to make grants to local
22 governments and nonprofit corporations to provide funds
23 necessary to match federal grants or other grants related to
24 water, sewer, or business development projects.
- 25 c. \$100,000 in each fiscal year to support the update of the
26 statewide water and sewer database and to support the
27 development of a statewide water management plan.
- 28 (4) \$190,500 in each fiscal year for the Agricultural Advancement
29 Consortium. These funds shall be placed in a reserve and allocated as
30 follows:
31 a. \$75,000 in each fiscal year for operating expenses associated
32 with the Consortium; and
33 b. \$115,500 in each fiscal year for research initiatives funded by
34 the Consortium.

35 The Consortium shall facilitate discussions among interested parties
36 and shall develop recommendations to improve the State's economic
37 development through farming and agricultural interests.

38 The grant recipients in this subsection shall be selected on the basis of need.

39 **SECTION 13.11.(e)** The Rural Economic Development Center, Inc., shall:

- 40 (1) By January 15, 2006, and more frequently as requested, report to the
41 Joint Legislative Commission on Governmental Operations and the
42 Fiscal Research Division the following information:
43 a. State fiscal year 2004-2005 program activities, objectives, and
44 accomplishments;
45 b. State fiscal year 2004-2005 itemized expenditures and fund
46 sources;
47 c. State fiscal year 2005-2006 planned activities, objectives, and
48 accomplishments, including actual results through December
49 31, 2005; and
50 d. State fiscal year 2005-2006 estimated itemized expenditures
51 and fund sources, including actual expenditures and fund
52 sources through December 31, 2005.
- 53 (2) By January 15, 2007, and more frequently as requested, report to the
54 Joint Legislative Commission on Governmental Operations and the
55 Fiscal Research Division the following information:

- a. State fiscal year 2005-2006 program activities, objectives, and 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 each grant recipient's annual audited financial statement within 30 days of issuance of the statement.

SECTION 13.11.(f) No funds appropriated under this act shall be released to a community development corporation, as defined in this section, unless the corporation can demonstrate that there are no outstanding or proposed assessments or other collection actions against the corporation for any State or federal taxes, including related penalties, interest, and fees.

Requested by: Senators Weinstein, Albertson, Garrou, Dalton, Hagan

RURAL ECONOMIC DEVELOPMENT CENTER

SECTION 13.12.(a) Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of twenty million dollars (\$20,000,000) for the 2005-2006 fiscal year and the sum of twenty million dollars (\$20,000,000) for the 2006-2007 fiscal year shall be allocated as follows:

- (1) To continue the North Carolina Infrastructure Program. The purpose of the Program is to provide grants to local governments to construct critical water and wastewater facilities and to provide other infrastructure needs, including technology needs, to sites where these facilities will generate private job-creating investment. At least fifteen million dollars (\$15,000,000) of the funds appropriated in this act for each year of the biennium must be used to provide grants under this Program.
- (2) To provide matching grants to local governments in distressed areas and equity investments in public-private ventures that will productively reuse vacant buildings and properties, with priority given to towns or communities with populations of less than 5,000.
- (3) To provide economic development research and demonstration grants.

SECTION 13.12.(b) The funds appropriated in this act to the Rural Economic Development Center, Inc., shall be recurring funds.

SECTION 13.12.(c) The Rural Economic Development Center, Inc., may contract with other State agencies, constituent institutions of The University of North Carolina, and colleges within the North Carolina Community College System for certain aspects of the North Carolina Infrastructure Program, including design of Program guidelines and evaluation of Program results.

SECTION 13.12.(d) During each year of the 2005-2007 biennium, the Rural Economic Development Center, Inc., may use up to two percent (2%) of the funds appropriated in this act to cover its expenses in administering the North Carolina Economic Infrastructure Program.

SECTION 13.12.(e) No later than January 15 each year, the Rural Economic Development Center, Inc., shall submit an annual report to the Joint Legislative Commission on Governmental Operations concerning the progress of the North Carolina Economic Infrastructure Program.

SECTION 13.12.(f) Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of five hundred thousand dollars

1 (\$500,000) for the 2005-2006 fiscal year and the sum of five hundred thousand dollars
2 (\$500,000) for the 2006-2007 fiscal year shall be allocated to the e-NC Authority.

3 The e-NC Authority may:

- 4 (1) Contract with other State agencies, The University of North Carolina,
5 the North Carolina Community College System, and nonprofit
6 organizations to assist with program development and the evaluation
7 of program activities.
- 8 (2) Use up to five percent (5%) of the funds allocated in this section to
9 cover its expenses in program development and implementation of
10 activity areas.

11 The e-NC Authority shall report to the 2006 General Assembly on the
12 following:

- 13 (1) The activities necessary to be undertaken in distressed urban areas of
14 the State to enhance the capability of citizens and businesses residing
15 in these areas to access the high-speed Internet.
- 16 (2) An implementation plan for the training of citizens and businesses in
17 distressed urban areas.
- 18 (3) The technology and digital literacy training necessary to assist citizens
19 and existing businesses to create new technology-based enterprises in
20 these communities and to use the Internet to enhance the productivity
21 of their businesses.

22 The e-NC Authority shall, by January 31, 2006, and quarterly thereafter,
23 report to the Joint Legislative Commission on Governmental Operations on program
24 development and the evaluation of program activities.

25
26 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

27 **OPPORTUNITIES INDUSTRIALIZATION CENTER FUNDS**

28 **SECTION 13.13.(a)** Of the funds appropriated in this act to the Rural
29 Economic Development Center, Inc., the sum of three hundred sixty-one thousand
30 dollars (\$361,000) for the 2005-2006 fiscal year and the sum of three hundred sixty-one
31 thousand dollars (\$361,000) for the 2006-2007 fiscal year shall be equally distributed
32 among the certified Opportunities Industrialization Centers for ongoing job training
33 programs.

34 **SECTION 13.13.(b)** For each of the Opportunities Industrialization Centers
35 receiving funds pursuant to subsection (a) of this section, the Rural Economic
36 Development Center, Inc., shall:

- 37 (1) By January 15, 2006, and more frequently as requested, report to the
38 Joint Legislative Commission on Governmental Operations and the
39 Fiscal Research Division the following information:
 - 40 a. State fiscal year 2004-2005 program activities, objectives, and
41 accomplishments;
 - 42 b. State fiscal year 2004-2005 itemized expenditures and fund
43 sources;
 - 44 c. State fiscal year 2005-2006 planned activities, objectives, and
45 accomplishments, including actual results through December
46 31, 2005; and
 - 47 d. State fiscal year 2005-2006 estimated itemized expenditures
48 and fund sources, including actual expenditures and fund
49 sources through December 31, 2005.
- 50 (2) By January 15, 2007, and more frequently as requested, report to the
51 Joint Legislative Commission on Governmental Operations and the
52 Fiscal Research Division the following information:
 - 53 a. State fiscal year 2005-2006 program activities, objectives, and
54 accomplishments;

(e) Calling Meetings; Duty to Attend. – The President or the Executive Committee may call a meeting of the Conference upon 10 days' notice to the members, except upon written waiver of notice signed by at least three-fourths of the members. A member should attend each meeting of the Conference and the Executive Committee of which he is given notice. Members are entitled to reimbursement for travel and subsistence expenses at the rate applicable to State employees.

"§ 7A-807. Powers of Conference.

(a) The Conference may:

- (1) Cooperate with citizens and other public and private agencies to promote the effective administration of justice.
- (2) Develop advisory manuals to assist in the organization and administration of their offices, case management, calendaring, case tracking, filing, and office procedures.
- (3) Work with the cooperation of the Administrative Office of the Courts and the Institute of Government of the School of Government at UNC-Chapel Hill to provide education and training programs for clerks and staff.

(b) The Conference may not adopt rules pursuant to Chapter 150B of the General Statutes.

"§ 7A-808. Executive secretary; clerical support.

The Conference may employ an executive secretary and any necessary supporting staff to assist it in carrying out its duties."

SECTION 14.1.(b) The organizational meeting of the Conference of Clerks of Superior Court shall be convened by the Director of the Administrative Office of the Courts as soon as feasible. Officers elected at that organizational meeting shall serve until their successors take office July 1, 2006.

Requested by: Senators Thomas, Dalton, Purcell, Apodaca, Garrou, Hagan
DIVIDE DISTRICT COURT DISTRICT 20 AND PROSECUTORIAL DISTRICT 20 INTO 20A AND 20B AND REALIGN SUPERIOR COURT DISTRICTS 20A AND 20B/DIVIDE SUPERIOR COURT, DISTRICT COURT, AND PROSECUTORIAL DISTRICTS 29 INTO DISTRICTS 29A AND 29B

SECTION 14.2.(a) G.S. 7A-41(a) reads as rewritten:

"(a) The counties of the State are organized into judicial divisions and superior court districts, and each superior court district has the counties, and the number of regular resident superior court judges set forth in the following table, and for districts of less than a whole county, as set out in subsection (b) of this section:

Judicial Division	Superior Court District	Counties	No. of Resident Judges
First	1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	2
First	2	Beaufort, Hyde, Martin, Tyrrell, Washington	1
First	3A	Pitt	2
Second	3B	Carteret, Craven, Pamlico	3
Second	4A	Duplin, Jones, Sampson	1
Second	4B	Onslow	1
Second	5A	(part of New Hanover, part of Pender see subsection (b))	1
	5B	(part of New Hanover,	1

1			part of Pender see subsection (b))	
2		5C	(part of New Hanover,	1
3			see subsection (b))	
4	First	6A	Halifax	1
5	First	6B	Bertie, Hertford,	1
6			Northampton	
7	First	7A	Nash	1
8	First	7B	(part of Wilson,	1
9			part of Edgecombe,	
10			see subsection (b))	
11	First	7C	(part of Wilson,	1
12			part of Edgecombe, see	
13			subsection (b))	
14	Second	8A	Lenoir and Greene	1
15	Second	8B	Wayne	1
16	Third	9	Franklin, Granville,	2
17			Vance, Warren	
18	Third	9A	Person, Caswell	1
19	Third	10A	(part of Wake,	2
20			see subsection (b))	
21	Third	10B	(part of Wake,	2
22			see subsection (b))	
23	Third	10C	(part of Wake,	1
24			see subsection (b))	
25	Third	10D	(part of Wake,	1
26			see subsection (b))	
27	Fourth	11A	Harnett, Lee	1
28	Fourth	11B	Johnston	1
29	Fourth	12A	(part of Cumberland,	1
30			see subsection (b))	
31	Fourth	12B	(part of Cumberland,	1
32			see subsection (b))	
33	Fourth	12C	(part of Cumberland,	2
34			see subsection (b))	
35	Fourth	13	Bladen, Brunswick,	2
36			Columbus	
37	Third	14A	(part of Durham,	1
38			see subsection (b))	
39	Third	14B	(part of Durham,	3
40			see subsection (b))	
41	Third	15A	Alamance	2
42	Third	15B	Orange, Chatham	2
43	Fourth	16A	Scotland, Hoke	1
44	Fourth	16B	Robeson	2
45	Fifth	17A	Rockingham	2
46	Fifth	17B	Stokes, Surry	2
47	Fifth	18A	(part of Guilford,	1
48			see subsection (b))	
49	Fifth	18B	(part of Guilford,	1
50			see subsection (b))	
51	Fifth	18C	(part of Guilford,	1
52			see subsection (b))	
53	Fifth	18D	(part of Guilford,	1
54			see subsection (b))	
55	Fifth	18E	(part of Guilford,	1

1			see subsection (b))	
2	Sixth	19A	Cabarrus	1
3	Fifth	19B	Montgomery, Randolph	1
4	Sixth	19C	Rowan	1
5	Fifth	19D	Moore	1
6	Sixth	20A	Anson, <u>Richmond</u>	1 <u>2</u>
7			Richmond Stanly	
8	Sixth	20B	Stanly , Union	1 <u>2</u>
9	Fifth	21A	(part of Forsyth,	1
10			see subsection (b))	
11	Fifth	21B	(part of Forsyth,	1
12			see subsection (b))	
13	Fifth	21C	(part of Forsyth,	1
14			see subsection (b))	
15	Fifth	21D	(part of Forsyth,	1
16			see subsection (b))	
17	Sixth	22	Alexander, Davidson,	3
18			Davie, Iredell	
19	Fifth	23	Alleghany, Ashe,	1
20			Wilkes, Yadkin	
21	Eighth	24	Avery, Madison,	2
22			Mitchell, Watauga, Yancey	
23	Seventh	25A	Burke, Caldwell	2
24	Seventh	25B	Catawba	2
25	Seventh	26A	(part of Mecklenburg,	2
26			see subsection (b))	
27	Seventh	26B	(part of Mecklenburg,	3
28			see subsection (b))	
29	Seventh	26C	(part of Mecklenburg,	2
30			see subsection (b))	
31	Seventh	27A	Gaston	2
32	Seventh	27B	Cleveland, Lincoln	2
33	Eighth	28	Buncombe	2
34	Eighth	29	Henderson,	2
35			McDowell, Polk, Rutherford,	
36			Transylvania	
37		<u>29A</u>	<u>McDowell, Rutherford</u>	<u>1</u>
38		<u>29B</u>	<u>Henderson, Polk, Transylvania</u>	<u>1</u>
39	Eighth	30A	Cherokee, Clay,	1
40			Graham, Macon, Swain	
41	Eighth	30B	Haywood, Jackson	1."

42 **SECTION 14.2.(b)** The superior court judgeship established for District
43 20A by subsection (a) of this section shall be filled by the judge currently serving
44 District 20B who resides in Stanly County. That judge's current term expires on
45 December 31, 2006. No election shall be held in 2006 for that judge's seat, and that
46 judge shall serve until a successor is elected in the 2008 general election, in order to
47 provide for unstagged terms for multiple judgeships in the same district.

48 **SECTION 14.2.(c)** The superior court judgeship established for District 29A
49 by subsection (a) of this section shall be filled by the superior court judge from current
50 District 29 who resides in Rutherford County. That judge's term expires on December
51 31, 2012, and a successor shall be elected in the 2012 general election.

52 **SECTION 14.2.(d)** The superior court judgeship established for District 29B
53 by subsection (a) of this section shall be filled by the superior court judge from current
54 District 29 who resides in Henderson County. That judge's term expires on December
55 31, 2006, and a successor shall be elected in the 2006 general election.

1 **SECTION 14.2.(e)** The trial court administrator serving current District 29
 2 shall serve as trial court administrator for both District 29A and District 29B.

3 **SECTION 14.2.(f)** G.S. 7A-133(a) reads as rewritten:

4 "(a) Each district court district shall have the numbers of judges as set forth in the
 5 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
7	7	Nash
		Edgecombe
		Wilson
8	6	Wayne
		Greene
		Lenoir
9	4	Granville
		(part of Vance
		see subsection (b))
		Franklin
9A	2	Person
		Caswell
9B	2	Warren
		(part of Vance
		see subsection (b))
10	15	Wake
11	8	Harnett
		Johnston
		Lee
12	9	Cumberland
13	6	Bladen
		Brunswick
		Columbus

1	14	6	Durham
2	15A	4	Alamance
3	15B	4	Orange
4			Chatham
5	16A	3	Scotland
6			Hoke
7	16B	5	Robeson
8	17A	2	Rockingham
9	17B	4	Stokes
10			Surry
11	18	12	Guilford
12	19A	4	Cabarrus
13	19B	6	Montgomery
14			Moore
15			Randolph
16	19C	4	Rowan
17	20 <u>20A</u>	7 <u>4</u>	Stanly
18			Union
19			Anson
20			Richmond
21	<u>20B</u>	<u>3</u>	<u>Union</u>
22	<u>21</u>	<u>9</u>	Forsyth
23	22	9	Alexander
24			Davidson
25			Davie
26			Iredell
27	23	4	Alleghany
28			Ashe
29			Wilkes
30			Yadkin
31	24	4	Avery
32			Madison
33			Mitchell
34			Watauga
35			Yancey
36	25	8	Burke
37			Caldwell
38			Catawba
39	26	17	Mecklenburg
40	27A	6	Gaston
41	27B	4	Cleveland
42			Lincoln
43	28	6	Buncombe
44	29	7	Henderson
45			McDowell
46			Polk
47			Rutherford
48			Transylvania
49	<u>29A</u>	<u>3</u>	<u>McDowell</u>
50			<u>Rutherford</u>
51	<u>29B</u>	<u>4</u>	<u>Henderson</u>
52			<u>Polk</u>
53			<u>Transylvania</u>
54	30	5	Cherokee
55			Clay

Graham
Haywood
Jackson
Macon
Swain."

SECTION 14.2.(g) The four district court judgeships established for District 20A by subsection (f) of this section shall be filled by the district court judges from current District 20 who reside in Anson, Stanly, and Richmond Counties. The term of the judge living in Anson County expires the first Monday in December 2008. That judge's successor shall be elected in the 2008 election. The term of the judge living in Stanly County expires the first Monday in December 2006. That judge's successor shall be elected in the 2006 election. The term of one of the judges living in Richmond County expires the first Monday in December 2006. That judge's successor shall be elected in the 2006 election. The term of the other judge living in Richmond County expires the first Monday in December 2008. That judge's successor shall be elected in the 2008 election.

SECTION 14.2.(h) The three district court judgeships established for District 20B by subsection (f) of this section shall be filled by the district court judges from current District 20 who reside in Union County. The terms of the three judges living in Union County expire the first Monday in December 2008. Those judges' successors shall be elected in the 2008 election.

SECTION 14.2.(i) The three district court judgeships established for District 29A by subsection (f) of this section shall be filled by the district court judges from current District 29 who reside in McDowell and Rutherford Counties and by the judge established for District 29 to be appointed by the Governor pursuant to Section 14.6 of S.L. 2004-124, as amended by subsection (j) of this section. The term of the judge living in Rutherford County expires the first Monday in December 2006. That judge's successor shall be elected in the 2006 general election. The term of the judge living in McDowell County expires the first Monday in December 2006. That judge's successor shall be elected in the 2006 election.

SECTION 14.2.(j) Section 14.6(f) of S.L. 2004-124 reads as rewritten:

"SECTION 14.6.(f) The Governor shall appoint the additional district court judges for Districts 5, 21, and ~~29~~ 29A authorized by subsection (e) of this section, and those judges' successors shall be elected in the 2006 general election for four-year terms commencing on the first Monday in December 2006.

The district court judge for the additional judgeship in District 17B, as authorized by subsection (e) of this section, shall be elected in the 2004 general election in the same manner as provided for in G.S. 163-329 to serve a four-year term beginning the first Monday in December 2004, and no vacancy exists before that date."

SECTION 14.2.(k) The four district court judgeships established for District 29B by subsection (f) of this section shall be filled by the district court judges from current District 29 who reside in Henderson and Transylvania Counties. The term of the three judges living in Henderson County expires the first Monday in December 2008. Those judges' successors shall be elected in the 2008 general election. The term of the judge living in Transylvania County expires the first Monday in December 2008. That judge's successor shall be elected in the 2008 general election.

SECTION 14.2.(l) G.S. 7A-60(a1) reads as rewritten:

"(a1) The counties of the State are organized into prosecutorial districts, and each district has the counties and the number of full-time assistant district attorneys set forth in the following table:

Prosecutorial District	Counties	No. of Full-Time Asst. District Attorneys
1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank,	10

1		Perquimans	
2	2	Beaufort, Hyde, Martin,	6
3		Tyrrell, Washington	
4	3A	Pitt	9
5	3B	Carteret, Craven, Pamlico	10
6	4	Duplin, Jones, Onslow,	14
7		Sampson	
8	5	New Hanover, Pender	14
9	6A	Halifax	4
10	6B	Bertie, Hertford,	4
11		Northampton	
12	7	Edgecombe, Nash, Wilson	16
13	8	Greene, Lenoir, Wayne	11
14	9	Franklin, Granville,	11
15		Vance, Warren	
16	9A	Person, Caswell	4
17	10	Wake	31
18	11	Harnett, Johnston, Lee	14
19	12	Cumberland	18
20	13	Bladen, Brunswick, Columbus	11
21	14	Durham	13
22	15A	Alamance	8
23	15B	Orange, Chatham	7
24	16A	Scotland, Hoke	5
25	16B	Robeson	10
26	17A	Rockingham	5
27	17B	Stokes, Surry	5
28	18	Guilford	27
29	19A	Cabarrus	6
30	19B	Montgomery, Moore, Randolph	11
31	19C	Rowan	5
32	20 <u>20A</u>	Anson, Richmond,	15 <u>8</u>
33		Stanly, Union <u>Stanly</u>	
34	<u>20B</u>	<u>Union</u>	<u>7</u>
35	21	Forsyth	17
36	22	Alexander, Davidson, Davie,	16
37		Iredell	
38	23	Alleghany, Ashe, Wilkes,	5
39		Yadkin	
40	24	Avery, Madison, Mitchell,	4
41		Watauga, Yancey	
42	25	Burke, Caldwell, Catawba	15
43	26	Mecklenburg	36
44	27A	Gaston	12
45	27B	Cleveland,	9
46		Lincoln	
47	28	Buncombe	11
48	29	Henderson, McDowell, Polk,	11
49		Rutherford, Transylvania	
50	<u>29A</u>	<u>McDowell, Rutherford</u>	<u>5</u>
51	<u>29B</u>	<u>Henderson, Polk, Transylvania</u>	<u>6</u>
52	30	Cherokee, Clay, Graham,	9
53		Haywood, Jackson, Macon,	
54		Swain."	

1 **SECTION 14.2.(m)** The district attorneys established for Districts 20A,
2 20B, 29A, and 29B by subsection (l) of this section shall be elected in the 2006 general
3 election.

4 **SECTION 14.2.(n)** The eight assistant district attorney positions established
5 for District 20A by subsection (l) of this section shall be filled by eight assistant district
6 attorneys currently serving Anson, Richmond, and Stanly Counties in District 20. The
7 seven assistant district attorney positions established for District 20B by subsection (l)
8 of this section shall be filled by seven assistant district attorneys currently serving
9 Union County in District 20.

10 **SECTION 14.2.(o)** The five assistant district attorney positions established
11 for District 29A by subsection (l) of this section shall be filled by five assistant district
12 attorneys currently serving McDowell and Rutherford Counties in current District 29.
13 The six district attorney positions established for District 29B by subsection (l) of this
14 section shall be filled by six assistant district attorneys currently serving Henderson,
15 Polk, and Transylvania Counties in current District 29.

16 **SECTION 14.2.(p)** G.S. 7A-69 reads as rewritten:

17 **"§ 7A-69. Investigatorial assistants.**

18 The district attorney in prosecutorial districts 1, 3B, 4, 5, 7, 8, 11, 12, 13, 14, 15A,
19 15B, 16A, 18, 19B, ~~20~~, ~~20A~~, ~~20B~~, 21, 22, 24, 25, 26, 27A, 27B, 28, ~~29~~, ~~29A~~, ~~29B~~, and
20 30 is entitled to one investigatorial assistant, and the district attorney in prosecutorial
21 district 10 is entitled to two investigatorial assistants, to be appointed by the district
22 attorney and to serve at his pleasure.

23 It shall be the duty of the investigatorial assistant to investigate cases preparatory to
24 trial and to perform such other Duties as may be assigned by the district attorney. The
25 investigatorial assistant is entitled to reimbursement for his subsistence and travel
26 expenses to the same extent as State employees generally."

27 **SECTION 14.2.(q)** With respect to the realignment of Superior Court
28 Districts 20A and 20B, subsections (a) through (e) of this section become effective
29 December 1, 2005, or the date upon which subsection (a) of this section is approved
30 under section 5 of the Voting Rights Act of 1965, whichever is later. With respect to the
31 division of Superior Court District 29, subsections (a) through (e) of this section become
32 effective December 1, 2005. With respect to the division of District Court District 20,
33 subsections (f) through (k) of this section become effective December 1, 2005, or the
34 date upon which subsection (f) of this section is approved under section 5 of the Voting
35 Rights Act of 1965, whichever is later. With respect to the division of District Court
36 District 29, subsections (f) through (k) of this section become effective December 1,
37 2005. With respect to the division of Prosecutorial District 20, subsections (l) through
38 (p) of this section become effective January 1, 2007, or the date upon which subsection
39 (l) of this section is approved under section 5 of the Voting Rights Act of 1965,
40 whichever is later, but the district attorneys for Prosecutorial Districts 20A and 20B
41 shall be elected in the 2006 general election. With respect to the division of
42 Prosecutorial District 29, subsections (l) through (p) of this section become effective
43 January 1, 2007, but the district attorneys for Prosecutorial Districts 29A and 29B shall
44 be elected in the 2006 general election.

45
46 Requested by: Senators Thomas, Garrou, Dalton, Hagan

47 **COLLECTION OF WORTHLESS CHECK FUNDS**

48 **SECTION 14.3.** Notwithstanding the provisions of G.S. 7A-308(c) and
49 except as otherwise provided in this act, the Judicial Department may use any balance
50 remaining in the Collection of Worthless Checks Fund on June 30, 2005, for the
51 purchase or repair of office or information technology equipment during the 2005-2006
52 fiscal year. Prior to using any funds under this section, the Judicial Department shall
53 report to the Joint Legislative Commission on Governmental Operations and the Chairs
54 of the Senate and House of Representatives Appropriations Subcommittees on Justice

1 and Public Safety on the equipment to be purchased or repaired and the reasons for the
2 purchases.

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

5 **TRANSFER OF EQUIPMENT AND SUPPLY FUNDS**

6 **SECTION 14.4.** Funds appropriated to the Judicial Department in the
7 2005-2007 biennium for equipment and supplies shall be certified in a reserve account.
8 The Administrative Office of the Courts may transfer these funds to the appropriate
9 programs and between programs as the equipment priorities and supply consumptions
10 occur during the operating year. These funds shall not be expended for any other
11 purpose.

12
13 Requested by: Senators Thomas, Garrou, Dalton, Hagan

14 **STUDY ELECTRONIC PAYMENT**

15 **SECTION 14.5.** The Judicial Department shall study the feasibility of
16 implementing electronic and online payment options for court fees and other funds
17 collected by the courts. The study shall address the estimated costs and time frame for
18 implementing electronic payment as well as any necessary legislative changes. The
19 Judicial Department shall report its findings as a result of the study to the Chairs of the
20 Senate and House of Representatives Appropriations Subcommittees on Justice and
21 Public Safety by May 1, 2006.

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

24 **GRANT FUNDS**

25 **SECTION 14.6.** The Judicial Department shall use up to the sum of one
26 million two hundred fifty thousand dollars (\$1,250,000) from funds available to the
27 Department to provide the State match needed in order to receive grant funds. Prior to
28 using funds for this purpose, the Department shall report to the Chairs of the Senate and
29 House of Representatives Appropriations Subcommittees on Justice and Public Safety
30 and the Joint Legislative Commission on Governmental Operations on the grants to be
31 matched using these funds.

32
33 Requested by: Senators Thomas, Garrou, Dalton, Hagan

34 **INCREASE CHARGES FOR APPELLATE DIVISION REPORTS TO ACTUAL
35 COST**

36 **SECTION 14.7.** The Judicial Department shall charge the full cost of
37 production for all copies of the appellate division reports that are sold.

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

40 **NORTH CAROLINA STATE BAR FUNDS**

41 **SECTION 14.8.** Of the funds appropriated in the continuation budget as a
42 grant-in-aid to the North Carolina State Bar for the 2005-2007 biennium, the North
43 Carolina State Bar may in its discretion use up to the sum of five hundred one thousand
44 five hundred dollars (\$501,500) for the 2005-2006 fiscal year and up to the sum of five
45 hundred one thousand five hundred dollars (\$501,500) for the 2006-2007 fiscal year to
46 contract with the Center for Death Penalty Litigation to provide training, consultation,
47 brief banking, and other assistance to attorneys representing indigent capital defendants.
48 The Office of Indigent Defense Services shall report by February 1, 2006, to the Chairs
49 of the Senate and House Appropriations Subcommittees on Justice and Public Safety on
50 the activities funded by the grant-in-aid authorized by this section.

51
52 Requested by: Senators Kinnaird, Garrou, Dalton, Hagan

53 **TRANSFER RESPONSIBILITY FOR PROVIDING LEGAL ASSISTANCE TO
54 INMATES FROM THE DEPARTMENT OF CORRECTION TO THE
55 OFFICE OF INDIGENT DEFENSE SERVICES**

1 The General Assembly of North Carolina enacts:

2 **SECTION 14.9.(a)** G.S. 7A-498.3 reads as rewritten:

3 **"§ 7A-498.3. Responsibilities of Office of Indigent Defense Services.**

4 (a) The Office of Indigent Defense Services shall be responsible for establishing,
5 supervising, and maintaining a system for providing legal representation and related
6 services in the following cases:

7 (1) Cases in which an indigent person is subject to a deprivation of liberty
8 or other constitutionally protected interest and is entitled by law to
9 legal representation;

10 (2) Cases in which an indigent person is entitled to legal representation
11 under G.S. 7A-451 and G.S. 7A-451.1; ~~and~~

12 (2a) Cases in which the State is legally obligated to provide legal assistance
13 and access to the courts to inmates in the custody of the Department of
14 Correction; and

15 (3) Any other cases in which the Office of Indigent Defense Services is
16 designated by statute as responsible for providing legal representation.

17 (b) The Office of Indigent Defense Services shall develop policies and
18 procedures for determining indigency in cases subject to this Article, and those policies
19 shall be applied uniformly throughout the State. The Except in cases under subdivision
20 (2a) of subsection (a) of this section, the court shall determine in each case whether a
21 person is indigent and entitled to legal representation, and counsel shall be appointed as
22 provided in G.S. 7A-452.

23 (c) In all cases subject to this Article, appointment of counsel, determination of
24 compensation, appointment of experts, and use of funds for experts and other services
25 related to legal representation shall be in accordance with rules and procedures adopted
26 by the Office of Indigent Defense Services.

27 (d) The Office of Indigent Defense Services shall allocate and disburse funds
28 appropriated for legal representation and related services in cases subject to this Article
29 pursuant to rules and procedures established by the Office."

30 **SECTION 14.9.(b)** Effective October 1, 2005, the State's responsibility for
31 providing inmates in the custody of the Department of Correction with legal assistance
32 and access to the courts shall be administered by the Office of Indigent Defense
33 Services. The existing contract between the Department of Correction and Prisoner
34 Legal Services, Inc., shall not be extended or renewed beyond that date.

35 The Director of Indigent Defense Services, in consultation with the
36 Commission on Indigent Defense Services and the Department of Justice, shall
37 determine which types of legal services can best be provided directly to inmates by staff
38 employed by the Office of Indigent Defense Services, which services should be
39 provided by counsel designated by the Office of Indigent Defense Services, and which
40 services should be provided by contract between the Office of Indigent Defense
41 Services and nonprofit organizations or other contract providers.

42 If the Director of Indigent Defense Services determines that, in order to
43 facilitate the transfer of responsibility provided for in this section, it is necessary for
44 Prisoner Legal Services, Inc., to continue providing legal services and access to the
45 courts to inmates beyond the termination of its contract with the Department of
46 Correction on September 30, 2005, the Director may contract with Prisoner Legal
47 Services, Inc., for a period of time to be determined by the Director.

48 **SECTION 14.9.(c)** The sum of one million eight hundred eighty-three
49 thousand eight hundred sixty-five dollars (\$1,883,865) for the 2005-2006 fiscal year and
50 the sum of two million five hundred eleven thousand eight hundred twenty dollars
51 (\$2,511,820) for the 2006-2007 fiscal year shall be transferred from the Department of
52 Correction to the Office of Indigent Defense Services to implement this section.

53 **SECTION 14.9.(d)** Subsections (a) and (b) of this section become effective
54 October 1, 2005. The remainder of this section becomes effective July 1, 2005.

1 Requested by: Senators Thomas, Garrou, Dalton, Hagan

2 **WAKE COUNTY PUBLIC DEFENDER OFFICE FUNDS**

3 **SECTION 14.10.** Of the funds appropriated to the Judicial Department,
4 Office of Indigent Defense Services, in this act, the Office of Indigent Defense Services
5 shall use up to the sum of two million three hundred thousand five hundred thirty-four
6 dollars (\$2,300,534) for the 2005-2006 fiscal year and the sum of two million one
7 hundred eighty-one thousand three hundred twenty-three dollars (\$2,181,323) for the
8 2006-2007 fiscal year to establish a public defender's office in the Tenth Defender
9 District, as authorized by Section 14.4(b) of S.L. 2004-126. The funds shall be used to
10 establish the public defender, 20 assistant public defenders, four investigators, one
11 administrative assistant II, and five legal assistants.

12
13 Requested by: Senators Thomas, Garrou, Dalton, Hagan

14 **OFFICE OF INDIGENT DEFENSE SERVICES EXPANSION FUNDS**

15 **SECTION 14.11.** The Judicial Department, Office of Indigent Defense
16 Services, may use up to the sum of one million sixty-nine thousand six hundred
17 forty-five dollars (\$1,069,645) in appropriated funds during the 2005-2006 fiscal year
18 and up to the sum of one million twenty-three thousand one hundred thirty-five dollars
19 (\$1,023,135) in appropriated funds during the 2006-2007 fiscal year for the expansion
20 of existing offices currently providing legal services to the indigent population under the
21 oversight of the Office of Indigent Defense Services by creating up to 10 new attorney
22 positions and five new support staff positions. These funds may be used for salaries,
23 benefits, equipment, and related expenses. Prior to using funds for this purpose, the
24 Office of Indigent Defense Services shall report to the Chairs of the House and the
25 Senate Appropriations Subcommittees on Justice and Public Safety on the proposed
26 expansion.

27
28 Requested by: Senators Thomas, Garrou, Dalton, Hagan

29 **OFFICE OF INDIGENT DEFENSE SERVICES REPORT**

30 **SECTION 14.12.** The Office of Indigent Defense Services shall report to the
31 Chairs of the Senate and House of Representatives Appropriations Committees and the
32 Chairs of the Senate and House of Representatives Appropriations Subcommittees on
33 Justice and Public Safety by March 1 of each year on:

- 34 (1) The volume and cost of cases handled in each district by assigned
35 counsel or public defenders;
- 36 (2) Actions taken by the Office to improve the cost-effectiveness and
37 quality of indigent defense, including the capital case program;
- 38 (3) Plans for changes in rules, standards, or regulations in the upcoming
39 year; and
- 40 (4) Any recommended changes in law or funding procedures that would
41 assist the Office in improving the management of funds expended for
42 indigent defense services.

43
44 Requested by: Senators Thomas, Garrou, Dalton, Hagan

45 **CLARIFY THAT FEES PAID TO ATTORNEYS REPRESENTING INDIGENT**
46 **CLIENTS SHALL BE FIXED IN ACCORDANCE WITH THE RULES**
47 **ADOPTED BY THE OFFICE OF INDIGENT DEFENSE SERVICES AND**
48 **MAY NOT BE SET AT HIGHER RATES WITHOUT THE APPROVAL OF**
49 **THE OFFICE OF INDIGENT DEFENSE SERVICES**

50 **SECTION 14.13.** G.S. 7A-458 reads as rewritten:

51 **"§ 7A-458. Counsel fees.**

52 The fee to which an attorney who represents an indigent person is entitled shall be
53 fixed in accordance with rules adopted by the Office of Indigent Defense Services. Fees
54 shall be based on the factors normally considered in fixing attorneys' fees, such as the
55 nature of the case, and the time, effort and responsibility involved. Fees shall not be set

1 or ordered at rates higher than those established by the rules adopted under this section
2 without the approval of the Office of Indigent Defense Services. Even if the trial,
3 appeal, hearing or other proceeding is never held, preparation therefor is nevertheless
4 compensable and, in capital cases and other extraordinary cases pending in superior
5 court, a fee for services rendered and payment for expenses incurred may be allowed
6 pending final determination of the case."
7

8 **PART XV. DEPARTMENT OF JUSTICE**

9

10 Requested by: Senators Thomas, Garrou, Dalton, Hagan

11 **USE OF SEIZED AND FORFEITED PROPERTY TRANSFERRED TO STATE** 12 **LAW ENFORCEMENT AGENCIES BY THE FEDERAL GOVERNMENT**

13 **SECTION 15.1.(a)** Assets transferred to the Departments of Justice,
14 Correction, and Crime Control and Public Safety during the 2005-2007 biennium
15 pursuant to applicable federal law shall be credited to the budgets of the respective
16 departments and shall result in an increase of law enforcement resources for those
17 departments. The Departments of Justice, Correction, and Crime Control and Public
18 Safety shall report to the Joint Legislative Commission on Governmental Operations
19 upon receipt of the assets and, before using the assets, shall report on the intended use of
20 the assets and the departmental priorities on which the assets may be expended.

21 **SECTION 15.1.(b)** The General Assembly finds that the use of assets
22 transferred pursuant to federal law for new personnel positions, new projects,
23 acquisition of real property, repair of buildings where the repair includes structural
24 change, and construction of or additions to buildings may result in additional expenses
25 for the State in future fiscal periods. Therefore, the Department of Justice, the
26 Department of Correction, and the Department of Crime Control and Public Safety are
27 prohibited from using these assets for such purposes without the prior approval of the
28 General Assembly.

29 **SECTION 15.1.(c)** Nothing in this section prohibits North Carolina law
30 enforcement agencies from receiving funds from the United States Department of
31 Justice, the United States Department of the Treasury, and the United States Department
32 of Health and Human Services.
33

34 Requested by: Senators Thomas, Garrou, Dalton, Hagan

35 **PRIVATE PROTECTIVE SERVICES AND ALARM SYSTEMS LICENSING** 36 **BOARDS PAY FOR USE OF STATE FACILITIES AND SERVICES**

37 **SECTION 15.2.** The Private Protective Services and Alarm Systems
38 Licensing Boards shall pay the appropriate State agency for the use of physical facilities
39 and services provided to those Boards by the State.
40

41 Requested by: Senators Thomas, Garrou, Dalton, Hagan

42 **CERTAIN LITIGATION EXPENSES TO BE PAID BY CLIENTS**

43 **SECTION 15.3.** Client departments, agencies, and boards shall reimburse
44 the Department of Justice for reasonable court fees, attorney travel and subsistence
45 costs, and other costs directly related to litigation in which the Department of Justice is
46 representing the department, agency, or board.
47

48 Requested by: Senators Thomas, Garrou, Dalton, Hagan

49 **REIMBURSEMENT FOR UNC BOARD OF GOVERNORS LEGAL** 50 **REPRESENTATION**

51 **SECTION 15.4.** The Department of Justice shall be reimbursed by the
52 Board of Governors of The University of North Carolina for two Attorney III positions
53 to provide legal representation to The University of North Carolina System.
54

55 Requested by: Senators Thomas, Garrou, Dalton, Hagan

1 **REPORT ON CRIMINAL RECORD CHECKS CONDUCTED FOR**
2 **CONCEALED HANDGUN PERMITS/STUDY FEE ADJUSTMENT FOR**
3 **CRIMINAL RECORD CHECKS**

4 **SECTION 15.5.(a)** The Department of Justice shall report by January 15
5 each year to the Joint Legislative Commission on Governmental Operations, the Chairs
6 of the Senate and House of Representatives Appropriations Committees, and the Chairs
7 of the Senate and House of Representatives Appropriations Subcommittees on Justice
8 and Public Safety on the receipts, costs for, and number of criminal record checks
9 performed in connection with applications for concealed weapons permits. The report
10 by the Department of Justice shall also include information on the number of
11 applications received and approved for firearms safety courses.

12 **SECTION 15.5.(b)** The Office of State Budget and Management, in
13 consultation with the Department of Justice, shall study the feasibility of adjusting the
14 fees charged for criminal record checks conducted by the Division of Criminal
15 Information of the Department of Justice as a result of the increase in receipts from
16 criminal record checks. The study shall include an assessment of the Division's
17 operational, personnel, and overhead costs related to providing criminal record checks
18 and how those costs have changed since the prior fiscal year. The Office of State Budget
19 and Management shall report its findings and recommendations to the Chairs of the
20 Senate and House of Representatives Appropriations Committees, the Chairs of the
21 Senate and House of Representatives Appropriations Subcommittees on Justice and
22 Public Safety, and the Fiscal Research Division on or before March 1, 2006.

23
24 Requested by: Senators Thomas, Garrou, Dalton, Hagan

25 **NC LEGAL EDUCATION ASSISTANCE FOUNDATION REPORT ON FUNDS**
26 **DISBURSED**

27 **SECTION 15.6.** The North Carolina Legal Education Assistance Foundation
28 shall report by March 1 of each year to the Joint Legislative Commission on
29 Governmental Operations on the expenditure of State funds, the purpose of the
30 expenditures, the number of attorneys receiving funds, the average award amount, the
31 average student loan amount, the number of attorneys on the waiting list, and the
32 average number of years for which attorneys receive loan assistance.

33
34 Requested by: Senators Hagan, Garrou, Dalton

35 **REDUCE BACKLOG OF RAPE KITS**

36 **SECTION 15.7.(a)** The Department of Justice shall contract with private
37 entities to reduce the backlog of rape kits in storage in local law enforcement agencies
38 as of July 1, 2004. The Department shall contract with private entities to analyze bodily
39 fluids, DNA evidence, as "DNA" is defined in G.S. 15A-266.2, or both, from rape kits
40 that are evidence in cases in which a suspect has not been identified. The Department
41 shall maximize the use of federal grant funds to expedite the elimination of the backlog.

42 **SECTION 15.7.(b)** The Department of Justice shall report, on or before
43 February 1, 2006, and annually thereafter to the Chairs of the House of Representatives
44 and Senate Appropriations Subcommittees on Justice and Public Safety on the number
45 of rape kits analyzed by private entities and how many of those analyses resulted in
46 arrests or convictions. The Department shall also report on the number of rape kits
47 analyzed by the SBI Crime Lab, the amount of the remaining backlog, and the estimated
48 time left to eliminate the backlog.

49 **SECTION 15.7.(c)** Except as provided otherwise by this subsection, the
50 Department of Justice shall hire only nonsworn personnel to fill vacant positions in the
51 State Bureau of Investigation laboratory. A position may be filled with a sworn agent in
52 any of the following circumstances: (i) the position is a promotion for a sworn agent
53 who was employed at the State Bureau of Investigation laboratory prior to July 1, 2005,
54 or (ii) the position is a forensic drug chemist position that has as a primary duty
55 "responding to clandestine methamphetamine laboratories."

1
2 Requested by: Senators Thomas, Garrou, Dalton, Hagan

3 **STUDY DNA TESTING AND ANALYSIS COSTS**

4 **SECTION 15.8.** The Office of State Budget and Management, in
5 consultation with the Department of Justice, shall study the cost of testing and analyzing
6 DNA samples. The study shall include all of the following: a determination of the unit
7 cost for analyzing a rape kit and a comparison of that cost with the unit cost for the
8 same analysis when performed by other labs, both public and private; a comparison of
9 the amount of funds and length of time required to eliminate the backlog of rape kits
10 using private labs versus the SBI crime lab; and a survey of the funding sources used by
11 other states for their DNA testing and analysis lab costs. The Office of State Budget and
12 Management shall report its findings and recommendations to the Chairs of the Senate
13 and House of Representatives Appropriations Committees, the Chairs of the Senate and
14 House of Representatives Appropriations Subcommittees on Justice and Public Safety,
15 and the Fiscal Research Division on or before March 1, 2006.

16
17 **PART XVI. DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY**
18 **PREVENTION**

19
20 Requested by: Senators Thomas, Garrou, Dalton, Hagan

21 **S.O.S. ADMINISTRATIVE COST LIMITS**

22 **SECTION 16.1.** Of the funds appropriated to the Department of Juvenile
23 Justice and Delinquency Prevention in this act, not more than four hundred fifty
24 thousand dollars (\$450,000) for the 2005-2006 fiscal year and not more than four
25 hundred fifty thousand dollars (\$450,000) for the 2006-2007 fiscal year may be used to
26 administer the S.O.S. Program, to provide technical assistance to applicants and to local
27 S.O.S. programs, and to evaluate the local S.O.S. programs. The Department may
28 contract with appropriate public or nonprofit agencies to provide the technical
29 assistance, including training and related services.

30
31 Requested by: Senators Thomas, Garrou, Dalton, Hagan

32 **JCPC GRANT REPORTING AND CERTIFICATION**

33 **SECTION 16.2.(a)** On or before May 1 each year, the Department of
34 Juvenile Justice and Delinquency Prevention shall submit to the Joint Legislative
35 Commission on Governmental Operations and the Appropriations Committees of the
36 Senate and House of Representatives a list of the recipients of the grants awarded, or
37 preapproved for award, from funds appropriated to the Department for local Juvenile
38 Crime Prevention Council grants. The list shall include for each recipient the amount of
39 the grant awarded, the membership of the local committee or council administering the
40 award funds on the local level, and a short description of the local services, programs, or
41 projects that will receive funds. The list shall also identify any programs that received
42 grant funds at one time but for which funding has been eliminated by the Department of
43 Juvenile Justice and Delinquency Prevention. A written copy of the list and other
44 information regarding the projects shall also be sent to the Fiscal Research Division of
45 the General Assembly.

46 **SECTION 16.2.(b)** Each county in which local programs receive Juvenile
47 Crime Prevention Council grant funds from the Department of Juvenile Justice and
48 Delinquency Prevention shall certify annually through its local council to the
49 Department that funds received are not used to duplicate or supplant other programs
50 within the county.

51
52 Requested by: Senators Thomas, Garrou, Dalton, Hagan

53 **REPORTS ON CERTAIN PROGRAMS**

54 **SECTION 16.3.(a)** Project Challenge North Carolina, Inc., shall report to
55 the Chairs of the Senate and House of Representatives Appropriations Subcommittees

1 on Justice and Public Safety by April 1 each year on the operation and the effectiveness
2 of its program in providing alternative dispositions and services to juveniles who have
3 been adjudicated delinquent or undisciplined. The report shall include information on:

- 4 (1) The source of referrals for juveniles.
- 5 (2) The types of offenses committed by juveniles participating in the
6 program.
- 7 (3) The amount of time those juveniles spend in the program.
- 8 (4) The number of juveniles who successfully complete the program.
- 9 (5) The number of juveniles who commit additional offenses after
10 completing the program.
- 11 (6) The program's budget and expenditures, including all funding sources.

12 **SECTION 16.3.(b)** The Juvenile Assessment Center shall report to the
13 Chairs of the Senate and House of Representatives Appropriations Subcommittees on
14 Justice and Public Safety on the effectiveness of the Center by April 1 each year. The
15 report shall include information on the number of juveniles served and an evaluation of
16 the effectiveness of juvenile assessment plans and services provided as a result of these
17 plans. In addition, the report shall include information on the Center's budget and
18 expenditures, including all funding sources.

19 **SECTION 16.3.(c)** Communities in Schools shall report to the Chairs of the
20 Senate and House of Representatives Appropriations Subcommittees on Justice and
21 Public Safety, the Joint Legislative Commission on Governmental Operations, the Joint
22 Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, and
23 the Joint Legislative Education Oversight Committee by April 1 each year on the
24 operation and effectiveness of its program. The report shall include information on:

- 25 (1) The number of children served.
- 26 (2) The number of volunteers used.
- 27 (3) The impact on children who have received services from Communities
28 in Schools.
- 29 (4) The program's budget and expenditures, including all funding sources.

30
31 Requested by: Senators Thomas, Garrou, Dalton, Hagan

32 ANNUAL EVALUATION OF COMMUNITY PROGRAMS

33 **SECTION 16.4.** The Department of Juvenile Justice and Delinquency
34 Prevention shall conduct an evaluation of the Eckerd and Camp Woodson wilderness
35 camp programs, the teen court programs, the program that grants funds to the local
36 organizations of the Boys and Girls Clubs established pursuant to Section 21.10 of S.L.
37 1999-237, the Save Our Students program, the Governor's One-on-One Programs, and
38 multipurpose group homes. The teen court report shall include statistical information on
39 the number of juveniles served, the number and type of offenses considered by teen
40 courts, referral sources for teen courts, and the number of juveniles that become
41 court-involved after participation in teen courts. The report on the Boys and Girls Clubs
42 program shall include information on:

- 43 (1) The expenditure of State appropriations on the program;
- 44 (2) The operations and the effectiveness of the program; and
- 45 (3) The number of juveniles served under the program.

46 In conducting the evaluation of each of these programs, the Department shall
47 consider whether participation in each program results in a reduction of court
48 involvement among juveniles. The Department shall also identify whether the programs
49 are achieving the goals and objectives of the Juvenile Justice Act, S.L. 1998-202. The
50 Department shall report the results of the evaluation to the Chairs of the House of
51 Representatives and Senate Appropriations Committees and the Chairs of the
52 Subcommittees on Justice and Public Safety of the House of Representatives and Senate
53 Appropriations Committees by March 1 of each year.

54
55 Requested by: Senators Thomas, Garrou, Dalton, Hagan

STATE FUNDS MAY BE USED AS FEDERAL MATCHING FUNDS

SECTION 16.5. Funds appropriated in this act to the Department of Juvenile Justice and Delinquency Prevention for the 2005-2006 fiscal year may be used as matching funds for the Juvenile Accountability Incentive Block Grants. If North Carolina receives Juvenile Accountability Incentive Block Grants, or a notice of funds to be awarded, the Office of State Budget and Management and the Governor's Crime Commission shall consult with the Department of Juvenile Justice and Delinquency Prevention regarding the criteria for awarding federal funds. The Office of State Budget and Management, the Governor's Crime Commission, and the Department of Juvenile Justice and Delinquency Prevention shall report to the Appropriations Committees of the Senate and House of Representatives and the Joint Legislative Commission on Governmental Operations prior to allocation of the federal funds. The report shall identify the amount of funds to be received for the 2005-2006 fiscal year, the amount of funds anticipated for the 2006-2007 fiscal year, and the allocation of funds by program and purpose.

Requested by: Senators Thomas, Garrou, Dalton, Hagan

IMPLEMENTATION OF TREATMENT STAFFING MODEL AT YOUTH DEVELOPMENT CENTERS

SECTION 16.6.(a) The Department of Juvenile Justice and Delinquency Prevention shall report each December 31, March 31, June 30, and September 30 of the 2005-2007 biennium to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety and to the Joint Corrections, Crime Control, and Juvenile Justice Oversight Committee on the treatment staffing model being piloted at Samarkand and Stonewall Jackson Youth Development Centers. The report shall include a list of total positions at each facility by job class, whether the position is vacant or filled, whether positions were filled from internal employees or new employees, and the training and certification status of each position. The report shall also describe the nature of the treatment program, the criteria for evaluating the program, and how the program is performing in comparison to these criteria. The report shall also describe the training approach to be used to train staff in using treatment methods in youth development centers and provide information on current staff training and staff training planned for the next quarter. The Department shall also develop indicators for evaluating staff performance once the model has been implemented.

SECTION 16.6.(b) The Department of Juvenile Justice and Delinquency Prevention shall report each December 31, March 31, June 30, and September 30 of the 2005-2007 biennium to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the implementation of the treatment staffing model at Dobbs, Dillon, and Juvenile Evaluation Center Youth Development Centers. The Department shall identify the number of positions reallocated to the new treatment job classes and the source of funding for those positions.

Requested by: Senators Thomas, Garrou, Dalton, Hagan

PROGRESS REPORTS ON YOUTH DEVELOPMENT CENTER CAPITAL PROJECTS

SECTION 16.7. The Department of Juvenile Justice and Delinquency Prevention shall report each December 31, March 31, June 30, and September 30 of the 2005-2007 biennium to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety and to the Joint Corrections, Crime Control, and Juvenile Justice Oversight Committee on the Department's progress in the planning, design, and construction of new youth development centers. The report shall include:

- 1 (1) An overall project schedule for each new youth development center
2 showing the original estimated date for construction completion and
3 the original estimated date for occupancy by juvenile offenders,
4 compared to the latest projected dates.
5 (2) An explanation of significant delays in the schedule or any potential
6 cost increase.

7 The Office of State Construction and the Capital Improvement Section of the
8 Office of State Budget and Management shall assist the Department of Juvenile Justice
9 and Delinquency Prevention in the preparation of the report required by this section.

10 11 **PART XVII. DEPARTMENT OF CORRECTION**

12
13 Requested by: Senators Thomas, Garrou, Dalton, Hagan

14 **FEDERAL GRANT REPORTING**

15 **SECTION 17.1.** The Department of Correction, the Department of Justice,
16 the Department of Crime Control and Public Safety, the Judicial Department, and the
17 Department of Juvenile Justice and Delinquency Prevention shall report by May 1 of
18 each year to the Joint Legislative Commission on Governmental Operations, the Chairs
19 of the Senate and House of Representatives Appropriations Committees, and the Chairs
20 of the Senate and House of Representatives Appropriations Subcommittees on Justice
21 and Public Safety on federal grant funds received or preapproved for receipt by those
22 departments. The report shall include information on the amount of grant funds received
23 or preapproved for receipt by each department, the use of the funds, the State match
24 expended to receive the funds, and the period to be covered by each grant. If the
25 department intends to continue the program beyond the end of the grant period, the
26 department shall report on the proposed method for continuing the funding of the
27 program at the end of the grant period. Each department shall also report on any
28 information it may have indicating that the State will be requested to provide future
29 funding for a program presently supported by a local grant.

30
31 Requested by: Senators Thomas, Garrou, Dalton, Hagan

32 **REIMBURSE COUNTIES FOR HOUSING AND EXTRAORDINARY** 33 **MEDICAL COSTS FOR INMATES, PAROLEES, AND POST-RELEASE** 34 **SUPERVISEES AWAITING TRANSFER TO STATE PRISON SYSTEM**

35 **SECTION 17.2.** The Department of Correction may use funds available to
36 the Department for the 2005-2007 biennium to pay the sum of forty dollars (\$40.00) per
37 day as reimbursement to counties for the cost of housing convicted inmates, parolees,
38 and post-release supervisees awaiting transfer to the State prison system, as provided in
39 G.S. 148-29. The Department shall report quarterly to the Joint Legislative Commission
40 on Governmental Operations, the Joint Legislative Corrections, Crime Control, and
41 Juvenile Justice Oversight Committee, the Chairs of the Senate and House of
42 Representatives Appropriations Committees, and the Chairs of the Senate and House of
43 Representatives Appropriations Subcommittees on Justice and Public Safety on the
44 expenditure of funds to reimburse counties for prisoners awaiting transfer and on its
45 progress in reducing the jail backlog.

46
47 Requested by: Senators Thomas, Garrou, Dalton, Hagan

48 **HOLIDAY PAY FOR DEPARTMENT OF CORRECTION STAFF**

49 **SECTION 17.3.** Holiday pay for Department of Correction staff entitled to
50 holiday pay shall be one hundred fifty percent (150%) of regular pay during the
51 2005-2007 biennium, except that the Department of Correction may use funds available
52 to pay up to one hundred seventy-five percent (175%) of regular pay for holiday pay
53 during the 2005-2007 biennium.

54
55 Requested by: Senators Thomas, Garrou, Dalton, Hagan

DEPARTMENT OF CORRECTION SECURITY STAFFING FORMULAS

SECTION 17.4.(a) G.S. 143B-262.5 reads as rewritten:

"§ 143B-262.5. Security Staffing.

(a) ~~The Department of Correction shall conduct security staffing post audits of each prison at least biannually, the first such audit to be completed during the 2002-2003 fiscal year. The initial post audit shall be conducted jointly by Department staff and a consultant, external to the Department, and shall include analysis of the staffing levels assigned for supervision of correctional officers.~~ conduct:

(1) On-site post-audits of every prison at least once every three years;

(2) Regular audits of post-audit charts through the automated post-audit system; and

(3) Other staffing audits as necessary.

(b) ~~The Department of Correction shall update the security staffing relief formula biannually, the first update to be completed during the 2002-2003 fiscal year.~~ at least every three years. Each update shall include a review of all annual training requirements for security staff to determine which of these requirements should be mandatory and the appropriate frequency of the training. The Department shall survey other states to determine which states use a vacancy factor in their staffing relief formulas."

SECTION 17.4.(b) The Department of Correction shall implement the current post-audit by July 1, 2005, and report by October 1, 2005, to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the effect that the new post-audit has had on staffing at each prison.

SECTION 17.4.(c) The Department of Correction shall report on its progress in implementing the staffing recommendations of the National Institute of Corrections to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by April 1, 2006. The report shall include a status report on the implementation of a centralized postaudit control system, the automation of leave records, and the survey of other states' use of a vacancy factor in staffing relief formulas.

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

1 also provide annual summary reports to the Joint Legislative Commission on
2 Governmental Operations and the Joint Legislative Corrections, Crime Control, and
3 Juvenile Justice Oversight Committee on the conversion of these units to other use and
4 on all leases or transfers entered into pursuant to this section.
5

6 Requested by: Senators Thomas, Garrou, Dalton, Hagan

7 **INMATE COSTS/MEDICAL BUDGET FOR PRESCRIPTION DRUGS AND**
8 **INMATE CLOTHING AND LAUNDRY SERVICES**

9 **SECTION 17.6.(a)** If the cost of providing food and health care to inmates
10 housed in the Division of Prisons is anticipated to exceed the continuation budget
11 amounts provided for that purpose in this act, the Department of Correction shall report
12 the reasons for the anticipated cost increase and the source of funds the Department
13 intends to use to cover those additional needs to the Joint Legislative Commission on
14 Governmental Operations, the Chairs of the Senate and House of Representatives
15 Appropriations Committees, and the Chairs of the Senate and House of Representatives
16 Appropriations Subcommittees on Justice and Public Safety.

17 **SECTION 17.6.(b)** Notwithstanding the provisions of G.S. 143-23(a2), the
18 Department of Correction may use funds available during the 2005-2006 fiscal year for
19 the purchase of prescription drugs for inmates if expenditures are projected to exceed
20 the Department's inmate medical continuation budget for prescription drugs. The
21 Department shall consult with the Joint Legislative Commission on Governmental
22 Operations prior to exceeding the continuation budget amount.

23 **SECTION 17.6.(c)** Notwithstanding the provisions of G.S. 143-23(a2), the
24 Department of Correction may use funds available during the 2005-2006 fiscal year for
25 the purchase of clothing and laundry services for inmates if expenditures are projected
26 to exceed the Department's budget for clothing and laundry services. The Department
27 shall consult with the Joint Legislative Commission on Governmental Operations prior
28 to exceeding the continuation budget amount.
29

30 Requested by: Senators Thomas, Garrou, Dalton, Hagan

31 **CONVERSION OF CONTRACTED MEDICAL POSITIONS**

32 **SECTION 17.7.(a)** The Department of Correction may convert contract
33 medical positions to permanent State medical positions if the Department can document
34 that the total savings generated will exceed the total cost of the new positions for each
35 facility. Where practical, the Department shall convert contract positions to permanent
36 positions by using existing vacancies in medical positions.

37 **SECTION 17.7.(b)** The Department of Correction shall report by April 1,
38 2006, to the Joint Legislative Commission on Governmental Operations and the Chairs
39 of the Senate and House of Representatives Appropriations Subcommittees on Justice
40 and Public Safety on all conversions made pursuant to this section, by type of position
41 and location, and on the savings generated at each correctional facility.
42

43 Requested by: Senators Thomas, Garrou, Dalton, Hagan

44 **LIMIT USE OF OPERATIONAL FUNDS**

45 **SECTION 17.8.** Funds appropriated in this act to the Department of
46 Correction for operational costs for additional facilities shall be used for personnel and
47 operating expenses set forth in the budget approved by the General Assembly in this act.
48 These funds shall not be expended for any other purpose, except as provided for in this
49 act, and shall not be expended for additional prison personnel positions until the new
50 facilities are within 120 days of projected completion, except for certain management,
51 security, and support positions necessary to prepare the facility for opening, as
52 authorized in the budget approved by the General Assembly.
53

54 Requested by: Senators Thomas, Garrou, Dalton, Hagan

55 **FEDERAL GRANT MATCHING FUNDS**

1 **SECTION 17.9.** Notwithstanding the provisions of G.S. 148-2, the
2 Department of Correction may use up to the sum of seven hundred fifty thousand
3 dollars (\$750,000) from funds available to the Department to provide the State match
4 needed in order to receive federal grant funds. Prior to using funds for this purpose, the
5 Department shall report to the Chairs of the Senate and House of Representatives
6 Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative
7 Commission on Governmental Operations on the grants to be matched using these
8 funds.

9
10 Requested by: Senators Thomas, Garrou, Dalton, Hagan

11 **COMPUTER/DATA PROCESSING SERVICES FUNDS**

12 **SECTION 17.10.** Notwithstanding the provisions of G.S. 143-23(a2), the
13 Department of Correction may use funds available during the 2005-2006 fiscal year for
14 expenses for computer/data processing services if expenditures exceed the Department's
15 continuation budget amount for those services. The Department shall report to the Joint
16 Legislative Commission on Governmental Operations prior to exceeding the
17 continuation budget amount.

18
19 Requested by: Senators Thomas, Garrou, Dalton, Hagan

20 **MEDIUM CUSTODY ROAD CREW COMPENSATION/COMMUNITY WORK**
21 **CREWS**

22 **SECTION 17.11.(a)** Of funds appropriated to the Department of
23 Transportation by this act, the sum of ten million dollars (\$10,000,000) per year shall be
24 transferred by the Department of Transportation to the Department of Correction during
25 the 2005-2007 biennium for the actual costs of highway-related labor performed by
26 medium-custody prisoners, as authorized by G.S. 148-26.5. This transfer shall be made
27 quarterly in the amount of two million five hundred thousand dollars (\$2,500,000). The
28 Department of Transportation may use funds appropriated by this act to pay an
29 additional amount exceeding the ten million dollars (\$10,000,000), but those payments
30 shall be subject to negotiations among the Department of Transportation, the
31 Department of Correction, and the Office of State Budget and Management prior to
32 payment by the Department of Transportation.

33 **SECTION 17.11.(b)** The Department of Correction may use up to 39 work
34 crews for Department of Transportation litter control projects. The Department of
35 Transportation shall transfer at least one million three hundred thousand dollars
36 (\$1,300,000) per year from the Highway Fund to the Department of Correction during
37 the 2005-2007 biennium to cover the cost of those work crews. Should the two
38 departments determine that the actual cost of operating 39 work crews exceeds that
39 amount, the Department of Transportation shall transfer an additional amount as agreed
40 upon by the two departments and the Office of State Budget and Management.

41
42 Requested by: Senators Thomas, Garrou, Dalton, Hagan

43 **INMATE CUSTODY AND CLASSIFICATION SYSTEM**

44 **SECTION 17.12.(a)** The Department of Correction shall review the current
45 inmate custody and classification system, with the assistance of consultants from the
46 National Institute of Corrections. The review shall focus primarily on the custody
47 classification instrument used to assess inmate custody and the policies and practice of
48 overriding the assessed custody level. The review should focus particularly on
49 determining whether the instrument is effective in predicting custody classification,
50 analyzing the current override rate by custody level, and assessing any need for changes
51 in the override policy. The Department should request assistance from the National
52 Institute of Corrections in obtaining (i) a comparison between Department of Correction
53 override rates and policies and those of other states; (ii) suggestions on an acceptable
54 override rate for classification systems; and (iii) any recommendations the NIC may
55 have on the Department's custody classification instrument and override policy.

1 **SECTION 17.12.(b)** The Department shall report its findings and
2 recommendations to the Chairs of the House and Senate Appropriations Subcommittees
3 on Justice and Public Safety no later than April 15, 2006.
4

5 Requested by: Senators Garrou, Dalton, Hagan

6 **EXTEND LIMITS OF CONFINEMENT/TERMINALLY ILL AND**
7 **PERMANENTLY AND TOTALLY DISABLED INMATES**

8 **SECTION 17.13.** G.S. 148-4 reads as rewritten:

9 **"§ 148-4. Control and custody of prisoners; authorizing prisoner to leave place of**
10 **confinement.**

11 The Secretary of Correction shall have control and custody of all prisoners serving
12 sentence in the State prison system, and such prisoners shall be subject to all the rules
13 and regulations legally adopted for the government thereof. Any sentence to
14 imprisonment in any unit of the State prison system, or to jail to be assigned to work
15 under the State Department of Correction, shall be construed as a commitment, for such
16 terms of imprisonment as the court may direct, to the custody of the Secretary of
17 Correction or his authorized representative, who shall designate the places of
18 confinement within the State prison system where the sentences of all such persons shall
19 be served. The authorized agents of the Secretary shall have all the authority of peace
20 officers for the purpose of transferring prisoners from place to place in the State as their
21 duties might require and for apprehending, arresting, and returning to prison escaped
22 prisoners, and may be commissioned by the Governor, either generally or specially, as
23 special officers for returning escaped prisoners or other fugitives from justice from
24 outside the State, when such persons have been extradited or voluntarily surrendered.
25 Employees of departments, institutions, agencies, and political subdivisions of the State
26 hiring prisoners to perform work outside prison confines may be designated as the
27 authorized agents of the Secretary of Correction for the purpose of maintaining control
28 and custody of prisoners who may be placed under the supervision and control of such
29 employees, including guarding and transferring such prisoners from place to place in the
30 State as their duties might require, and apprehending and arresting escaped prisoners
31 and returning them to prison. The governing authorities of the State prison system are
32 authorized to determine by rules and regulations the manner of designating these agents
33 and placing prisoners under their supervision and control, which rules and regulations
34 shall be established in the same manner as other rules and regulations for the
35 government of the State prison system.

36 The Secretary of Correction may extend the limits of the place of confinement of a
37 prisoner, as to whom there is reasonable cause to believe he will honor his trust, by
38 authorizing him, under prescribed conditions, to leave the confines of that place
39 unaccompanied by a custodial agent for a prescribed period of time to

- 40 (1) Contact prospective employers; or
- 41 (2) Secure a suitable residence for use when released on parole or upon
42 discharge; or
- 43 (3) Obtain medical services not otherwise available; or
- 44 (4) Participate in a training program in the community; or
- 45 (5) Visit or attend the funeral of a spouse, child (including stepchild,
46 adopted child or child as to whom the prisoner, though not a natural
47 parent, has acted in the place of a parent), parent (including a person
48 though not a natural parent, has acted in the place of a parent), brother,
49 or sister; or
- 50 (6) Participate in community-based programs of rehabilitation, including,
51 but not limited to the existing community volunteer and home-leave
52 programs, pre-release and after-care programs as may be provided for
53 and administered by the Secretary of Correction and other programs
54 determined by the Secretary of Correction to be consistent with the
55 prisoner's rehabilitation and return to society; or

- 1 (7) Be on maternity leave, for a period of time not to exceed 60 days. The
 2 county departments of social services are expected to cooperate with
 3 officials at the North Carolina Correctional Center for Women to
 4 coordinate prenatal care, financial services, and placement of the child;
 5 or
 6 (8) Receive palliative care, only in the case of a terminally ill inmate or a
 7 permanently and totally disabled inmate that the Secretary finds no
 8 longer poses ~~a threat to society~~, a significant public safety risk, and
 9 only after consultation with any victims of the inmate or the victims'
 10 families. For purposes of this subdivision, the term "terminally ill"
 11 describes an inmate who, as determined by a licensed physician, has an
 12 incurable condition caused by illness or disease that did not exist at the
 13 time of sentencing, that will likely produce death within 12 months. six
 14 months, and that is so debilitating that it is highly unlikely that the
 15 inmate poses a significant public safety risk. For purposes of this
 16 subdivision, the term "permanently and totally disabled" describes an
 17 inmate who, as determined by a licensed physician, suffers from
 18 permanent and irreversible physical incapacitation as a result of an
 19 existing physical or medical ~~condition.~~ condition that did not exist at
 20 the time of sentencing and that is so incapacitating that it is highly
 21 unlikely that the inmate poses a significant public safety risk. The
 22 Department's medical director shall notify the Secretary immediately
 23 when an inmate has been classified as terminally ill and shall provide
 24 regular reports on inmates classified as permanently and totally
 25 disabled. The Secretary shall act expeditiously in determining whether
 26 to extend the limits of confinement under this subdivision upon
 27 receiving notice that an inmate has been classified as terminally ill or
 28 permanently and totally disabled and, in the case of a terminally ill
 29 inmate, the Secretary shall make a good faith effort to reach a
 30 determination within 30 days of receiving notice of the inmate's
 31 terminal condition.

32 The willful failure of a prisoner to remain within the extended limits of his confinement,
 33 or to return within the time prescribed to the place of confinement designated by the
 34 Secretary of Correction, shall be deemed an escape from the custody of the Secretary of
 35 Correction punishable as provided in G.S. 148-45."

36
 37 Requested by: Senators Thomas, Garrou, Dalton, Hagan

38 **PARTIAL REIMBURSEMENT/INMATE COMMUNITY WORK CREWS AND**
 39 **INMATE LABOR CONTRACTS**

40 **SECTION 17.14.(a)** G.S. 148-26 is amended by adding a new subsection to
 41 read:

42 "(e1) Departments, institutions, agencies, and political subdivisions of the State
 43 using inmate community work crews or inmate labor contracts as authorized by this
 44 section shall reimburse the Department of Correction for a portion of the costs of
 45 operating inmate community work crews and a portion of the administrative expenses of
 46 managing inmate labor contracts. In determining the amount of reimbursement to
 47 require under this subsection, the Department may consider requiring a smaller amount
 48 from entities that can demonstrate a limited ability to pay for inmate labor."

49 **SECTION 17.14.(b)** In determining reimbursement amounts required by
 50 G.S. 148-26(e1), the Department of Correction shall attempt to recoup at least the sum
 51 of six hundred thousand dollars (\$600,000) for each year of the 2005-2007 biennium in
 52 inmate work crew costs and administrative expenses of managing inmate labor
 53 contracts.

54 **SECTION 17.14.(c)** The Department of Correction shall report by March 1,
 55 2006, to the Chairs of the Senate and House of Representatives Appropriations

1 Subcommittees on Justice and Public Safety and the Joint Legislative Corrections,
2 Crime Control, and Juvenile Justice Oversight Committee on the inmate labor contracts
3 and community work programs, identifying total project man-hours by client agency,
4 the total operating costs of these programs, the benefits of these programs, and the
5 potential for reimbursement that more closely reflects the actual cost of all projects.
6

7 Requested by: Senators Rand, Thomas, Garrou, Dalton, Hagan

8 **PROVIDER RATES FOR INMATE HEALTH SERVICES NOT TO EXCEED**
9 **PROVIDER RATES UNDER TEACHERS' AND STATE EMPLOYEES'**
10 **COMPREHENSIVE MAJOR MEDICAL PLAN**

11 **SECTION 17.15.(a)** G.S. 148-19 reads as rewritten:

12 **"§ 148-19. Health services.**

13 (a) The general policies, rules and regulations of the Department of Correction
14 shall prescribe standards for health services to prisoners, which shall include preventive,
15 diagnostic, and therapeutic measures on both an outpatient and a hospital basis, for all
16 types of patients. A prisoner may be taken, when necessary, to a medical facility outside
17 the State prison system. The Department of Correction shall seek the cooperation of
18 public and private agencies, institutions, officials and individuals in the development of
19 adequate health services to prisoners.

20 (b) Upon request of the Secretary of Correction, the Secretary of Health and
21 Human Services may detail personnel employed by the Department of Health and
22 Human Services to the Department of Correction for the purpose of supervising and
23 furnishing medical, psychiatric, psychological, dental, and other technical and scientific
24 services to the Department of Correction. The compensation, allowances, and expenses
25 of the personnel detailed under this section may be paid from applicable appropriations
26 to the Department of Health and Human Services, and reimbursed from applicable
27 appropriations to the Department of Correction. The Secretary of Correction may make
28 similar arrangements with any other agency of State government able and willing to aid
29 the Department of Correction to meet the needs of prisoners for health services.
30 Reimbursement rates to public and private agencies and health care providers for health
31 care services rendered to prisoners shall be established as provided in G.S. 148-22.

32 (c) Each prisoner committed to the State Department of Correction shall receive
33 a physical and mental examination by a health care professional authorized by the North
34 Carolina Medical Board to perform such examinations as soon as practicable after
35 admission and before being assigned to work. The prisoner's work and other
36 assignments shall be made with due regard for the prisoner's physical and mental
37 condition.

38 (d) The Commission for Mental Health, Developmental Disabilities, and
39 Substance Abuse Services shall adopt standards for the delivery of mental health and
40 mental retardation services to inmates in the custody of the Department of Correction.
41 The Commission for Mental Health, Developmental Disabilities, and Substance Abuse
42 Services shall give the Secretary of Correction an opportunity to review and comment
43 on proposed standards prior to promulgation of such standards; however, final authority
44 to determine such standards remains with the Commission. The Secretary of the
45 Department of Health and Human Services shall designate an agency or agencies within
46 the Department of Health and Human Services to monitor the implementation by the
47 Department of Correction of these standards and of substance abuse standards adopted
48 by the Department of Correction upon the advice of the Substance Abuse Advisory
49 Council established pursuant to G.S. 143B-270. The Secretary of Health and Human
50 Services shall send a written report on the progress which the Department of Correction
51 has made on the implementation of such standards to the Governor, the Lieutenant
52 Governor, and the Speaker of the House. Such reports shall be made on an annual basis
53 beginning January 1, 1978."

54 **SECTION 17.15.(b)** G.S. 148-22 reads as rewritten:

55 **"§ 148-22. Treatment programs.**

1 (a) The general policies, rules and regulations of the Department of Correction
2 shall provide for humane treatment of prisoners and for programs to effect their
3 correction and return to the community as promptly as practicable. Visits and
4 correspondence between prisoners and approved friends shall be authorized under
5 reasonable conditions, and family members shall be permitted and encouraged to
6 maintain close contact with the prisoners unless such contacts prove to be hurtful.
7 Casework, counseling, and psychotherapy services provided to prisoners may be
8 extended to include members of the prisoner's family if practicable and necessary to
9 achieve the purposes of such programs. Education, library, recreation, and vocational
10 training programs shall be developed so as to coordinate with corresponding services
11 and opportunities which will be available to the prisoner when he is released. Programs
12 may be established for the treatment and training of mentally retarded prisoners and
13 other special groups. These programs may be operated in segregated sections of
14 facilities housing other prisoners or in separate facilities.

15 (b) The Department of Correction may cooperate with and seek the cooperation
16 of public and private agencies, institutions, officials, and individuals in the development
17 and conduct of programs designed to give persons committed to the Department
18 opportunities for physical, mental and moral improvement. The Department may enter
19 into agreements with other agencies of federal, State or local government and with
20 private agencies to promote the most effective use of available resources.

21 Specifically the Secretary of Correction may enter into contracts or agreements with
22 appropriate public or private agencies or providers offering needed services including
23 health, mental health, mental retardation, substance abuse, rehabilitative or training
24 services for such inmates of the Department of Correction as the Secretary may deem
25 eligible. These agencies and providers shall be reimbursed from applicable
26 appropriations to the Department of Correction for health services rendered at a rate not
27 to exceed ~~that which such agencies normally receive for serving their regular clients~~ the
28 contract rate paid for the same or similar service or diagnostic-related grouping under
29 the Teachers' and State Employees' Comprehensive Major Medical Plan ("Plan") for
30 Plan members. Before paying the claim approved by the Secretary, the Secretary of
31 Correction shall submit the claim to the Plan for verification of the rate charged under
32 the claim in accordance with procedures established by the Executive Administrator and
33 Board of Trustees of the Plan. The Department of Correction shall, from State
34 appropriations and any other funds available for this purpose, transfer to the Teachers'
35 and State Employees' Comprehensive Major Medical Plan funds in the amount
36 determined by the Plan as necessary to cover the Plan's administrative costs for
37 verifying claim rates. The Secretary may contract for the housing of work-release
38 inmates at county jails and local confinement facilities. Inmates may be placed in the
39 care of such agencies but shall remain the responsibility of the Department and shall be
40 subject to the complete supervision of the Department. The Department may reimburse
41 such agencies for the support of such inmates at a rate not in excess of the average daily
42 cost of inmate care in the corrections unit to which the inmate would otherwise be
43 assigned."

44 **SECTION 17.15.(c)** Article 3 of Chapter 135 of the General Statutes is
45 amended by adding the following new Part to read:

46 "Part 6. Administrative Services to Other State Agencies.

47 **"§ 135-43. Verification of Plan rates for health services provided to prison inmates.**

48 As used in this Part, "Plan" means the North Carolina Teachers' and State
49 Employees' Comprehensive Major Medical Plan. Upon receipt of a claim for health
50 services approved by the Secretary of Correction, the Plan shall review the claim rates
51 and shall verify to the Secretary of Correction that the rates applied in the claim do not
52 exceed the rates applicable under the Plan for the same or similar services or
53 diagnostic-related grouping code for Plan members. Nothing in this section shall be
54 construed as providing Plan benefits to prison inmates. The Plan's self-insured

1 indemnity program shall not incur any financial obligations for claims submitted by the
2 Secretary of Correction for health services rendered to prison inmates."
3

4 Requested by: Senators Kerr, Thomas, Garrou, Dalton, Hagan

5 **REPLACEMENT OF UMSTEAD LAUNDRY**

6 **SECTION 17.16.** In preparation for the scheduled closing of Umstead
7 Hospital in 2007, the Department of Correction shall develop a plan for the replacement
8 of the Correction Enterprises laundry operation at Umstead Hospital and report that plan
9 to the Chairs of the Senate and House of Representatives Appropriations
10 Subcommittees on Justice and Public Safety by May 1, 2006.
11

12 Requested by: Senators Thomas, Garrou, Dalton, Hagan

13 **STAFFING STUDY OF UNIT MANAGEMENT**

14 **SECTION 17.17.** The Department of Correction shall conduct an
15 organization and staffing study of unit management in the State prison system, focusing
16 on the 18 prison facilities that use unit management. The Department shall review
17 workload and staffing at each of the prisons and make recommendations for staffing
18 changes and staffing efficiencies. The study shall consider the responsibilities and
19 workloads of custody supervisors in relation to unit managers and determine whether
20 certain functions should be the responsibility of custody supervisors or program staff.

21 The Department shall report its findings and recommendations to the Chairs
22 of the House and Senate Appropriations Subcommittees on Justice and Public Safety
23 and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight
24 Committee by March 1, 2006.
25

26 Requested by: Senators Thomas, Dalton, Garrou, Hagan

27 **STUDY EXPANSION AT CLEVELAND CORRECTIONAL CENTER**

28 **SECTION 17.18.** As part of its development and update of its long-range
29 prison housing plan, the Department of Correction shall consider the feasibility of
30 expanding minimum custody bed capacity at the Cleveland Correctional Center. The
31 study shall include an engineering analysis of the site and a cost analysis of either
32 expanding the current facility or building a stand-alone minimum custody prison. The
33 cost analysis shall include a determination of possible savings by using inmate labor to
34 assist with construction. The Department of Correction shall report its findings to the
35 Chairs of the Senate and House of Representatives Appropriations Committees and the
36 Chairs of the Senate and House of Representatives Appropriations Subcommittees on
37 Justice and Public Safety by April 1, 2006.
38

39 Requested by: Senators Thomas, Garrou, Dalton, Hagan

40 **REPORT ON ELECTRONIC MONITORING COSTS**

41 **SECTION 17.19.** The Department of Correction shall report by March 1 of
42 each year to the Chairs of the Senate and House of Representatives Appropriations
43 Committees and the Chairs of the Senate and House of Representatives Appropriations
44 Subcommittees on Justice and Public Safety on its efforts to increase the use of
45 electronic monitoring of sentenced offenders in the community as an alternative to the
46 incarceration of probation violators. The report shall also document the geographical
47 distribution of electronic monitoring use compared to other intermediate sanctions. The
48 Department shall also analyze the reasons for the underutilization of the electronic
49 monitoring program and include its findings in the report.
50

51 Requested by: Senators Thomas, Garrou, Dalton, Hagan

52 **REPORT ON PROBATION AND PAROLE CASELOADS**

53 **SECTION 17.20.(a)** The Department of Correction shall report by March 1
54 of each year to the Chairs of the Senate and House of Representatives Appropriations
55 Subcommittees on Justice and Public Safety and the Joint Legislative Corrections,

1 Crime Control, and Juvenile Justice Oversight Committee on caseload averages for
2 probation and parole officers. The report shall include:

- 3 (1) Data on current caseload averages for Probation Parole Officer I,
4 Probation Parole Officer II, and Probation Parole Officer III positions;
- 5 (2) An analysis of the optimal caseloads for these officer classifications;
- 6 (3) An assessment of the role of surveillance officers;
- 7 (4) The number and role of paraprofessionals in supervising low-risk
8 caseloads;
- 9 (5) An update on the Department's implementation of the
10 recommendations contained in the National Institute of Correction
11 study conducted on the Division of Community Corrections in 2004;
- 12 (6) The selection of a risk assessment and the resulting distribution of
13 offenders among risk levels; and
- 14 (7) Any position reallocations in the previous 12 months, and the reasons
15 for and fiscal impact of those reallocations.

16 **SECTION 17.20.(b)** The Department of Correction shall conduct a study of
17 probation/parole officer workload at least biannually. The study shall include analysis of
18 the type of offenders supervised, the distribution of the probation/parole officers' time
19 by type of activity, the caseload carried by the officers, and comparisons to practices in
20 other states. The study shall be used to determine whether the caseload goals established
21 by the Structured Sentencing Act are still appropriate, based on the nature of the
22 offenders supervised and the time required to supervise those offenders.

23 **SECTION 17.20.(c)** The Department of Correction shall report the results of
24 the study and recommendations for any adjustments to caseload goals to the Senate and
25 House of Representatives Appropriations Subcommittees on Justice and Public Safety
26 by January 1, 2007.

27
28 Requested by: Senators Thomas, Garrou, Dalton, Hagan

29 **COMMUNITY SERVICE WORK PROGRAM**

30 **SECTION 17.21.** The Department of Correction shall report to the Chairs of
31 the Senate and House of Representatives Appropriations Subcommittees on Justice and
32 Public Safety by February 1 of each year on the integration of the Community Service
33 Work Program into the Division of Community Corrections, including the Department's
34 ability to monitor the collection of offender payments from unsupervised offenders
35 sentenced to community service. The Department shall also report to the Chairs of the
36 Senate and House of Representatives Appropriations Subcommittees on Justice and
37 Public Safety by February 1 of each year on the average caseloads of Community
38 Service Work Program coordinators, by district, division, and statewide. The report
39 shall also include the money collected, the type and value of the work performed, and
40 the number of offenders in the Community Service Work Program, by type of referral
41 (i.e. parole, supervised probation, unsupervised probation or community punishment,
42 DWI, or any other agency referrals).

43
44 Requested by: Senators Thomas, Garrou, Dalton, Hagan

45 **REPORTS ON NONPROFIT PROGRAMS**

46 **SECTION 17.22.(a)** Funds appropriated in this act to the Department of
47 Correction to support the programs of Harriet's House may be used for program
48 operating costs, the purchase of equipment, and the rental of real property to serve
49 women released from prison with children in their custody. Harriet's House shall report
50 by February 1 of each year to the Joint Legislative Commission on Governmental
51 Operations on the expenditure of State appropriations and on the effectiveness of the
52 program, including information on the number of clients served, the number of clients
53 who successfully complete the Harriet's House program, and the number of clients who
54 have been rearrested within three years of successfully completing the program. The
55 report shall provide financial and program data for the complete fiscal year prior to the

1 year in which the report is submitted. The financial report shall identify all funding
2 sources and amounts.

3 **SECTION 17.22.(b)** Summit House shall report by February 1 of each year
4 to the Joint Legislative Commission on Governmental Operations on the expenditure of
5 State appropriations and on the effectiveness of the program, including information on
6 the number of clients served, the number of clients who have had their probation
7 revoked, the number of clients who successfully complete the program while housed at
8 Summit House, Inc., and the number of clients who have been rearrested within three
9 years of successfully completing the program. The report shall provide financial and
10 program data for the complete fiscal year prior to the year in which the report is
11 submitted. The financial report shall identify all funding sources and amounts.

12 **SECTION 17.22.(c)** Women at Risk shall report by February 1 of each year
13 to the Joint Legislative Commission on Governmental Operations on the expenditure of
14 State funds and on the effectiveness of the program, including information on the
15 number of clients served, the number of clients who have had their probation revoked,
16 the number of clients who have successfully completed the program, and the number of
17 clients who have been rearrested within three years of successfully completing the
18 program. The report shall provide financial and program data for the complete fiscal
19 year prior to the year in which the report is submitted. The financial report shall identify
20 all funding sources and amounts.

21
22 Requested by: Senators Thomas, Garrou, Dalton, Hagan

23 **CRIMINAL JUSTICE PARTNERSHIP PROGRAM**

24 **SECTION 17.23.(a)** It is the intent of the General Assembly that State
25 Criminal Justice Partnership Program funds not be used to fund case manager positions
26 when those services can be reasonably provided by Division of Community Corrections
27 personnel or by the Treatment Alternatives to Street Crime (TASC) Program in the
28 Department of Health and Human Services.

29 **SECTION 17.23.(b)** Notwithstanding the provisions of G.S. 143B-273.15
30 specifying that grants to participating counties are for the full fiscal year and that
31 unobligated funds are returned to the State-County Criminal Justice Partnership
32 Account at the end of the grant period, the Department of Correction may reallocate
33 unspent or unclaimed funds distributed to counties participating in the State-County
34 Criminal Justice Partnership Program in an effort to maintain the level of services
35 realized in previous fiscal years.

36 **SECTION 17.23.(c)** The Department of Correction may not deny funds to a
37 county to support both a residential program and a day reporting center if the
38 Department of Correction determines that the county has a demonstrated need and a
39 fully developed plan for each type of sanction.

40 **SECTION 17.23.(d)** The Department of Correction shall report by February
41 1 of each year to the Chairs of the Senate and House of Representatives Appropriations
42 Committees, the Senate and House of Representatives Appropriations Subcommittees
43 on Justice and Public Safety, and the Joint Legislative Corrections, Crime Control, and
44 Juvenile Justice Oversight Committee on the status of the State-County Criminal Justice
45 Partnership Program. The report shall include the following information:

- 46 (1) The amount of funds carried over from the prior fiscal year;
- 47 (2) The dollar amount and purpose of grants awarded to counties as
48 discretionary grants for the current fiscal year;
- 49 (3) Any counties the Department anticipates will submit requests for new
50 implementation grants;
- 51 (4) An update on efforts to ensure that all counties make use of the
52 electronic reporting system, including the number of counties
53 submitting offender participation data via the system;
- 54 (5) An analysis of offender participation data received, including data on
55 each program's utilization and capacity;

- 1 (6) An analysis of comparable programs, prepared by the Research and
2 Planning Division of the Department of Correction, and a summary of
3 the reports prepared by county Criminal Justice Partnerships Advisory
4 Boards; and
5 (7) An evaluation of Criminal Justice Partnership programs based upon
6 evaluation standards designed by the Division of Community
7 Corrections in consultation with the Fiscal Research Division and the
8 Department of Correction, Division of Research and Planning.

9 **SECTION 17.23.(e)** G.S. 143B-273.4 reads as rewritten:

10 **"§ 143B-273.4. Eligible population.**

11 (a) An eligible offender is an adult offender who ~~either is in confinement~~
12 ~~awaiting trial, or~~ was convicted of a misdemeanor or a felony offense and received a
13 nonincarcerative sentence of an intermediate punishment or is serving a term of parole
14 or post-release supervision after serving an active sentence of imprisonment.

15 (b) The priority populations for programs funded under this Article shall be:

- 16 (1) ~~Offenders be offenders~~ sentenced to intermediate punishments; and
17 (2) ~~Offenders who are appropriate for release from jail prior to trial under~~
18 ~~the supervision of a pretrial monitoring program.~~ punishments."

19 **SECTION 17.23.(f)** G.S. 143B-273.15 reads as rewritten:

20 **"§ 143B-273.15. Funding formula.**

21 To determine the grant amount for which a county or counties may apply, the
22 granting authority shall apply the following formula:

- 23 (1) ~~Twenty percent (20%)~~ Twenty-five percent (25%) based on a fixed
24 equal dollar amount for each county;
25 (2) ~~Sixty percent (60%)~~ Fifty percent (50%) based on the county share of
26 the State population; and
27 (3) ~~Twenty percent (20%)~~ Twenty-five percent (25%) based on the
28 ~~supervised probation admissions~~ intermediate punishment entry rate
29 ~~for the county.~~ county, using the total of the three most recent years of
30 data available divided by the average county population for that same
31 period.

32 The sum of the amounts in subdivisions (1), (2), and (3) is the total amount of the
33 funding that a county may apply for under this subsection.

34 Grants to participating counties are for a period of one fiscal year with unobligated
35 funds being returned to the Account at the end of the grant period. Funds are provided
36 to participating counties on a reimbursement basis unless a county documents a need for
37 an advance of grant funds."

38 **SECTION 17.23.(g)** For the 2005-2006 fiscal year, notwithstanding the
39 formula in G.S. 143B-273.15, each county's formula allocation shall be capped at no
40 less than ninety-five percent (95%) and no greater than one hundred twenty percent
41 (120%) of the funds allocated to that county for the 2004-2005 fiscal year. After
42 determining the capped formula allocations, funds that were used in the 2003-2004
43 fiscal year for pretrial release programs shall be reallocated among all participating
44 counties using the formula in G.S. 143B-273.15 and dedicated to sentenced offender
45 programs. For the 2006-2007 fiscal year, the same procedures shall be used, except that
46 the capped amounts shall be no less than ninety percent (90%) and no greater than one
47 hundred thirty percent (130%) of the funds allocated to that county for the 2004-2005
48 fiscal year.

49
50 Requested by: Senators Thomas, Garrou, Dalton, Hagan

51 **REPORT ON INMATES ELIGIBLE FOR PAROLE**

52 **SECTION 17.24.** The Post-Release Supervision and Parole Commission
53 shall report by January 15 and July 15 of each year to the Senate and House of
54 Representatives Appropriations Subcommittees on Justice and Public Safety and the

1 Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee
2 on inmates eligible for parole. These reports shall include at least the following:

- 3 (1) The total number of Fair Sentencing and Pre-Fair Sentencing inmates
4 that were parole-eligible during the current fiscal year and the total
5 number of those inmates that were paroled. The report should group
6 these inmates by offense type, custody classification, and type of
7 parole. The report should also include a more specific analysis of those
8 inmates who were parole-eligible and assigned to minimum custody
9 classification but not released;
- 10 (2) The average time served, by offense class, of Fair Sentencing and
11 Pre-Fair Sentencing inmates compared to inmates sentenced under
12 Structured Sentencing; and
- 13 (3) The projected number of parole-eligible inmates to be paroled or
14 released by the end of the 2007-2008 fiscal year and by the end of each
15 of the next five fiscal years, beginning with the 2008-2009 fiscal year.
16

17 Requested by: Senators Thomas, Garrou, Dalton, Hagan

18 **PROVIDE THAT THE TERMS OF THE MEMBERS OF THE POST-RELEASE**
19 **SUPERVISION AND PAROLE COMMISSION SERVING ON JUNE 30,**
20 **2005, EXPIRE ON THAT DATE AND RESTRUCTURE THE COMMISSION**
21 **TO CONSIST OF ONE FULL-TIME MEMBER AND TWO HALF-TIME**
22 **MEMBERS**

23 **SECTION 17.25.(a)** G.S. 143B-267 reads as rewritten:

24 **"§ 143B-267. Post-Release Supervision and Parole Commission – members;**
25 **selection; removal; chairman; compensation; quorum; services.**

26 ~~The Effective July 1, 2005, the Post-Release Supervision and Parole Commission~~
27 ~~shall consist of three one full-time members. member and two half-time members.~~ The
28 three ~~full-time~~ members shall be appointed by the Governor from persons whose
29 recognized ability, training, experience, and character qualify them for service on the
30 Commission. The terms of office of ~~the five members presently any members~~ serving
31 on the Commission ~~on June 30, 2005, shall expire on July 31, 1999. that date. The term~~
32 ~~of one of the members appointed effective August 1, 1999, shall be for one year. The~~
33 ~~term of one of the members appointed effective August 1, 1999, shall be for two years.~~
34 ~~The term of one of the members appointed effective August 1, 1999, shall be for three~~
35 ~~years. Thereafter, the~~ The terms of office of persons appointed by the Governor as
36 members of the Commission shall be for four years or until their successors are
37 appointed and qualify. Any appointment to fill a vacancy on the Commission created by
38 the resignation, removal, death or disability of a ~~full-time~~ member shall be for the
39 balance of the unexpired term only.

40 The Governor shall have the authority to remove any member of the Commission
41 from office for misfeasance, malfeasance or nonfeasance, pursuant to the provisions of
42 G.S. 143B-13. The Governor shall designate a ~~full-time~~ member of the Commission to
43 serve as ~~chairman~~ chair of the Commission at the pleasure of the Governor.

44 The granting, denying, revoking, or rescinding of parole, the authorization of
45 work-release privileges to a prisoner, or any other matters of business coming before the
46 Commission for consideration and action shall be decided by majority vote of the full
47 Commission.

48 The ~~full-time~~ members of the Commission shall receive the salary fixed by the
49 General Assembly in the Current Operations Appropriations Act and shall receive
50 necessary travel and subsistence expenses in accordance with the provisions of
51 G.S. 138-6.

52 All clerical and other services required by the Commission shall be supplied by the
53 Secretary of Correction."

54 **SECTION 17.25.(b)** This section becomes effective June 30, 2005.
55

1 Requested by: Senators Thomas, Garrou, Dalton, Hagan

2 **POST-RELEASE SUPERVISION AND PAROLE COMMISSION/REPORT ON**
3 **STAFFING REORGANIZATION AND REDUCTION**

4 **SECTION 17.26.** The Post-Release Supervision and Parole Commission
5 shall report by October 1 of each year to the Chairs of the Senate and House of
6 Representatives Appropriations Subcommittees on Justice and Public Safety on a plan
7 for restructuring the organization and operation of the Commission and implementing
8 staff reductions to reflect both declines and changes in workload.
9

10 Requested by: Senators Thomas, Garrou, Dalton, Hagan

11 **MUTUAL AGREEMENT PAROLE PROGRAM**

12 **SECTION 17.27.** The Department of Correction and the Post-Release
13 Supervision and Parole Commission shall make a good faith effort to enroll at least ten
14 percent (10%) of all program-eligible, pre-Structured Sentencing felons in the Mutual
15 Agreement Parole Program by January 1, 2006. The Department shall report to the
16 Senate and House of Representatives Appropriations Subcommittees on Justice and
17 Public Safety by March 1 of each year on the number of inmates actually enrolled in the
18 program, the number of inmates who have been paroled as a result of participation in
19 the program, and the number of inmates who have enrolled but terminated as a result of
20 unsuccessful participation in the program. If the ten percent (10%) participation goal
21 established by this section has not been reached, the report shall explain why the goal
22 was not realized.
23

24 **PART XVIII. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY**
25

26 Requested by: Senators Thomas, Garrou, Dalton, Hagan

27 **ANNUAL EVALUATION OF TARHEEL CHALLENGE PROGRAM**

28 **SECTION 18.1.** The Department of Crime Control and Public Safety shall
29 report to the Chairs of the House of Representatives and Senate Appropriations
30 Committees and the Chairs of the House of Representatives and Senate Appropriations
31 Subcommittees on Justice and Public Safety by April 1 of each year of the biennium on
32 the operations and effectiveness of the National Guard Tarheel Challenge Program. The
33 report should evaluate the program's effectiveness as an intervention method for
34 preventing juveniles from becoming undisciplined or delinquent. The report shall also
35 evaluate the Program's role in improving individual skills and employment potential for
36 participants and shall include:

- 37 (1) The source of referrals for individuals participating in the Program;
- 38 (2) The summary of types of actions or offenses committed by the
39 participants of the Program;
- 40 (3) An analysis outlining the cost of providing services for each
41 participant, including a breakdown of all expenditures related to the
42 administration and operation of the Program and the education and
43 treatment of the Program participants;
- 44 (4) The number of individuals who successfully complete the Program;
45 and
- 46 (5) The number of participants who commit offenses after completing the
47 Program.
48

49 Requested by: Senators Thomas, Garrou, Dalton, Hagan

50 **VICTIMS ASSISTANCE NETWORK REPORT**

51 **SECTION 18.2.** The Department of Crime Control and Public Safety shall
52 report on the expenditure of funds allocated pursuant to this section for the Victims
53 Assistance Network. The Department shall also report on the Network's efforts to
54 gather data on crime victims and their needs, act as a clearinghouse for crime victims'
55 services, provide an automated crime victims' bulletin board for subscribers, coordinate

1 and support activities of other crime victims' advocacy groups, identify the training
2 needs of crime victims' services providers and criminal justice personnel, and
3 coordinate training for these personnel. The Department shall submit its report to the
4 Chairs of the Appropriations Subcommittees on Justice and Public Safety of the Senate
5 and House of Representatives by December 1 of each year of the biennium.
6

7 Requested by: Senators Thomas, Garrou, Dalton, Hagan

8 **TRANSFER THE STATEWIDE FLOODPLAIN MAPPING UNIT**

9 **SECTION 18.3.** The Statewide Floodplain Mapping Unit is transferred from
10 the Department of Crime Control and Public Safety to the Department of Environment
11 and Natural Resources. This transfer has all of the elements of a Type I transfer as
12 defined in G.S. 143A-6.
13

14 **PART XIX. DEPARTMENT OF ADMINISTRATION**

15
16 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

17 **CONTINUATION OF THE STUDY OF ADVOCACY PROGRAMS IN THE**
18 **DEPARTMENT OF ADMINISTRATION**

19 **SECTION 19.1.** The Secretary of the Department of Administration, in
20 collaboration with appropriate entities that concentrate on public policy and business
21 management, shall continue the study that was completed during the 2003-2004 fiscal
22 year of the functions of the advocacy programs that are housed in the Department of
23 Administration to determine the appropriate organizational placement of the programs
24 within State government. The study shall include both the advocacy and service
25 functions of the Division of Veterans Affairs, the Council for Women and the Domestic
26 Violence Commission, the Commission of Indian Affairs, the Governor's Advocacy
27 Council for Persons with Disabilities, the Human Relations Commission, and the Youth
28 Advocacy and Involvement Office. The study shall also consider whether the functions
29 of the programs could be more efficiently and effectively performed by an appropriate
30 nonprofit organization. The Secretary shall report the findings and recommendations to
31 the Joint Legislative Commission on Governmental Operations and to the Chairs of the
32 Senate and House of Representatives Appropriations Committees by April 1, 2006.
33

34 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

35 **VETERANS SCHOLARSHIPS PARTIALLY FUNDED FROM ESCHEAT**
36 **FUND**

37 **SECTION 19.2.** In accordance with G.S. 116B-7(b), there is appropriated
38 from the Escheat Fund to the Department of Administration the sum of four million two
39 hundred ninety-seven thousand five hundred forty-four dollars (\$4,297,544) for the
40 2005-2006 fiscal year and four million three hundred fifty-eight thousand forty-six
41 dollars (\$4,358,046) for the 2006-2007 fiscal year.
42

43 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

44 **STATE VETERANS CEMETERIES**

45 **SECTION 19.3.** The Department of Administration may use funds credited
46 to the Veterans Burial Fund for the 2005-2007 biennium to cover costs incurred as a
47 result of burials on Saturday or Sunday.
48

49 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

50 **ALLOCATION OF PETROLEUM VIOLATION ESCROW FUNDS**

51 **SECTION 19.4.** The unallocated balance of the funds and interest thereon
52 received from the cases of United States v. Stripper Well, United States v. Exxon,
53 United States v. Diamond Shamrock, United States v. Amoco, United States v.
54 Chevron, and United States v. Occidental that remain in the Special Reserve for Oil
55 Overcharge Funds is appropriated to the Department of Administration for the

1 2005-2006 fiscal year to be allocated for projects approved by the State Energy Policy
2 Council.

3
4 Requested by: Senators Albertson, Jenkins, Dorsett, Garrou, Dalton, Hagan

5 **INCREASED FUEL EFFICIENCY OF STATE MOTOR FLEET**

6 **SECTION 19.5.(a)** The Department of Administration, Motor Fleet
7 Management, shall develop and implement a plan to improve and increase the overall
8 fuel efficiency of the State's motor fleet by twenty percent (20%). The Department shall
9 implement this plan and achieve the twenty percent (20%) increase in fuel efficiency by
10 July 1, 2006. Fuel efficiency goals may be met by petroleum displacement through the
11 use of biodiesel, ethanol, other alternative fuels, the purchase of hybrid electric vehicles
12 and other fuel-efficient vehicles.

13 **SECTION 19.5.(b)** The Department shall report to the Joint Legislative
14 Commission on Governmental Operations its plan for increasing and maintaining the
15 fuel efficiency of the State's motor fleet no later than January 1, 2006.

16
17 **PART XX. OFFICE OF THE GOVERNOR**

18
19 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

20 **HOUSING FINANCE AGENCY HOME MATCHING FUNDS**

21 **SECTION 20.1.(a)** Funds appropriated in this act to the Housing Finance
22 Agency for the federal HOME Program shall be used to match federal funds
23 appropriated for the HOME Program. In allocating State funds appropriated to match
24 federal HOME Program funds, the Agency shall give priority to HOME Program
25 projects, as follows:

- 26 (1) First priority to projects that are located in counties designated as Tier
27 One, Tier Two, or Tier Three Enterprise Counties under
28 G.S. 105-129.3; and
29 (2) Second priority to projects that benefit persons and families whose
30 incomes are fifty percent (50%) or less of the median family income
31 for the local area, with adjustments for family size, according to the
32 latest figures available from the United States Department of Housing
33 and Urban Development.

34 The Housing Finance Agency shall report to the Joint Legislative
35 Commission on Governmental Operations by April 1 of each year concerning the status
36 of the HOME Program and shall include in the report information on priorities met,
37 types of activities funded, and types of activities not funded.

38 **SECTION 20.1.(b)** If the United States Congress changes the HOME
39 Program such that matching funds are not required for a given program year, then the
40 Agency shall not spend the matching funds appropriated under this act for that program
41 year.

42 **SECTION 20.1.(c)** Funds appropriated in this act to match federal HOME
43 Program funds shall not revert to the General Fund on June 30, 2006, or on June 30,
44 2007.

45
46 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

47 **HOUSING FINANCE AGENCY SHALL CONTINUE THE NORTH CAROLINA**
48 **HOME PROTECTION PILOT PROGRAM AND LOAN FUND**

49 **SECTION 20.2.(a)** The North Carolina Housing Finance Agency shall
50 continue to administer a pilot program to assist North Carolina workers who have lost
51 jobs in Cabarrus, Cleveland, Cumberland, Edgecombe, Forsyth, Guilford, Rowan, and
52 Rutherford Counties as a result of changing economic conditions in North Carolina
53 when the workers are in need of assistance to avoid losing their homes to foreclosure.

54 **SECTION 20.2.(b)** Sections 20A.1(b), 20A.1(d), and 20A.1(e) of S.L.
55 2004-124 remain effective for the 2005-2006 fiscal year.

1 **SECTION 20.2.(c)** The agency shall, no later than May 1, 2006, report to
2 the General Assembly on the effectiveness of the Program in accomplishing its purposes
3 and provide any other information the Agency determines is pertinent or that the
4 General Assembly requests.

5
6 **PART XXI. DEPARTMENT OF INSURANCE**

7
8 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

9 **INSURANCE REGULATORY FUND TRANSFER TO GENERAL FUND**

10 **SECTION 21.1.** The Commissioner of Insurance shall transfer funds
11 quarterly from the Insurance Regulatory Fund to the General Fund to repay the funds
12 appropriated to the Department of Insurance from the General Fund for each fiscal year,
13 plus accrued interest at a rate determined by the State Treasurer.

14
15 Requested by: Senator Swindell

16 **STRENGTHEN REQUIREMENTS FOR ISSUING BUILDING PERMITS**

17 **SECTION 21.2.** The North Carolina Code Officials Qualification Board
18 shall take steps to ensure that building inspectors enforce the requirements of
19 G.S. 87-14 and shall bring disciplinary action against any building inspector who
20 willfully or negligently issues a building permit in violation of G.S. 87-14.

21
22 **PART XXII. DEPARTMENT OF REVENUE**

23
24 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

25 **DEPARTMENT OF REVENUE DEBT FEE FOR TAXPAYER LOCATER**
26 **SERVICES AND COLLECTION**

27 **SECTION 22.1.(a)** G.S. 105-243.1(e) reads as rewritten:

28 "(e) Use. – The fee is a receipt of the Department and must be applied to the costs
29 of collecting overdue tax debts. The proceeds of the fee must be credited to a special
30 account within the Department and may be expended only as provided in this
31 subsection. The proceeds of the fee may not be used for any purpose that is not directly
32 and primarily related to collecting overdue tax debts. The Department may apply the
33 proceeds of the fee for the purposes listed in this subsection. The remaining proceeds of
34 the fee may be spent only pursuant to appropriation by the General Assembly. The fee
35 proceeds do not revert but remain in the special account until spent for the costs of
36 collecting overdue tax debts. The Department and the Office of State Budget and
37 Management must account for all expenditures using accounting procedures that clearly
38 distinguish costs allocable to collecting overdue tax debts from costs allocable to other
39 purposes and must demonstrate that none of the fee proceeds are used for any purpose
40 other than collecting overdue tax debts.

41 The Department may apply the fee proceeds for the following purposes:

- 42 (1) To pay contractors for collecting overdue tax debts under subsection
43 (b) of this section.
44 (2) To pay the fee the United States Department of the Treasury charges
45 for setoff to recover tax owed to North Carolina.
46 (3) To pay for taxpayer locater services, not to exceed one hundred
47 thousand dollars (\$100,000) a year.
48 (4) To pay for postage or other delivery charges for correspondence
49 directly and primarily relating to collecting overdue tax debts.
50 (5) To pay for operating expenses for Project Collection Tax and the
51 Taxpayer Assistance Call Center.
52 (6) To pay for expenses of the Examination and Collection Division
53 directly and primarily relating to collecting overdue tax debts."

54 **SECTION 22.1.(b)** G.S. 105-243.1(f) reads as rewritten:

1 "(f) Reports. – The Department must report semiannually to the Joint Legislative
2 Commission on Governmental Operations and to the Revenue Laws Study Committee
3 on its efforts to collect tax debts. Each report must include a breakdown of the amount
4 and age of tax debts collected by collection agencies on contract, the amount and age of
5 tax debts collected by the Department through warning letters, and the amount and age
6 of tax debts otherwise collected by Department personnel. The report must itemize
7 collections by type of tax. Each report must also include a long-term collection plan, a
8 timeline for implementing each step of the plan, a summary of steps taken since the last
9 report and their results, and any other data requested by the Commission or the
10 Committee.

11 The Department must report by April 1, 2006, and annually thereafter, to the
12 Revenue Laws Study Committee and the Fiscal Research Division of the General
13 Assembly on the use of the fee proceeds for collecting overdue tax debts."
14

15 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

16 **CHANGE PROPERTY TAX COMMISSION COMPENSATION**

17 **SECTION 22.2.** G.S. 105-288(d) reads as rewritten:

18 "(d) Expenses. – The members of the Property Tax Commission shall receive
19 travel and subsistence expenses in accordance with G.S. ~~138-5~~ and 138-5. ~~The members~~
20 ~~of the Property Tax Commission shall receive a salary of two hundred dollars (\$200.00)~~
21 ~~a day~~ when hearing cases, meeting to decide cases, and attending training or continuing
22 education classes on property taxes or judicial procedure. The salary is four hundred
23 fifty dollars (\$450.00) a day for the Chair of the Property Tax Commission and four
24 hundred dollars (\$400.00) a day for other members of the Property Tax Commission.
25 The Secretary of Revenue shall supply all the clerical and other services required by the
26 Commission. All expenses of the Commission and the Department of Revenue in
27 performing the duties enumerated in this Article shall be paid as provided in
28 G.S. 105-501."
29

30 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

31 **POSITIONS FOR REVENUE TAX EVASION PROJECT**

32 **SECTION 22.3.** The 10 time-limited positions established in the Fuel Tax
33 Compliance Division of the Department of Revenue for the Revenue Tax Evasion
34 Project in S.L. 2004-124 are converted to permanent positions.
35

36 **PART XXIII. SECRETARY OF STATE**

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

39 **SECRETARY OF STATE TO REASSIGN VACANT POSITION**

40 **SECTION 23.1.** The Secretary of State shall reassign position
41 3222-0000-0000-361 from the Uniform Commercial Code Division to its General
42 Administration Division to assist with investigations of trademark violations and
43 training for other law enforcement personnel in the State and with investigations of
44 violations of the Charitable Solicitation Licensing Act. The Secretary shall report to the
45 Chairs of the Appropriations Subcommittees on General Government of the Senate and
46 House of Representatives by December 1, 2005.
47

48 **PART XXIV. OFFICE OF STATE BUDGET AND MANAGEMENT**

49
50 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

51 **NC HUMANITIES COUNCIL**

52 **SECTION 24.1.** The North Carolina Humanities Council shall:

- 53 (1) By January 15, 2006, and more frequently as requested, report to the
54 Joint Legislative Commission on Governmental Operations and the
55 Fiscal Research Division the following information:

- 1 a. State fiscal year 2004-2005 program activities, objectives, and
2 accomplishments;
- 3 b. State fiscal year 2004-2005 itemized expenditures and fund
4 sources;
- 5 c. State fiscal year 2005-2006 planned activities, objectives, and
6 accomplishments, including actual results through December
7 31, 2005; and
- 8 d. State fiscal year 2005-2006 estimated itemized expenditures
9 and fund sources, including actual expenditures and fund
10 sources through December 31, 2005.
- 11 (2) By January 15, 2007, 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 2005-2006 program activities, objectives, and
15 accomplishments;
- 16 b. State fiscal year 2005-2006 itemized expenditures and fund
17 sources;
- 18 c. State fiscal year 2006-2007 planned activities, objectives, and
19 accomplishments, including actual results through December
20 31, 2006; and
- 21 d. State fiscal year 2006-2007 estimated itemized expenditures
22 and fund sources, including actual expenditures and fund
23 sources through December 31, 2006.
- 24 (3) Provide to the Fiscal Research Division a copy of the organization's
25 annual audited financial statement within 30 days of issuance of the
26 statement.

27 28 **PART XXV. OFFICE OF THE STATE CONTROLLER**

29
30 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

31 **OVERPAYMENTS AUDIT**

32 **SECTION 25.1.(a)** During the 2005-2007 biennium, receipts generated by
33 the collection of inadvertent overpayments by State agencies to vendors as a result of
34 pricing errors, neglected rebates and discounts, miscalculated freight charges, unclaimed
35 refunds, erroneously paid excise taxes, and related errors as required by
36 G.S. 147-86.22(c) are to be deposited in the Special Reserve Account 24172.

37 **SECTION 25.1.(b)** For each fiscal year of the 2005-2007 biennium, two
38 hundred thousand dollars (\$200,000) of the funds transferred from the Special Reserve
39 Account 24172 shall be used by the Office of the State Controller for data processing,
40 debt collection, or e-commerce costs.

41 **SECTION 25.1.(c)** All funds available in the Special Reserve Account
42 24172 on July 1 of each year of the 2005-2007 biennium are transferred to the General
43 Fund on that date.

44 **SECTION 25.1.(d)** Any unobligated funds in the Special Reserve Account
45 24172 that are realized above the allowance in subsection (b) of this section are subject
46 to appropriation by the General Assembly in the 2006 Regular Session of the 2005
47 General Assembly.

48 **SECTION 25.1.(e)** The State Controller shall report quarterly to the Joint
49 Legislative Commission on Governmental Operations and the Fiscal Research Division
50 on the revenue deposited into the Special Reserve Account 24172 and the disbursement
51 of that revenue.

52 53 **PART XXVI. OFFICE OF STATE PERSONNEL**

54
55 Requested by: Senators Dorsett, Garrou, Dalton, Hagan

STUDY CAREER-BANDING/FAIR PAY

SECTION 26.1.(a) Of the funds appropriated to the Department of Administration, the sum of one hundred thousand dollars (\$100,000) for the 2005-2006 fiscal year shall be allocated to the Office of State Personnel to conduct a study and to determine whether to implement a career-banding personnel system for all State employee job classifications.

SECTION 26.1.(b) In conducting the study, the Office of State Personnel shall evaluate the following issues:

- (1) Inequities and disparities in job classifications with respect to race and gender.
- (2) Whether the minimum annual salary for State employees is a livable salary and the impact of inflationary forces on that salary.
- (3) Whether there is fair pay for equivalent jobs in State government, including the extent of wage disparities in State government employment between men and women.
- (4) Any other matters relating to pay disparities in State government employment.

SECTION 26.1.(c) The Office of State Personnel shall report the findings and recommendations of the study as well as the findings and recommendations on inequities and disparities to the Chairs of the Appropriations Committees of the Senate and the House of Representatives and the Chairs of the Joint Appropriations Subcommittees on General Government by April 1, 2006.

PART XXVII. DEPARTMENT OF THE STATE TREASURER

Requested by: Senators Dorsett, Garrou, Dalton, Hagan

REPORT OF THE STATUS OF THE TECHNOLOGY INFRASTRUCTURE ENHANCEMENTS

SECTION 27.1. The Department of State Treasurer shall report to the Joint Legislative Commission on Governmental Operations and to the Chairs of the Appropriations Committees for the Senate and the House of Representatives on the status of the replacement of the multitude of information technology systems with an integrated system for all the retirement plans and other programs administered by the Retirement Systems Division. The Department shall report semiannually by October 1 and April 1 until the enhancements are fully implemented.

Requested by: Senators Dorsett, Garrou, Dalton, Hagan

STAFFING ANALYSIS FOLLOW-UP

SECTION 27.2.(a) The Office of State Budget and Management shall conduct semiannual follow-up analyses to the Staffing Analysis that was completed in April 2003 on the Retirement Systems Division within the Department of State Treasurer by October 1 and April 1 of each year to assure that the staffing levels remain appropriate. The semiannual analyses shall be conducted throughout the implementation of the enhancements to the information technology infrastructure within the Retirement Systems Division that were authorized by this act. The follow-up analyses shall also continue for a reasonable time after the completion of the enhancements to ensure that the staffing levels are adjusted based on the increased efficiency provided by the enhancements.

SECTION 27.2.(b) The Retirement Systems Division shall maintain monthly workload statistics and productivity data for the various functions within the Division. The Department of State Treasurer shall report the workload statistics and productivity data to the Fiscal Research Division and to the Office of State Budget and Management on a quarterly basis.

Requested by: Senators Dorsett, Garrou, Dalton, Hagan

1 **TREASURER REPORT ON STATE INVESTMENT OFFICER POSITION**
2 **INCENTIVE BONUS**

3 **SECTION 27.3.** G.S. 147-69.3 is amended by adding a new subsection to
4 read:

5 "(i1) The State Treasurer shall report the incentive bonus paid to the Chief
6 Investment Officer to the Joint Legislative Commission on Governmental Operations by
7 October 1 of each year."

8
9 **PART XXVIII. DEPARTMENT OF TRANSPORTATION**

10
11 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

12 **REMOVE GOV OPS CONSULTATION ON FEDERAL-AID ACTS**

13 **SECTION 28.1.** G.S. 136-44.2 reads as rewritten:

14 **"§ 136-44.2. Budget and appropriations.**

15 The Director of the Budget shall include in the "Current Operations Appropriations
16 Bill" an enumeration of the purposes or objects of the proposed expenditures for each of
17 the construction and maintenance programs for that budget period for the State primary,
18 secondary, urban, and State parks road systems. The State primary system shall include
19 all portions of the State highway system located outside municipal corporate limits
20 which are designated by N.C., U.S. or Interstate numbers. The State secondary system
21 shall include all of the State highway system located outside municipal corporate limits
22 that is not a part of the State primary system. The State urban system shall include all
23 portions of the State highway system located within municipal corporate limits. The
24 State parks system shall include all State parks roads and parking lots which are not also
25 part of the State highway system.

26 All construction and maintenance programs for which appropriations are requested
27 shall be enumerated separately in the budget. Programs that are entirely State funded
28 shall be listed separately from those programs involving the use of federal-aid funds.
29 Proposed appropriations of State matching funds for each of the federal-aid construction
30 programs shall be enumerated separately as well as the federal-aid funds anticipated for
31 each program in order that the total construction requirements for each program may be
32 provided for in the budget. Also, proposed State matching funds for the highway
33 planning and research program shall be included separately along with the anticipated
34 federal-aid funds for that purpose.

35 Other program categories for which appropriations are requested, such as, but not
36 limited to, maintenance, channelization and traffic control, bridge maintenance, public
37 service and access road construction, and ferry operations shall be enumerated in the
38 budget.

39 The Department of Transportation shall have all powers necessary to comply fully
40 with provisions of present and future federal-aid acts. ~~No federally eligible construction~~
41 ~~project may be funded entirely with State funds unless the Department of Transportation~~
42 ~~has first consulted with the Joint Legislative Commission on Governmental Operations.~~
43 For purposes of this section, "federally eligible construction project" means any
44 construction project except secondary road projects developed pursuant to
45 G.S. 136-44.7 and 136-44.8 eligible for federal funds under any federal-aid act, whether
46 or not federal funds are actually available.

47 The "Current Operations Appropriations Bill" shall also contain the proposed
48 appropriations of State funds for use in each county for maintenance and construction of
49 secondary roads, to be allocated in accordance with G.S. 136-44.5 and 136-44.6. State
50 funds appropriated for secondary roads shall not be transferred nor used except for the
51 construction and maintenance of secondary roads in the county for which they are
52 allocated pursuant to G.S. 136-44.5 and 136-44.6.

53 If the unreserved credit balance in the Highway Fund on the last day of a fiscal year
54 is greater than the amount estimated for that date in the Current Operations
55 Appropriations Act for the following fiscal year, the excess shall be used in accordance

1 with this paragraph. The Director of the Budget may allocate part or all of the excess
 2 among reserves for access and public roads, for unforeseen events requiring prompt
 3 action, or for other urgent needs. The amount not allocated to any of these reserves by
 4 the Director of the Budget shall be credited to a reserve for maintenance. The Board of
 5 Transportation shall report monthly to the Joint Legislative Transportation Oversight
 6 Committee and the Fiscal Research Division on the use of funds in the maintenance
 7 reserve.

8 The Department of Transportation may provide for costs incurred or accrued for
 9 traffic control measures to be taken by the Department at major events which involve a
 10 high degree of traffic concentration on State highways, and which cannot be funded
 11 from regular budgeted items. This authorization applies only to events which are
 12 expected to generate 30,000 vehicles or more per day. The Department of
 13 Transportation shall provide for this funding by allocating and reserving up to one
 14 hundred thousand dollars (\$100,000) before any other allocations from the
 15 appropriations for State maintenance for primary, secondary, and urban road systems
 16 are made, based upon the same proportion as is appropriated to each system."
 17

18 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

19 **TRANSPORTATION SERVICES FOR TRADE SHOWS**

20 **SECTION 28.2.** The Department of Transportation, from funds available for
 21 public transportation in this act, may use up to one million two hundred thousand
 22 dollars (\$1,200,000) in each year of the biennium for transportation services for annual
 23 or semiannual trade shows of international significance. The Department of
 24 Transportation shall report to the Joint Legislative Transportation Oversight Committee,
 25 annually on or before March 1, on the use of these funds.
 26

27 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

28 **CASH-FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND**
 29 **APPROPRIATIONS.**

30 **SECTION 28.3.(a)** The General Assembly authorizes and certifies
 31 anticipated revenues of the Highway Fund as follows:

32	For Fiscal Year 2007-2008	\$1,551.1 million
33	For Fiscal Year 2008-2009	\$1,593.0 million
34	For Fiscal Year 2009-2010	\$1,647.9 million
35	For Fiscal Year 2010-2011	\$1,716.1 million

36 **SECTION 28.3.(b)** The General Assembly authorizes and certifies
 37 anticipated revenues of the Highway Trust Fund as follows:

38	For Fiscal Year 2007-2008	\$1,136.9 million
39	For Fiscal Year 2008-2009	\$1,186.4 million
40	For Fiscal Year 2009-2010	\$1,229.6 million
41	For Fiscal Year 2010-2011	\$1,283.2 million

42
 43 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

44 **SMALL CONSTRUCTION AND CONTINGENCY FUNDS**

45 **SECTION 28.4.** Of the funds appropriated in this act to the Department of
 46 Transportation:

- 47 (1) Twenty-one million dollars (\$21,000,000) shall be allocated in each
 48 fiscal year for small construction projects reviewed and approved by
 49 the Division Engineer and the member of the Board of Transportation
 50 representing the district in which the project is to be constructed.
 51 These funds shall be allocated equally in each fiscal year of the
 52 biennium among the 14 Highway Divisions for small construction
 53 projects.
- 54 (2) Fifteen million dollars (\$15,000,000) in fiscal year 2005-2006 and
 55 fifteen million dollars (\$15,000,000) in fiscal year 2006-2007 shall be

1 used statewide for rural or small urban highway improvements and
2 related transportation enhancements to public roads and public
3 facilities, industrial access roads, and spot safety projects, including
4 pedestrian walkways that enhance highway safety. Projects funded
5 pursuant to this subdivision shall be reviewed and approved by the
6 member of the Board of Transportation representing the district in
7 which the project is to be constructed.

8 None of these funds used for rural secondary road construction are subject to
9 the county allocation formulas in G.S. 136-44.5(b) and (c).

10 These funds are not subject to G.S. 136-44.7.

11 The Department of Transportation shall report to the members of the General
12 Assembly on projects funded pursuant to this section in each member's district prior to
13 the Board of Transportation's action. The Department shall make a quarterly
14 comprehensive report on the use of these funds to the Joint Legislative Transportation
15 Oversight Committee and the Fiscal Research Division.

16
17 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

18 **USE OF EXCESS OVERWEIGHT/OVERSIZE FEES**

19 **SECTION 28.5.** Chapter 20 of the General Statutes is amended by adding a
20 new section to read:

21 **"§ 20-119.1. Use of excess overweight and oversize fees.**

22 Funds generated by overweight and oversize permit fees in excess of the cost of
23 administering the program, as determined pursuant to G.S. 20-119(e), shall be used for
24 highway and bridge maintenance required as a result of damages caused from
25 overweight/oversize loads."

26
27 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

28 **FUNDS FOR UNSAFE OR OBSOLETE FIELD FACILITIES**

29 **SECTION 28.6.** Of the funds appropriated in this act to the Department of
30 Transportation, the Department may use funds not to exceed seventy-five hundredths of
31 one percent (.75%) for maintenance and construction programs for major repair,
32 renovation, or replacement of its field facilities that fail to meet safety standards or that
33 are obsolete for current or future use. Prior to expending these funds, the Department
34 shall submit its proposed budget for these expenditures to the Senate Appropriations
35 Subcommittee on Transportation, the House of Representatives Appropriations
36 Subcommittee on Transportation, and the Joint Legislative Transportation Oversight
37 Committee each year.

38
39 Requested by: Senator Jenkins

40 **STATE USE OF NORTH CAROLINA RAILROAD DIVIDENDS**

41 **SECTION 28.7.(a)** G.S. 124-5.1(a) reads as rewritten:

42 "(a) Notwithstanding the provisions of G.S. 136-16.6, in order to increase the
43 capital of the North Carolina Railroad Company, any dividends of the North Carolina
44 Railroad Company received by the State shall be applied to reduce the obligations
45 described in subsection (c) of Section 32.30 of S.L. 1997-443, as amended by
46 subsection (d) of Section 27.11 of S.L. 1999-237. Any dividends of the North Carolina
47 Railroad Company received by the State shall be used by the Department of
48 Transportation for the improvement of the property of the North Carolina Railroad
49 Company as recommended and approved by the Board of Directors of the North
50 Carolina Railroad Company. The improvements may include the following project
51 types:

- 52 (1) Railroad and industrial track rehabilitation.
- 53 (2) Railroad signal and grade crossing protection.
- 54 (3) Bridge improvements.
- 55 (4) Corridor protection.

1 (5) Industrial site acquisition."

2 **SECTION 28.7.(b)** This Section becomes effective July 1, 2005.

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

5 **ANALYSIS AND APPROVAL OF RULES, POLICIES, OR GUIDELINES**
6 **AFFECTING DEPARTMENT OF TRANSPORTATION PROJECTS**

7 **SECTION 28.8.(a)** G.S. 150B-21.4 is amended by adding a new subsection
8 to read:

9 "(a1) DOT Analyses. – In addition to the requirements of subsection (a) of this
10 section, any agency that adopts a rule affecting environmental permitting of Department
11 of Transportation projects shall conduct an analysis to determine if the rule will result in
12 an increased cost to the Department of Transportation. The analysis shall be conducted
13 and submitted to the Board of Transportation before the agency publishes the proposed
14 text of the rule change in the North Carolina Register. The agency shall consider any
15 recommendations offered by the Board of Transportation prior to adopting the rule.
16 Once a rule subject to this subsection is adopted, the Board of Transportation may
17 submit any objection to the rule it may have to the Rules Review Commission. If the
18 Rules Review Commission receives an objection to a rule from the Board of
19 Transportation no later than 5:00 P.M. of the day following the day the Commission
20 approves the rule, then the rule shall only become effective as provided in
21 G.S. 150B-21.3(b1)."

22 **SECTION 28.8.(b)** Chapter 136 of the General Statutes is amended by
23 adding a new section to read:

24 "**§ 136-44.7C. Analysis and approval of Department of Transportation**
25 **environmental policies or guidelines affecting transportation projects.**

26 (a) Analysis Required. – The Department of Transportation shall conduct an
27 analysis of any proposed environmental policy or guideline adopted by the Department
28 that affects Department of Transportation projects to determine if the policy or guideline
29 will result in an increased cost to Department of Transportation projects.

30 (b) Report of Analysis; Approval of Policy or Guideline Required. – The analysis
31 of a proposed policy or guideline required by subsection (a) of this section shall be
32 reported to the Board of Transportation at least 30 days prior to the proposed effective
33 date of the policy or guideline, and shall not go into effect until approved by the Board
34 of Transportation."

35
36 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

37 **DEPARTMENT OF TRANSPORTATION PRODUCTIVITY PILOT**
38 **PROGRAMS**

39 **SECTION 28.9.(a)** The Department of Transportation may continue the
40 productivity pilot programs in the road oil and bridge inspection units implemented
41 under Section 29.3 of S.L. 2003-284.

42 **SECTION 28.9.(b)** The Department of Transportation may establish two
43 additional pilot programs to test incentive pay for employees as a means of increasing
44 efficiency and productivity.

45 One of the new pilot programs shall involve the Pavement Markings Unit.
46 The other pilot program may be selected by the Department of Transportation. Up to
47 one-quarter of one percent (.25%) of the budget allocation for these programs may be
48 used to provide employee incentive payments.

49 Incentive payments shall be based on quantifiable measures and production
50 schedules determined prior to the implementation of the pilot programs. Pilot programs
51 implemented under this subsection shall last no more than two years.

52 The Department of Transportation shall report to the Joint Legislative
53 Transportation Oversight Committee on the pilot programs developed under this
54 subsection at least 30 days prior to their implementation.
55

1 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

2 **DEPARTMENT OF TRANSPORTATION PERFORMANCE-BASED**
3 **CONTRACTS**

4 **SECTION 28.10.** The Department of Transportation may implement up to
5 two performance-based contracts for routine maintenance and operations, exclusive of
6 resurfacing. Selection of firms to perform this work shall be made using a best-value
7 procurement process.

8 Prior to any advertisement for a proposed project the Department shall report
9 to the Joint Legislative Transportation Oversight Committee on the contractor selection
10 criteria to be used.

11
12 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

13 **DEPARTMENT OF TRANSPORTATION REORGANIZATION**

14 **SECTION 28.11.(a)** The Secretary of Transportation shall transfer the
15 Program Development branch from the Deputy Secretary for Environmental, Planning
16 and Local Government Affairs to the Chief Financial Officer of the Department of
17 Transportation.

18 **SECTION 28.11.(b)** The Secretary of Transportation shall transfer the
19 Transportation Planning branch from the Deputy Secretary for Environmental, Planning
20 and Local Government Affairs to the State Highway Administrator.

21 **SECTION 28.11.(c)** The Secretary of Transportation shall transfer the
22 Project Development and Environmental Analysis branch from the Deputy Secretary for
23 Environmental, Planning and Local Government Affairs to the State Highway
24 Administrator.

25 **SECTION 28.11.(d)** The position of Deputy Secretary for Environmental,
26 Planning and Local Government Affairs shall be eliminated.

27 **SECTION 28.11.(e)** The position of Special Assistant for Environmental,
28 Planning and Local Government Affairs shall be eliminated.

29 **SECTION 28.11.(f)** All vacant positions in the Project Development and
30 Environmental Analysis Branch as of April 15, 2005, shall be eliminated except for any
31 vacant position associated with an employee on an approved leave without pay status.
32 Once these positions are eliminated, the Department of Transportation shall not reinstate
33 these positions without the authorization of the General Assembly.

34
35 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

36 **CONTINUING AVIATION APPROPRIATIONS**

37 **SECTION 28.12.** G.S. 136-16.4 reads as rewritten:

38 **"§ 136-16.4. Continuing aviation appropriations.**

39 ~~There is appropriated from the General Fund to the Department of Transportation~~
40 ~~the sum of eight million four hundred thousand dollars (\$8,400,000) for fiscal year~~
41 ~~1993-94 and the sum of eight million nine hundred thousand dollars (\$8,900,000) for~~
42 ~~fiscal year 1994-95. There is appropriated from the Highway Fund to the Department of~~
43 ~~Transportation the sum of eleven million two hundred eighty-four thousand one~~
44 ~~hundred ninety-eight dollars (\$11,284,198) for fiscal year 2005-2006 and the sum of~~
45 ~~twelve million nine hundred forty-five thousand sixty-six dollars (\$12,945,066) for~~
46 ~~fiscal year 2006-2007. Each subsequent fiscal year, there is appropriated from the~~
47 ~~General Fund Highway Fund to the Department of Transportation the amount~~
48 ~~appropriated by this section to the Department of Transportation for the preceding fiscal~~
49 ~~year, plus or minus the percentage of the amount by which the collection of State sales~~
50 ~~and use taxes increased or decreased during the preceding fiscal year. The Department~~
51 ~~of Transportation may use funds appropriated under this section only for aviation~~
52 ~~purposes."~~

53
54 Requested by: Senators Jenkins, Garrou, Dalton, Hagan

TRANSITIONAL TRAINING FOR MOTOR CARRIER ENFORCEMENT OFFICERS

SECTION 28.13.(a) The North Carolina State Highway Patrol is authorized to complete transitional training for 149 Motor Carrier Enforcement Officers to become State Troopers. This transition from Motor Carrier Enforcement Officer to State Trooper shall not relieve the State Highway Patrol of the responsibility of ensuring that all Motor Carrier Enforcement Officer positions and any positions that are transitioned to State Trooper are dedicated to motor carrier enforcement duties including, but not limited to, permanent weigh station operations, motor carrier inspections, and secondary road checking stations and enforcement.

SECTION 28.13.(b) Any Motor Carrier Enforcement Officer position that is not transitioned or approved for transition by section (a) of this section shall not be transitioned to the status of a State Trooper.

SECTION 28.13.(c) Of the 59 vacant sworn Motor Carrier Enforcement Officer positions as of April 28, 2005, all lapsed salary and benefits in the amount of two million five hundred forty-eight thousand nine hundred eighty-three dollars (\$2,548,983) shall not be spent nor shall any position currently vacant be reclassified by any agency of the State.

Requested by: Senators Jenkins, Garrou, Dalton, Hagan

DEPARTMENT OF TRANSPORTATION AUTHORITY TO PROVIDE WAY-FINDING SIGNS FOR THE ROANOKE VOYAGES CORRIDOR COMMISSION

SECTION 28.14. Chapter 1194 of the 1981 Session Laws is amended by adding a new section that reads:

"Sec. 7.2. At the request of the Roanoke Voyages Corridor Commission, the Department of Transportation is authorized to manufacture and install, on Roanoke Island and up to 30 miles off the island, way-finding signs that, by color, design, and lettering, do not comply with normal transportation signage standards. These signs shall be used to identify and give directions to historic, educational, and cultural attractions on the island. The Department of Transportation shall not erect any signage that would be impracticable, unfeasible, or that would result in an unsafe or hazardous condition."

Requested by: Senators Jenkins, Garrou, Dalton, Hagan

REVENUE TAX EVASION PROJECT

SECTION 28.15. Of funds appropriated to Highway Trust Fund Administration, the sum of five hundred forty-eight thousand six hundred thirty-three dollars (\$548,633) for the 2005-2006 fiscal year and the sum of four hundred seventy thousand seven hundred one dollars (\$470,701) for the 2006-2007 fiscal year shall be used to establish and support nine positions in the Department of Revenue, Motor Fuels Tax Division, to fully implement the Revenue Tax Evasion Project.

Requested by: Senators Jenkins, Snow, Garrou, Dalton, Hagan

VISITOR CENTER FUNDS

SECTION 28.16. G.S. 20-79.7(c)(2) reads as rewritten:

"(c) Use of Funds in Special Registration Plate Account. –

..
(2) From the funds remaining in the Special Registration Plate Account after the deductions in accordance with subdivision (1) of this subsection, there is annually appropriated from the Special Registration Plate Account the sum of ~~nine hundred thousand dollars (\$900,000)~~ one million dollars (\$1,000,000) to provide operating assistance for the Visitor Centers:

- a. on U.S. Highway 17 in Camden County, (\$100,000);
- b. on U.S. Highway 17 in Brunswick County, (\$100,000);

- c. on U.S. Highway 441 in Macon County, (\$100,000);
- d. in the Town of Boone, Watauga County, (\$100,000);
- e. on U.S. Highway 29 in Caswell County, (\$100,000);
- f. on U.S. Highway 70 in Carteret County, (\$100,000);
- g. on U.S. Highway 64 in Tyrrell County, (\$100,000);
- h. at the intersection of U.S. Highway 701 and N.C. 904 in Columbus County, (\$100,000); ~~and~~
- i. on U.S. Highway 221 in McDowell County, ~~(\$100,000).~~(\$100,000); ~~and~~
- j. on Staton Road in Transylvania County, (\$100,000)."

Requested by: Senators Jenkins, Garrou, Dalton, Hagan

MODIFY GLOBAL TRANSPARK DEBT

SECTION 28.17. G.S. 147-69.2(b)(11) reads as rewritten:

"(b) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated in subsection (a) of this section in excess of the amount required to meet the current needs and demands on such funds, selecting from among the following:

- (11) With respect to assets of the Escheat Fund, obligations of the North Carolina Global TransPark Authority authorized by G.S. 63A-4(a)(22), not to exceed twenty-five million dollars (\$25,000,000), that have a final maturity not later than ~~July 1, 2005.~~ October 1, 2007. The obligations shall bear interest at the rate set by the State Treasurer. No commitment to purchase obligations may be made pursuant to this subdivision after September 1, 1993, and no obligations may be purchased after September 1, 1994. In the event of a loss to the Escheat Fund by reason of an investment made pursuant to this subdivision, it is the intention of the General Assembly to hold the Escheat Fund harmless from the loss by appropriating to the Escheat Fund funds equivalent to the loss.

If any part of the property owned by the North Carolina Global TransPark Authority now or in the future is divested, proceeds of the divestment shall be used to fulfill any unmet obligations on an investment made pursuant to this subdivision."

Requested by: Senator Jenkins

BEAVER DAMAGE CONTROL PROGRAM FUNDS

SECTION 28.18. Of funds available to the Department of Transportation for maintenance, the sum of nine hundred thousand dollars (\$900,000) for the 2005-2006 fiscal year and the sum of nine hundred thousand dollars (\$900,000) for the 2006-2007 fiscal year shall be used to provide the State share necessary to support the beaver damage control program established in G.S. 113-291.10, provided the sum of at least twenty-five thousand dollars (\$25,000) in federal funds is available each fiscal year of the biennium to provide the federal share.

Requested by: Senator Jenkins

REPORT ON STORMWATER PILOT PROJECT

SECTION 28.19. The Department of Transportation shall report to the Joint Legislative Transportation Oversight Committee by August 1, 2005 on its plan to clean up ocean outfalls in accordance with Section 30.20 of S.L. 2004-124.

Requested by: Senator Jenkins

TRANSFER TRANSPORTATION MUSEUM ADMINISTRATION

SECTION 28.20.(a) The Secretary of Transportation shall make capital improvements to the Back Shop at the North Carolina Transportation Museum. The

Secretary may spend up to seven million two hundred twenty-five thousand dollars (\$7,225,000) of funds available in each fiscal year of the biennium for this purpose.

SECTION 28.20.(b) The administration and oversight of the North Carolina Transportation Museum is transferred from the Historic Sites Section of the Department of Cultural Resources to the Department of Transportation.

SECTION 28.20.(c) This Section becomes effective July 1, 2005.

PART XXIX. SALARIES AND EMPLOYEE BENEFITS

Requested by: Senators Garrou, Dalton, Hagan

GOVERNOR AND COUNCIL OF STATE/SALARY INCREASES

SECTION 29.1.(a) Effective July 1, 2005, G.S. 147-11(a) reads as rewritten:

"(a) The salary of the Governor shall be ~~one hundred twenty one thousand three hundred ninety one dollars (\$121,391)~~ one hundred twenty-three thousand eight hundred nineteen dollars (\$123,819) annually, payable monthly."

SECTION 29.1.(a1) Effective July 1, 2006, G.S. 147-11(a), as amended by subsection (a) of this section, reads as rewritten:

"(a) The salary of the Governor shall be ~~one hundred twenty three thousand eight hundred nineteen dollars (\$123,819)~~ one hundred twenty-seven thousand five hundred thirty-three dollars (\$127,533) annually, payable monthly."

SECTION 29.1.(b) Effective July 1, 2005, the annual salaries for the members of the Council of State, payable monthly, for the 2005-2006 and 2006-2007 fiscal years are:

<u>Council of State</u>	<u>Annual Salary</u>	
	<u>2005-2006</u>	<u>2006-2007</u>
Lieutenant Governor	\$109,279	\$112,557
Attorney General	109,279	112,557
Secretary of State	109,279	112,557
State Treasurer	109,279	112,557
State Auditor	109,279	112,557
Superintendent of Public Instruction	109,279	112,557
Agriculture Commissioner	109,279	112,557
Insurance Commissioner	109,279	112,557
Labor Commissioner	109,279	112,557

Requested by: Senators Garrou, Dalton, Hagan

NONELECTED DEPARTMENT HEADS/SALARY INCREASES

SECTION 29.2. In accordance with G.S. 143B-9, the maximum annual salaries, payable monthly, for the nonelected heads of the principal State departments for the 2005-2006 and 2006-2007 fiscal years are:

<u>Council of State</u>	<u>Annual Salary</u>	
	<u>2005-2006</u>	<u>2006-2007</u>
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>
Chairman, Alcoholic Beverage Control Commission	\$97,175	\$100,091
State Controller	135,997	140,076
Commissioner of Motor Vehicles	97,175	100,091
Commissioner of Banks	109,279	112,557
Chairman, Employment Security Commission	135,824	139,899
State Personnel Director	106,765	109,968
Chairman, Parole Commission	88,733	91,395
Members of the Parole Commission	40,960	42,189
Chairman, Utilities Commission	121,701	125,352
Members of the Utilities Commission	109,279	112,557
Executive Director, Agency for Public Telecommunications	81,921	84,379
Director, Museum of Art	99,573	102,561
Executive Director, North Carolina Agricultural Finance Authority	94,587	97,424
State Chief Information Officer	135,915	139,992

Requested by: Senators Garrou, Dalton, Hagan

JUDICIAL BRANCH OFFICIALS/SALARY INCREASES

SECTION 29.4.(a) The annual salaries, payable monthly, for specified Judicial Branch officials for the 2005-2006 and 2006-2007 fiscal years are:

<u>Judicial Branch Officials</u>	<u>Annual Salary</u>	
	<u>2005-2006</u>	<u>2006-2007</u>
Chief Justice, Supreme Court	\$123,819	\$127,533
Associate Justice, Supreme Court	120,583	124,201
Chief Judge, Court of Appeals	117,568	121,095
Judge, Court of Appeals	115,559	119,026
Judge, Senior Regular Resident Superior Court	112,419	115,792
Judge, Superior Court	109,279	112,557
Chief Judge, District Court	99,231	102,208
Judge, District Court	96,091	98,974
Administrative Officer of the Courts	112,419	115,792
Assistant Administrative Officer of the Courts	102,684	105,765

SECTION 29.4.(b) The district attorney or public defender of a judicial district, with the approval of the Administrative Officer of the Courts or the Commission on Indigent Defense Services, respectively, shall set the salaries of assistant district attorneys or assistant public defenders, respectively, in that district such that the average salaries of assistant district attorneys or assistant public defenders in that district do not exceed sixty-two thousand nine hundred thirty dollars (\$62,930), and the minimum salary of any assistant district attorney or assistant public defender is at least thirty-two thousand six hundred seventy-six dollars (\$32,676), effective July 1, 2005.

SECTION 29.4.(b1) The district attorney or public defender of a judicial district, with the approval of the Administrative Officer of the Courts or the

1 Commission on Indigent Defense Services, respectively, shall set the salaries of
 2 assistant district attorneys or assistant public defenders, respectively, in that district such
 3 that the average salaries of assistant district attorneys or assistant public defenders in
 4 that district do not exceed sixty-four thousand eight hundred eighteen dollars (\$64,818),
 5 and the minimum salary of any assistant district attorney or assistant public defender is
 6 at least thirty-three thousand six hundred fifty-six dollars (\$33,656), effective July 1,
 7 2006.

8 **SECTION 29.4.(c)** Effective July 1, 2005, the annual salaries of permanent,
 9 full-time employees of the Judicial Department whose salaries are not itemized in this
 10 act shall be increased by the greater of five hundred dollars (\$500.00) or two percent
 11 (2%).

12 **SECTION 29.4.(c1)** Effective July 1, 2006, the annual salaries of
 13 permanent, full-time employees of the Judicial Department whose salaries are not
 14 itemized in this act shall be increased three percent (3%).

15 **SECTION 29.4.(d)** Effective July 1, 2005, the annual salaries of permanent,
 16 part-time employees of the Judicial Department whose salaries are not itemized in this
 17 act shall be increased by pro rata amounts of five hundred dollars (\$500.00) or two
 18 percent (2%), whichever is greater.

19 **SECTION 29.4.(d1)** Effective July 1, 2006, the annual salaries of
 20 permanent, part-time employees of the Judicial Department whose salaries are not
 21 itemized in this act shall be increased by three percent (3%).

22
 23 Requested by: Senators Garrou, Dalton, Hagan
 24 **CLERK OF SUPERIOR COURT/SALARY INCREASES**

25 **SECTION 29.5.(a)** Effective July 1, 2005, G.S. 7A-101(a) reads as
 26 rewritten:

27 "(a) The clerk of superior court is a full-time employee of the State and shall
 28 receive an annual salary, payable in equal monthly installments, based on the population
 29 of the county as determined in subsection (a1) of this section, according to the following
 30 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>

36 The salary schedule in this subsection is intended to represent the following
 37 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%.

43 When a county changes from one population group to another, the salary of the clerk
 44 shall be changed, on July 1 of the fiscal year for which the change is reported, to the
 45 salary appropriate for the new population group, except that the salary of an incumbent
 46 clerk shall not be decreased by any change in population group during his continuance
 47 in office."

48 **SECTION 29.5.(b)** Effective July 1, 2006, G.S. 7A-101(a), as amended by
 49 subsection (a) of this section, reads as rewritten:

50 "(a) The clerk of superior court is a full-time employee of the State and shall
 51 receive an annual salary, payable in equal monthly installments, based on the population
 52 of the county as determined in subsection (a1) of this section, according to the following
 53 schedule:

Population	Annual Salary
Less than 100,000	\$73,092 <u>\$75,285</u>

1	100,000 to 149,999	82,021	<u>84,482</u>
2	150,000 to 249,999	90,952	<u>93,681</u>
3	250,000 and above	99,884	<u>102,880</u>

4 The salary schedule in this subsection is intended to represent the following
 5 approximate percentage of the salary of a chief district court judge:

6	Population	Annual Salary
7	Less than 100,000	73%
8	100,000 to 149,999	82%
9	150,000 to 249,999	91%
10	250,000 and above	100%.

11 When a county changes from one population group to another, the salary of the clerk
 12 shall be changed, on July 1 of the fiscal year for which the change is reported, to the
 13 salary appropriate for the new population group, except that the salary of an incumbent
 14 clerk shall not be decreased by any change in population group during his continuance
 15 in office."

16
 17 Requested by: Senators Garrou, Dalton, Hagan

18 **ASSISTANT AND DEPUTY CLERKS OF COURT/SALARY INCREASES**

19 **SECTION 29.6.(a)** Effective July 1, 2005, G.S. 7A-102(c1) reads as
 20 rewritten:

21 "(c1) A full-time assistant clerk or a full-time deputy clerk, and up to one full-time
 22 deputy clerk serving as head bookkeeper per county, shall be paid an annual salary
 23 subject to the following minimum and maximum rates:

24	Assistant Clerks and Head Bookkeeper	Annual Salary
25	Minimum	\$27,515 <u>\$28,065</u>
26	Maximum	47,626 <u>48,579</u>

27		
28	Deputy Clerks	Annual Salary
29	Minimum	\$23,565 <u>\$24,065</u>
30	Maximum	36,934 <u>37,673</u> ."

31 **SECTION 29.6.(b)** Effective July 1, 2006, G.S. 7A-102(c1), as amended by
 32 subsection (a) of this section, reads as rewritten:

33 "(c1) A full-time assistant clerk or a full-time deputy clerk, and up to one full-time
 34 deputy clerk serving as head bookkeeper per county, shall be paid an annual salary
 35 subject to the following minimum and maximum rates:

36	Assistant Clerks and Head Bookkeeper	Annual Salary
37	Minimum	\$28,065 <u>\$28,907</u>
38	Maximum	48,579 <u>50,036</u>

39		
40	Deputy Clerks	Annual Salary
41	Minimum	\$24,065 <u>\$24,787</u>
42	Maximum	37,673 <u>38,803</u> ."

43
 44 Requested by: Senators Garrou, Dalton, Hagan

45 **MAGISTRATES' SALARY INCREASES**

46 **SECTION 29.7.(a)** Effective July 1, 2005, G.S. 7A-171.1(a)(1) reads as
 47 rewritten:

48 "(1) A full-time magistrate shall be paid the annual salary indicated in the
 49 table set out in this subdivision. A full-time magistrate is a magistrate
 50 who is assigned to work an average of not less than 40 hours a week
 51 during the term of office. The Administrative Officer of the Courts
 52 shall designate whether a magistrate is full-time. Initial appointment
 53 shall be at the entry rate. A magistrate's salary shall increase to the
 54 next step every two years on the anniversary of the date the magistrate
 55 was originally appointed for increases to Steps 1 through 3, and every

four years on the anniversary of the date the magistrate was originally appointed for increases to Steps 4 through 6.

Table of Salaries of Full-Time Magistrates

Step Level	Annual Salary	
Entry Rate	\$27,889	<u>\$28,477</u>
Step 1	30,525	<u>31,136</u>
Step 2	33,393	<u>34,061</u>
Step 3	36,523	<u>37,253</u>
Step 4	39,952	<u>40,751</u>
Step 5	43,789	<u>44,665</u>
Step 6	48,036.	<u>48,997."</u>

SECTION 29.7.(a1) Effective July 1, 2006, G.S. 7A-171.1(a)(1), as amended by subsection (a) of this section, reads as rewritten:

"(1) A full-time magistrate shall be paid the annual salary indicated in the table set out in this subdivision. A full-time magistrate is a magistrate who is assigned to work an average of not less than 40 hours a week during the term of office. The Administrative Officer of the Courts shall designate whether a magistrate is full-time. Initial appointment shall be at the entry rate. A magistrate's salary shall increase to the next step every two years on the anniversary of the date the magistrate was originally appointed for increases to Steps 1 through 3, and every four years on the anniversary of the date the magistrate was originally appointed for increases to Steps 4 through 6.

Table of Salaries of Full-Time Magistrates

Step Level	Annual Salary	
Entry Rate	\$28,477	<u>\$29,300</u>
Step 1	31,136	<u>32,070</u>
Step 2	34,061	<u>35,083</u>
Step 3	37,253	<u>38,371</u>
Step 4	40,751	<u>41,974</u>
Step 5	44,665	<u>46,005</u>
Step 6	48,997.	<u>50,467."</u>

SECTION 29.7.(b) Effective July 1, 2005, G.S. 7A-171.1(a1)(1) reads as rewritten:

"(1) The salaries of magistrates who on June 30, 1994, were paid at a salary level of less than five years of service under the table in effect that date shall be as follows:

Less than 1 year of service	\$22,325	<u>\$22,825</u>
1 or more but less than 3 years of service	23,389	<u>23,889</u>
3 or more but less than 5 years of service	25,530.	<u>26,041.</u>

Upon completion of five years of service, those magistrates shall receive the salary set as the Entry Rate in the table in subsection (a)."

SECTION 29.7.(b1) Effective July 1, 2006, G.S. 7A-171.1(a1)(1), as amended by subsection (b) of this section, reads as rewritten:

"(1) The salaries of magistrates who on June 30, 1994, were paid at a salary level of less than five years of service under the table in effect that date shall be as follows:

Less than 1 year of service	\$22,825	<u>\$23,510</u>
1 or more but less than 3 years of service	23,889	<u>24,606</u>
3 or more but less than 5 years of service	26,041.	<u>26,822.</u>

1 Upon completion of five years of service, those magistrates shall
2 receive the salary set as the Entry Rate in the table in subsection (a)."
3

4 Requested by: Senators Garrou, Dalton, Hagan

5 **GENERAL ASSEMBLY PRINCIPAL CLERKS/SALARY INCREASES**

6 **SECTION 29.8.(a)** Effective July 1, 2005, G.S. 120-37(c), reads as
7 rewritten:

8 "(c) The principal clerks shall be full-time officers. Each principal clerk shall be
9 entitled to other benefits available to permanent legislative employees and shall be paid
10 an annual salary of ~~ninety thousand five hundred fourteen dollars (\$90,514)~~ninety-two
11 thousand three hundred twenty-four dollars (\$92,324) payable monthly. The Legislative
12 Services Commission shall review the salary of the principal clerks prior to submission
13 of the proposed operating budget of the General Assembly to the Governor and
14 Advisory Budget Commission and shall make appropriate recommendations for
15 changes in those salaries. Any changes enacted by the General Assembly shall be by
16 amendment to this paragraph."

17 **SECTION 29.8.(b)** Effective July 1, 2006, G.S. 120-37(c), as amended by
18 subsection (a) of this section, reads as rewritten:

19 "(c) The principal clerks shall be full-time officers. Each principal clerk shall be
20 entitled to other benefits available to permanent legislative employees and shall be paid
21 an annual salary of ~~ninety two thousand three hundred twenty four dollars (\$92,324)~~
22 ninety-five thousand ninety-four dollars (\$95,094) payable monthly. The Legislative
23 Services Commission shall review the salary of the principal clerks prior to submission
24 of the proposed operating budget of the General Assembly to the Governor and
25 Advisory Budget Commission and shall make appropriate recommendations for
26 changes in those salaries. Any changes enacted by the General Assembly shall be by
27 amendment to this paragraph."
28

29 Requested by: Senators Garrou, Dalton, Hagan

30 **SERGEANTS-AT-ARMS AND READING CLERKS**

31 **SECTION 29.9.(a)** Effective July 1, 2005, G.S. 120-37(b) reads as
32 rewritten:

33 "(b) The sergeant-at-arms and the reading clerk in each house shall be paid a
34 salary of ~~three hundred eleven dollars (\$311.00)~~three hundred twenty-one dollars
35 (\$321.00) per week plus subsistence at the same daily rate provided for members of the
36 General Assembly, plus mileage at the rate provided for members of the General
37 Assembly for one round trip only from their homes to Raleigh and return. The
38 sergeants-at-arms shall serve during sessions of the General Assembly and at such time
39 prior to the convening of, and subsequent to adjournment or recess of, sessions as may
40 be authorized by the Legislative Services Commission. The reading clerks shall serve
41 during sessions only."

42 **SECTION 29.9.(b)** Effective July 1, 2006, G.S. 120-37(b), as amended by
43 subsection (a) of this section, reads as rewritten:

44 "(b) The sergeant-at-arms and the reading clerk in each house shall be paid a
45 salary of ~~three hundred twenty one dollars (\$321.00)~~three hundred thirty dollars
46 (\$330.00) per week plus subsistence at the same daily rate provided for members of the
47 General Assembly, plus mileage at the rate provided for members of the General
48 Assembly for one round trip only from their homes to Raleigh and return. The
49 sergeants-at-arms shall serve during sessions of the General Assembly and at such time
50 prior to the convening of, and subsequent to adjournment or recess of, sessions as may
51 be authorized by the Legislative Services Commission. The reading clerks shall serve
52 during sessions only."
53

54 Requested by: Senators Garrou, Dalton, Hagan

55 **LEGISLATIVE EMPLOYEES**

1 **SECTION 29.10.(a)** Effective July 1, 2005, the Legislative Services Officer
2 shall increase the salaries of nonelected employees of the General Assembly in effect
3 June 30, 2005, by the greater of five hundred dollars (\$500.00) or two percent (2%).
4 Nothing in this act limits any of the provisions of G.S. 120-32.

5 **SECTION 29.10.(b)** Effective July 1, 2006, the Legislative Services Officer
6 shall increase the salaries of nonelected employees of the General Assembly in effect
7 June 30, 2006, by three percent (3%). Nothing in this act limits any of the provisions of
8 G.S. 120-32.

9
10 Requested by: Senators Garrou, Dalton, Hagan

11 **COMMUNITY COLLEGE PERSONNEL/SALARY INCREASES**

12 **SECTION 29.11.(a)** The Director of the Budget shall transfer from the
13 Reserve for Compensation Increases, created in this act for fiscal years 2005-2006 and
14 2006-2007, funds to the North Carolina Community Colleges System Office necessary
15 to provide an annual salary increase of the greater of five hundred dollars (\$500.00) or
16 two percent (2%), including funds for the employer's retirement and social security
17 contributions, commencing July 1, 2005, for all community college employees
18 supported by State funds.

19 **SECTION 29.11.(b)** The Director of the Budget shall transfer from the
20 Reserve for Compensation Increases, created in this act for fiscal year 2006-2007, funds
21 to the North Carolina Community Colleges System Office necessary to provide an
22 annual salary increase of three percent (3%), including funds for the employer's
23 retirement and social security contributions, commencing July 1, 2006, for all
24 community college employees supported by State funds.

25
26 Requested by: Senators Garrou, Dalton, Hagan

27 **UNIVERSITY OF NORTH CAROLINA SYSTEM/EPA COMPENSATION**

28 **SECTION 29.12.(a)** The Director of the Budget shall transfer to the Board
29 of Governors of The University of North Carolina sufficient funds from the Reserve for
30 Compensation Increases, created in this act for fiscal years 2005-2006 and 2006-2007,
31 to provide an average annual salary increase of the greater of five hundred dollars
32 (\$500.00) or two percent (2%), including funds for the employer's retirement and social
33 security contributions, commencing July 1, 2005, for all employees of The University of
34 North Carolina, as well as employees other than teachers of the North Carolina School
35 of Science and Mathematics, supported by State funds and whose salaries are exempt
36 from the State Personnel Act (EPA). The percentage annual salary increase of two
37 percent (2%) authorized by this section shall be made on an aggregated average basis,
38 and these funds shall be allocated to individuals according to the rules adopted by the
39 Board of Governors of The University of North Carolina or the Board of Trustees of the
40 North Carolina School of Science and Mathematics, as appropriate, and may not be
41 used for any purpose other than for salary increases and necessary employer
42 contributions provided by this section.

43 **SECTION 29.12.(a1)** The Director of the Budget shall transfer to the Board
44 of Governors of The University of North Carolina sufficient funds from the Reserve for
45 Compensation Increases, created in this act for fiscal year 2006-2007, to provide an
46 average annual salary increase of three percent (3%), including funds for the employer's
47 retirement and social security contributions, commencing July 1, 2006, for all
48 employees of The University of North Carolina, as well as employees other than
49 teachers of the North Carolina School of Science and Mathematics, supported by State
50 funds and whose salaries are exempt from the State Personnel Act (EPA). These funds
51 shall be allocated to individuals according to the rules adopted by the Board of
52 Governors of The University of North Carolina or the Board of Trustees of the North
53 Carolina School of Science and Mathematics, as appropriate, and may not be used for
54 any purpose other than for salary increases and necessary employer contributions
55 provided by this section.

1 **SECTION 29.12.(b)** The Director of the Budget shall transfer to the Board
2 of Governors of The University of North Carolina sufficient funds from the Reserve for
3 Compensation Increases, created in this act for fiscal years 2005-2006 and 2006-2007,
4 to provide an average annual salary increase of two percent (2%), including funds for
5 the employer's retirement and social security contributions, commencing July 1, 2005,
6 for all teaching employees of the North Carolina School of Science and Mathematics,
7 supported by State funds and whose salaries are exempt from the State Personnel Act
8 (EPA). These funds shall be allocated to individuals according to the rules adopted by
9 the Board of Trustees of the North Carolina School of Science and Mathematics and
10 may not be used for any purpose other than for salary increases and necessary employer
11 contributions provided by this section.

12 **SECTION 29.12.(b1)** The Director of the Budget shall transfer to the Board
13 of Governors of The University of North Carolina sufficient funds from the Reserve for
14 Compensation Increases, created in this act for fiscal year 2006-2007, to provide an
15 average annual salary increase of three percent (3%), including funds for the employer's
16 retirement and social security contributions, commencing July 1, 2006, for all teaching
17 employees of the North Carolina School of Science and Mathematics, supported by
18 State funds and whose salaries are exempt from the State Personnel Act (EPA). These
19 funds shall be allocated to individuals according to the rules adopted by the Board of
20 Trustees of the North Carolina School of Science and Mathematics and may not be used
21 for any purpose other than for salary increases and necessary employer contributions
22 provided by this section.

23
24 Requested by: Senators Garrou, Dalton, Hagan

25 **MOST STATE EMPLOYEES/SALARY INCREASES**

26 **SECTION 29.13.(a)** The salaries in effect June 30, 2005, of all permanent
27 full-time State employees whose salaries are set in accordance with the State Personnel
28 Act and who are paid from the General Fund or the Highway Fund shall be increased,
29 effective July 1, 2005, by the greater of five hundred dollars (\$500.00) or two percent
30 (2%), unless otherwise provided by this act. The salaries in effect June 30, 2006, of all
31 permanent full-time State employees whose salaries are set in accordance with the State
32 Personnel Act and who are paid from the General Fund or the Highway Fund shall be
33 increased, effective July 1, 2006, by three percent (3%), unless otherwise provided by
34 this act.

35 **SECTION 29.13.(b)** Except as otherwise provided in this act, the salaries in
36 effect June 30, 2005, for permanent full-time State officials and persons in exempt
37 positions that are recommended by the Governor or the Governor and the Advisory
38 Budget Commission and set by the General Assembly shall be increased by the greater
39 of five hundred dollars (\$500.00) or two percent (2%), effective July 1, 2005, unless
40 otherwise provided by this act. Except as otherwise provided in this act, the salaries in
41 effect June 30, 2006, for permanent full-time State officials and persons in exempt
42 positions that are recommended by the Governor or the Governor and the Advisory
43 Budget Commission and set by the General Assembly shall be increased by three
44 percent (3%), effective July 1, 2006, unless otherwise provided by this act.

45 **SECTION 29.13.(c)** The salaries in effect June 30, 2005, for all permanent
46 part-time State employees shall be increased, effective July 1, 2005, by pro rata amounts
47 of five hundred dollars (\$500.00) or two percent (2%), whichever is greater. The
48 salaries in effect for June 30, 2006, for all permanent part-time State employees shall be
49 increased, effective July 1, 2006, by three percent (3%).

50 **SECTION 29.13.(d)** The Director of the Budget may allocate out of special
51 operating funds or from other sources of the employing agency, except tax revenues,
52 sufficient funds to allow a salary increase, effective July 1, 2005, and July 1, 2006, in
53 accordance with subsection (a), (b), or (c) of this section, including funds for the
54 employer's retirement and social security contributions, for the permanent full-time and

1 part-time employees of the agency, provided the employing agency elects to make
2 available the necessary funds.

3 **SECTION 29.13.(e)** Within regular Executive Budget Act procedures as
4 limited by this act, all State agencies and departments may increase on an equitable
5 basis the rate of pay of temporary and permanent hourly State employees, subject to
6 availability of funds in the particular agency or department, by pro rata amounts of the
7 greater of the five hundred dollar (\$500.00) or two percent (2%) increase provided for
8 permanent full-time employees covered by the provisions of subsection (a) of this
9 section, commencing July 1, 2005. Within regular Executive Budget Act procedures as
10 limited by this act, all State agencies and departments may increase on an equitable
11 basis the rate of pay of temporary and permanent hourly State employees, subject to
12 availability of funds in the particular agency or department, by the three percent (3%)
13 increase provided for permanent full-time employees covered by the provisions of
14 subsection (a) of this section, commencing July 1, 2006.

15
16 Requested by: Senators Garrou, Dalton, Hagan

17 **ALL STATE-SUPPORTED PERSONNEL/SALARY INCREASES**

18 **SECTION 29.14.(a)** Salaries and related benefits for positions that are
19 funded partially from the General Fund or Highway Fund and partially from sources
20 other than the General Fund or Highway Fund shall be increased from the General Fund
21 or Highway Fund appropriation only to the extent of the proportionate part of the
22 salaries paid from the General Fund or Highway Fund.

23 **SECTION 29.14.(b)** The granting of the salary increases under this act does
24 not affect the status of eligibility for salary increments for which employees may be
25 eligible unless otherwise required by this act.

26 **SECTION 29.14.(c)** The salary increases provided in this act to be effective
27 July 1, 2005, do not apply to persons separated from State service due to resignation,
28 dismissal, reduction in force, death, or retirement, or whose last workday is prior to July
29 1, 2005. The salary increases provided in this act to be effective July 1, 2006, do not
30 apply to persons separated from State service due to resignation, dismissal, reduction in
31 force, death, or retirement, or whose last workday is prior to July 1, 2006.

32 Payroll checks issued to employees after July 1, 2005, which represent
33 payment of services provided prior to July 1, 2005, shall not be eligible for salary
34 increases provided for in this act. This subsection shall apply to all employees, subject
35 to or exempt from the State Personnel Act, paid from State funds, including public
36 schools, community colleges, and The University of North Carolina. Payroll checks
37 issued to employees after July 1, 2006, which represent payment of services provided
38 prior to July 1, 2006, shall not be eligible for salary increases provided for in this act.
39 This subsection shall apply to all employees, subject to or exempt from the State
40 Personnel Act, paid from State funds, including public schools, community colleges,
41 and The University of North Carolina.

42 **SECTION 29.14.(d)** The Director of the Budget shall transfer from the
43 Reserve for Compensation Increases in this act for fiscal years 2005-2006 and
44 2006-2007 all funds necessary for the salary increases provided by this act, including
45 funds for the employer's retirement and social security contributions.

46 **SECTION 29.14.(e)** Nothing in this act authorizes the transfer of funds
47 between the General Fund and the Highway Fund for salary increases.

48 **SECTION 29.14.(f)** For fiscal year 2005-2006, permanent full-time
49 employees who work a nine-, ten-, or eleven-month work year schedule shall receive
50 the five hundred dollars (\$500.00) or two percent (2%) annual increase provided by this
51 act, whichever is greater.

52 For fiscal year 2006-2007, permanent full-time employees who work a nine-,
53 ten-, or eleven-month work year schedule shall receive the three percent (3%) annual
54 increase provided by this act.

1 Requested by: Senators Garrou, Dalton, Hagan

2 **SALARY ADJUSTMENT FUND**

3 **SECTION 29.15.(a)** Any remaining appropriations in the Reserve for
4 Compensation Increases authorized for employee salary increases not required for that
5 purpose may be used to supplement the Salary Adjustment Fund.

6 **SECTION 29.15.(b)** Funds appropriated or otherwise transferred to the
7 Salary Adjustment Fund by this act or any other provision of law shall be used to fund
8 agency requests for the following purposes:

9 (1) Salary range revisions to provide competitive salary rates for affected
10 job classifications in response to changes in labor market salary rates
11 as documented through data collection and analysis according to
12 accepted human resource professional practices and standards.

13 (2) Reallocation of positions to higher-level job classifications to
14 compensate employees for more difficult duties at competitive salary
15 rates as documented through data collection and analysis according to
16 accepted human resource professional practices and standards.

17 Priority funding shall be given to those salary range revisions previously
18 approved by the State Personnel Commission and reallocations previously approved by
19 the Office of State Personnel or designee.

20 **SECTION 29.15.(c)** The Director of the Budget shall consult with the Joint
21 Legislative Commission on Governmental Operations prior to transferring any salary
22 adjustment funds for any State agency.

23 **SECTION 29.15.(d)** The Director of the Budget may transfer to General
24 Fund budget codes from the General Fund Salary Adjustment Fund and may transfer to
25 Highway Fund budget codes from the Highway Fund Salary Adjustment Fund amounts
26 required to support salary adjustments authorized by this section.

27 **SECTION 29.15.(e)** The Judicial Department is eligible for the funding
28 authorized in subsection (a) of this section.

29
30 Requested by: Senators Garrou, Dalton, Hagan

31 **TEMPORARY SALES TAX TRANSFER FOR WILDLIFE RESOURCES**
32 **COMMISSION SALARY INCREASES**

33 **SECTION 29.16.** For the 2005-2006 and 2006-2007 fiscal years, the
34 Secretary of Revenue shall transfer at the end of each quarter from the State sales and
35 use tax net collections received by the Department of Revenue under Article 5 of
36 Chapter 105 of the General Statutes to the State Treasurer for the Wildlife Resources
37 Fund to fund the cost of any legislative salary increase for employees of the Wildlife
38 Resources Commission.

39
40 Requested by: Senators Garrou, Dalton, Hagan

41 **STATE AGENCY TEACHERS' COMPENSATION**

42 **SECTION 29.17.** Funds in the Reserve for Compensation Increases shall be
43 used for experience step increases for employees of schools operated by the Department
44 of Health and Human Services, the Department of Correction, or the Department of
45 Juvenile Justice and Delinquency Prevention, who are paid on the Teacher Salary
46 Schedule or the School Based Administrator Salary Schedule.

47
48 Requested by: Senators Garrou, Dalton, Hagan, Dorsett

49 **STATE GOVERNMENT EMPLOYMENT FAIR MINIMUM WAGE**

50 **SECTION 29.18.(a)** All permanent, full-time employees subject to the State
51 Personnel Act shall be paid a minimum salary of at least twenty thousand one hundred
52 twelve dollars (\$20,112) per year. Permanent, full-time employees subject to the State
53 Personnel Act working on a schedule requiring less than 12 months' service per year
54 shall be paid the minimum salary pro rata.

1 **SECTION 29.18.(b)** Of the funds appropriated in this act from the General
2 Fund to the Reserve for Compensation Increases, the sum of one hundred fifty-six
3 thousand dollars (\$156,000) for the 2005-2006 fiscal year and the sum of one hundred
4 fifty-six thousand dollars (\$156,000) for the 2006-2007 fiscal year shall be used to
5 provide a fairer minimum wage to employees subject to the State Personnel Act.

6 **SECTION 29.18.(c)** In order to lessen salary compression and potential pay
7 inequities, State agencies, departments, and institutions, and The University of North
8 Carolina may, when increasing salaries pursuant to this section, make adjustments to the
9 salaries of supervisors and other employees who have, when considering classification,
10 significantly more experience and length of service compared to the employees
11 receiving this pay increase. These salary compression and pay equity determinations
12 shall be made in consultation with the Office of State Personnel.

13 Of the funds appropriated in this act from the General Fund to the Reserve for
14 Compensation Increases, the Office of State Budget and Management shall use funds in
15 an amount not to exceed seven hundred fifty thousand dollars (\$750,000) for the
16 2005-2006 fiscal year and not to exceed seven hundred fifty thousand dollars
17 (\$750,000) for the 2006-2007 fiscal year to implement this subsection. The Director of
18 the Budget shall consult with the Joint Legislative Commission on Governmental
19 Operations prior to the transfer of any funds pursuant to this subsection.

20 **SECTION 29.18.(d)** The fair minimum wage salary adjustment provided by
21 this section shall be calculated and awarded after any across-the-board salary increases
22 authorized by this act.

23
24 Requested by: Senators Garrou, Dalton, Hagan

25 **SALARY SUPPLEMENTS FOR PERSONNEL EMPLOYED IN CERTAIN**
26 **STATE AGENCIES**

27 **SECTION 29.19.(a)** G.S. 143B-146.21 is amended by adding the following
28 new subsection to read:

29 "(e) The Secretary of Health and Human Services, in consultation with the Office
30 of State Personnel, shall set the salary supplement paid to personnel who are employed
31 in the programs operated by the Department of Health and Human Services and are
32 licensed by the State Board of Education. The salary supplement shall be at least five
33 percent (5%), but not more than the percentage supplement they would receive if they
34 were employed in the LEA where the job site is located. Nothing in this subsection shall
35 be construed to include "merit pay" under the term "salary supplement"."

36 **SECTION 29.19.(b)** G.S. 143B-516(b) is amended by adding the following
37 new subdivision to read:

38 "(b) The Secretary shall have the following powers and duties:

39 ...
40 (17a) Set, in consultation with the Office of State Personnel, the salary
41 supplement paid to personnel who are employed at juvenile facilities
42 and are licensed by the State Board of Education. The salary
43 supplement shall be at least five percent (5%), but not more than the
44 percentage supplement they would receive if they were employed in
45 the LEA where the job site is located. Nothing in this subdivision shall
46 be construed to include "merit pay" under the term "salary
47 supplement".

48 ..."

49 **SECTION 29.19.(c)** G.S. 148-22.1 is amended by adding the following new
50 subsection to read:

51 **"§ 148-22.1. Educational facilities and programs for selected inmates.**

52 ...
53 (c) The Secretary of Correction, in consultation with the Office of State
54 Personnel, shall set the salary supplement paid to personnel who are Division of Prison
55 employees that serve in youth facilities and are licensed by the State Board of

1 Education. The salary supplement shall be at least five percent (5%), but not more than
2 the percentage supplement they would receive if they were employed in the LEA where
3 the job site is located. Nothing in this subsection shall be construed to include "merit
4 pay" under the term "salary supplement".
5

6 Requested by: Senators Garrou, Dalton, Hagan, Kerr, Hoyle, Berger of Franklin

7 **INDUSTRIAL COMMISSION IN-RANGE SALARY ADJUSTMENTS**

8 **SECTION 29.20.(a)** Of the revenue generated by implementing a fee for the
9 required review of Form 21 Agreements, the Industrial Commission may use up to one
10 hundred seventy-one thousand nine hundred dollars (\$171,900) in fiscal years 2005-
11 2006 and 2006-2007 to provide the salary adjustment authorized by subsection (b) of
12 this section and in-range salary adjustments for Industrial Commission staff.

13 **SECTION 29.20.(b)** Effective July 1, 2005, G.S. 97-78(b1) reads as
14 rewritten:

15 "(b1) The salary of the administrator shall be ninety percent (90%) of the salary of
16 a commissioner. The salary of the executive secretary shall be ~~eighty percent (80%)~~
17 eighty-five percent (85%) of the salary of a commissioner. In lieu of merit and other
18 incremental raises, the administrator and the executive secretary shall receive longevity
19 pay on the same basis as is provided to other employees subject to the State Personnel
20 Act."
21

22 Requested by: Senators Garrou, Dalton, Hagan

23 **COASTAL MANAGEMENT DIVISION SALARY INCREASES**

24 **SECTION 29.21.** The Department of Environment and Natural Resources is
25 authorized to, and shall, provide to the employees of the Division of Coastal
26 Management an increase in annual salary of five percent (5%). This increase shall be in
27 addition to any other increase authorized by this act.
28

29 Requested by: Senators Garrou, Dalton, Hagan, Kerr, Albertson

30 **NCSU SALARY INCREASES FOR AGRICULTURAL PROGRAM**
31 **EMPLOYEES**

32 **SECTION 29.22.** Of the funds appropriated in this act to the Board of
33 Governors of The University of North Carolina, the sum of two million dollars
34 (\$2,000,000) for the 2005-2006 fiscal year and the sum of two million dollars
35 (\$2,000,000) for the 2006-2007 fiscal year shall be used to support salary increases for
36 Agricultural Program employees of North Carolina State University who are exempt
37 from the State Personnel Act. These funds shall be allocated to individuals according to
38 rules adopted by the Board of Governors of The University of North Carolina and may
39 not be used for any other purpose other than for salary increases and the necessary
40 employer contributions provided by this section.
41

42 Requested by: Senators Garrou, Dalton, Hagan, Clodfelter

43 **LONGEVITY SERVICE DEFINITION**

44 **SECTION 29.23.(a)** G.S. 7A-10(c) reads as rewritten:

45 "(c) In lieu of merit and other increment raises paid to regular State employees,
46 the Chief Justice and each of the Associate Justices shall receive as longevity pay an
47 annual amount equal to four and eight-tenths percent (4.8%) of the annual salary set
48 forth in the Current Operations Appropriations Act payable monthly after five years of
49 service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and
50 four-tenths percent (14.4%) after 15 years of service, and nineteen and two-tenths
51 percent (19.2%) after 20 years of service. "Service" means service as a justice or judge
52 of the General Court of Justice or as a member of the Utilities Commission. Service
53 shall also mean service as a district attorney or as a clerk of superior ~~court~~court, or
54 service as a member of the General Assembly."

55 **SECTION 29.23.(b)** G.S. 7A-18(b) reads as rewritten:

1 "(b) In lieu of merit and other increment raises paid to regular State employees, a
2 judge of the Court of Appeals shall receive as longevity pay an annual amount equal to
3 four and eight-tenths percent (4.8%) of the annual salary set forth in the Current
4 Operations Appropriations Act payable monthly after five years of service, nine and
5 six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent
6 (14.4%) after 15 years of service, and nineteen and two-tenths percent (19.2%) after 20
7 years of service. "Service" means service as a justice or judge of the General Court of
8 Justice or as a member of the Utilities Commission. Service shall also mean service as a
9 district attorney or as a clerk of superior ~~court~~court, or service as a member of the
10 General Assembly."

11 **SECTION 29.23.(c)** G.S. 7A-44(b) reads as rewritten:

12 "(b) In lieu of merit and other increment raises paid to regular State employees, a
13 judge of the superior court, regular or special, shall receive as longevity pay an annual
14 amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the
15 Current Operations Appropriations Act payable monthly after five years of service, nine
16 and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent
17 (14.4%) after 15 years of service, and nineteen and two-tenths percent (19.2%) after 20
18 years of service. "Service" means service as a justice or judge of the General Court of
19 Justice or as a member of the Utilities Commission or as director or assistant director of
20 the Administrative Office of the Courts. Service shall also mean service as a district
21 attorney or as a clerk of superior ~~court~~court, or service as a member of the General
22 Assembly."

23 **SECTION 29.23.(d)** G.S. 7A-144(b) reads as rewritten:

24 "(b) Notwithstanding merit, longevity and other increment raises paid to regular
25 State employees, a judge of the district court shall receive as longevity pay an annual
26 amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the
27 Current Operations Appropriations Act payable monthly after five years of service, nine
28 and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent
29 (14.4%) after 15 years of service, and nineteen and two-tenths percent (19.2%) after 20
30 years of service. "Service" means service as a justice or judge of the General Court of
31 Justice or as a member of the Utilities Commission or as director or assistant director of
32 the Administrative Office of the Courts. Service shall also mean service as a district
33 attorney or as a clerk of superior ~~court~~court, or service as a member of the General
34 Assembly."

35
36 Requested by: Senators Garrou, Dalton, Hagan

37 **SALARY-RELATED CONTRIBUTIONS/EMPLOYER**

38 **SECTION 29.24.(a)** Required employer salary-related contributions for
39 employees whose salaries are paid from department, office, institution, or agency
40 receipts shall be paid from the same source as the source of the employees' salary. If an
41 employee's salary is paid in part from the General Fund or Highway Fund and in part
42 from department, office, institution, or agency receipts, required employer salary-related
43 contributions may be paid from the General Fund or Highway Fund only to the extent of
44 the proportionate part paid from the General Fund or Highway Fund in support of the
45 salary of the employee, and the remainder of the employer's requirements shall be paid
46 from the source that supplies the remainder of the employee's salary. The requirements
47 of this section as to source of payment are also applicable to payments on behalf of the
48 employee for hospital-medical benefits, longevity pay, unemployment compensation,
49 accumulated leave, workers' compensation, severance pay, separation allowances, and
50 applicable disability income benefits.

51 **SECTION 29.24.(b)** Effective July 1, 2005, the State's employer
52 contribution rates budgeted for retirement and related benefits as percentage of covered
53 salaries for the 2005-2006 fiscal year are: (i) six and eighty-three hundredths percent
54 (6.83%) – Teachers and State Employees; (ii) eleven and eighty-three hundredths
55 percent (11.83%) – State Law Enforcement Officers; (iii) eleven and sixteen hundredths

1 percent (11.16%) – University Employees' Optional Retirement System; (iv) eleven and
2 sixteen hundredths percent (11.16%) – Community College Optional Retirement
3 Program; (v) sixteen and thirty-nine hundredths percent (16.39%) – Consolidated
4 Judicial Retirement System; and (vi) three and eight-tenths percent (3.8%) – Legislative
5 Retirement System. Each of the foregoing contribution rates includes three and
6 eight-tenths percent (3.8%) for hospital and medical benefits. The rate for Teachers and
7 State Employees, State Law Enforcement Officers, Community College Optional
8 Retirement Program, and for the University Employees' Optional Retirement Program
9 includes fifty-two hundredths percent (0.52%) for the Disability Income Plan. The rates
10 for Teachers and State Employees and State Law Enforcement Officers include
11 sixteen-hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law
12 Enforcement Officers includes five percent (5%) for Supplemental Retirement Income.

13 **SECTION 29.24.(c)** Effective July 1, 2006, the State's employer
14 contribution rates budgeted for retirement and related benefits as percentage of covered
15 salaries for the 2006-2007 fiscal year are: (i) six and eighty-three hundredths percent
16 (6.83%) – Teachers and State Employees; (ii) eleven and eighty-three hundredths
17 percent (11.83%) – State Law Enforcement Officers; (iii) eleven and sixteen hundredths
18 percent (11.16%) – University Employees' Optional Retirement System; (iv) eleven and
19 sixteen hundredths percent (11.16%) – Community College Optional Retirement
20 Program; (v) sixteen and thirty-nine hundredths percent (16.39%) – Consolidated
21 Judicial Retirement System; and (vi) three and eight-tenths percent (3.8%) – Legislative
22 Retirement System. Each of the foregoing contribution rates includes three and
23 eight-tenths percent (3.8%) for hospital and medical benefits. The rate for Teachers and
24 State Employees, State Law Enforcement Officers, Community College Optional
25 Retirement Program, and for the University Employees' Optional Retirement Program
26 includes fifty-two hundredths percent (0.52%) for the Disability Income Plan. The rates
27 for Teachers and State Employees and State Law Enforcement Officers include
28 sixteen-hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law
29 Enforcement Officers includes five percent (5%) for Supplemental Retirement Income.

30 **SECTION 29.24.(d)** The maximum annual employer contributions, payable
31 monthly, by the State for each covered employee or retiree for the 2005-2006 fiscal year
32 to the Teachers' and State Employees' Comprehensive Major Medical Plan are: (i)
33 Medicare-eligible employees and retirees – two thousand eight hundred ninety-two
34 dollars (\$2,892) and (ii) non-Medicare-eligible employees and retirees – three thousand
35 eight hundred dollars (\$3,800).

36 **SECTION 29.24.(e)** The maximum annual employer contributions, payable
37 monthly, by the State for each covered employee or retiree for the 2006-2007 fiscal year
38 to the Teachers' and State Employees' Comprehensive Major Medical Plan are: (i)
39 Medicare-eligible employees and retirees – two thousand nine hundred eighty-six
40 dollars (\$2,986) and (ii) non-Medicare-eligible employees and retirees – three thousand
41 nine hundred twenty-two dollars (\$3,922).

42
43 Requested by: Senators Garrou, Dalton, Hagan

44 **PROVIDE COST-OF-LIVING INCREASES FOR RETIREES OF THE**
45 **TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE**
46 **JUDICIAL RETIREMENT SYSTEM, THE LOCAL RETIREMENT**
47 **SYSTEM, AND THE LEGISLATIVE RETIREMENT SYSTEM**

48 **SECTION 29.25.(a)** G.S. 135-5 is amended by adding a new subsection to
49 read:

50 "(nnn) From and after July 1, 2005, the retirement allowance to or on account of
51 beneficiaries whose retirement commenced on or before July 1, 2004, shall be increased
52 by two percent (2%) of the allowance payable on June 1, 2005, in accordance with
53 G.S. 135-5(o). Furthermore, from and after July 1, 2005, the retirement allowance to or
54 on account of beneficiaries whose retirement commenced after July 1, 2004, but before
55 June 30, 2005, shall be increased by a prorated amount of two percent (2%) of the

1 allowance payable as determined by the Board of Trustees based upon the number of
2 months that a retirement allowance was paid between July 1, 2004, and June 30, 2005."

3 **SECTION 29.25.(b)** G.S. 135-65 is amended by adding a new subsection to
4 read:

5 "(z) From and after July 1, 2005, the retirement allowance to or on account of
6 beneficiaries whose retirement commenced on or before July 1, 2004, shall be increased
7 by two percent (2%) of the allowance payable on June 1, 2005. Furthermore, from and
8 after July 1, 2005, the retirement allowance to or on account of beneficiaries whose
9 retirement commenced after July 1, 2004, but before June 30, 2005, shall be increased
10 by a prorated amount of two percent (2%) of the allowance payable as determined by
11 the Board of Trustees based upon the number of months that a retirement allowance was
12 paid between July 1, 2004, and June 30, 2005."

13 **SECTION 29.25.(c)** G.S. 120-4.22A is amended by adding a new subsection
14 to read:

15 "(t) In accordance with subsection (a) of this section, from and after July 1, 2005,
16 the retirement allowance to or on account of beneficiaries whose retirement commenced
17 on or before January 1, 2005, shall be increased by two percent (2%) of the allowance
18 payable on June 1, 2005. Furthermore, from and after July 1, 2005, the retirement
19 allowance to or on account of beneficiaries whose retirement commenced after January
20 1, 2005, but before June 30, 2005, shall be increased by a prorated amount of two
21 percent (2%) of the allowance payable as determined by the Board of Trustees based
22 upon the number of months that a retirement allowance was paid between January 1,
23 2005, and June 30, 2005."

24 **SECTION 29.25.(d)** G.S. 128-27 is amended by adding a new subsection to
25 read:

26 "(ggg) From and after July 1, 2005, the retirement allowance to or on account of
27 beneficiaries whose retirement commenced on or before July 1, 2004, shall be increased
28 by two percent (2%) of the allowance payable on June 1, 2005, in accordance with
29 subsection (k) of this section. Furthermore, from and after July 1, 2005, the retirement
30 allowance to or on account of beneficiaries whose retirement commenced after July 1,
31 2004, but before June 30, 2005, shall be increased by a prorated amount of two percent
32 (2%) of the allowance payable as determined by the Board of Trustees based upon the
33 number of months that a retirement allowance was paid between July 1, 2004, and June
34 30, 2005."

35 **SECTION 29.25.(e)** It is the intent of the General Assembly to provide a
36 cost-of-living increase, effective July 1, 2006, to retirees of the Teachers' and State
37 Employees' Retirement System, the Judicial Retirement System, the Local
38 Governmental Employees' Retirement System, and the Legislative Retirement System
39 that is comparable to the increases given to State employees in this act, subject to
40 available actuarial gains within each system.

41
42 Requested by: Senators Hoyle, Garrou, Dalton, Hagan, Kerr, Malone, Rand,
43 Snow, Swindell, Thomas, Weinstein

44 **INCREASE THE MONTHLY PENSION FOR MEMBERS OF THE FIREMEN'S**
45 **AND RESCUE SQUAD WORKERS' PENSION FUND**

46 **SECTION 29.26.** G.S. 58-86-55 reads as rewritten:

47 **"§ 58-86-55. Monthly pensions upon retirement.**

48 Any member who has served 20 years as an "eligible fireman" or "eligible rescue
49 squad worker" in the State of North Carolina, as provided in G.S. 58-86-25 and
50 G.S. 58-86-30, and who has attained the age of 55 years is entitled to be paid a monthly
51 pension from this fund. The monthly pension shall be in the amount of ~~one hundred~~
52 ~~sixty one dollars (\$161.00)~~ one hundred sixty-three dollars (\$163.00) per month. Any
53 retired fireman receiving a pension shall, effective ~~July 1, 2004,~~ July 1, 2005, receive a
54 pension of ~~one hundred sixty one dollars (\$161.00)~~ one hundred sixty-three dollars
55 (\$163.00) per month.

1 Members shall pay ten dollars (\$10.00) per month as required by G.S. 58-86-35 and
2 G.S. 58-86-40 for a period of no longer than 20 years. No "eligible rescue squad
3 member" shall receive a pension prior to July 1, 1983. No member shall be entitled to a
4 pension hereunder until the member's official duties as a fireman or rescue squad
5 worker for which the member is paid compensation shall have been terminated and the
6 member shall have retired as such according to standards or rules fixed by the board of
7 trustees.

8 A member who is totally and permanently disabled while in the discharge of the
9 member's official duties as a result of bodily injuries sustained or as a result of extreme
10 exercise or extreme activity experienced in the course and scope of those official duties
11 and who leaves the fire or rescue squad service because of this disability shall be
12 entitled to be paid from the fund a monthly benefit in an amount of ~~one hundred~~
13 ~~sixty one dollars (\$161.00)~~ one hundred sixty-three dollars (\$163.00) per month
14 beginning the first month after the member's fifty-fifth birthday. All applications for
15 disability are subject to the approval of the board who may appoint physicians to
16 examine and evaluate the disabled member prior to approval of the application, and
17 annually thereafter. Any disabled member shall not be required to make the monthly
18 payment of ten dollars (\$10.00) as required by G.S. 58-86-35 and G.S. 58-86-40.

19 A member who is totally and permanently disabled for any cause, other than line of
20 duty, who leaves the fire or rescue squad service because of this disability and who has
21 at least 10 years of service with the pension fund, may be permitted to continue making
22 a monthly contribution of ten dollars (\$10.00) to the fund until the member has made
23 contributions for a total of 240 months. The member shall upon attaining the age of 55
24 years be entitled to receive a pension as provided by this section. All applications for
25 disability are subject to the approval of the board who may appoint physicians to
26 examine and evaluate the disabled member prior to approval of the application and
27 annually thereafter.

28 A member who, because his residence is annexed by a city under Part 2 or Part 3 of
29 Article 4 of Chapter 160A of the General Statutes, or whose department is closed
30 because of an annexation by a city under Part 2 or Part 3 of Article 4 of Chapter 160A
31 of the General Statutes, or whose volunteer department is taken over by a city or county,
32 and because of such annexation or takeover is unable to perform as a fireman or rescue
33 squad worker of any status, and if the member has at least 10 years of service with the
34 pension fund, may be permitted to continue making a monthly contribution of ten
35 dollars (\$10.00) to the fund until the member has made contributions for a total of 240
36 months. The member upon attaining the age of 55 years and completion of such
37 contributions shall be entitled to receive a pension as provided by this section. Any
38 application to make monthly contributions under this section shall be subject to a
39 finding of eligibility by the Board of Trustees upon application of the member.

40 The pensions provided shall be in addition to all other pensions or benefits under any
41 other statutes of the State of North Carolina or the United States, notwithstanding any
42 exclusionary provisions of other pensions or retirement systems provided by law."
43

44 Requested by: Senators Thomas, Garrou, Dalton, Hagan, Hoyle, Jenkins, Rand,
45 Swindell, Weinstein

46 **INCREASE THE MAXIMUM MONTHLY PENSION BENEFITS FOR**
47 **RETIRED MEMBERS OF THE NORTH CAROLINA NATIONAL GUARD**

48 **SECTION 29.27.** G.S. 127A-40(a) reads as rewritten:

49 "(a) Every member and former member of the North Carolina national guard who
50 meets the requirements hereinafter set forth shall receive, commencing at age 60, a
51 pension of ~~fifty dollars (\$50.00)~~ seventy-five dollars (\$75.00) per month for 20 years'
52 creditable military service with an additional ~~five dollars (\$5.00)~~ seven dollars and fifty
53 cents (\$7.50) per month for each additional year of such service; provided, however,
54 that the total pension shall not exceed ~~one hundred dollars (\$100.00)~~ one hundred fifty

1 dollars (\$150.00) per month. The requirements for such pension are that each member
2 shall:

- 3 (1) Have served and qualified for at least 20 years' creditable military
4 service, including national guard, reserve and active duty, under the
5 same requirement specified for entitlement to retired pay for
6 nonregular service under Chapter 67, Title 10, United States Code.
- 7 (2) Have at least 15 years of the aforementioned service as a member of
8 the North Carolina national guard.
- 9 (3) Have received an honorable discharge from the North Carolina
10 national guard."

11
12 Requested by: Senators Garrou, Dalton, Hagan

13 **CONFORM RETIREE RETURN TO TEACHING BENEFIT TO IRS**
14 **GUIDELINES/CLARIFY DEFINITION OF RETIREMENT**

15 **SECTION 29.28.(a)** Subsection (d) of Section 28.24 of S.L. 1998-212, as
16 amended by Section 31.18A of S.L. 2004-124, reads as rewritten:

17 "(d) This section becomes effective January 1, 1999, and expires June 30, ~~2005-~~
18 2006."

19 **SECTION 29.28.(b)** The introductory language of Section 67 of S.L.
20 1998-217, as amended by Section 31.18A of S.L. 2004-124, reads as rewritten:

21 "**SECTION 67.** Effective January 1, 1999, through June 30, ~~2005,~~ 2006,
22 G.S. 135-3(8)c., as rewritten by Section 28.24(a) of S.L. 1998-212 reads as rewritten:"

23 **SECTION 29.28.(c)** Subsection (b) of Section 67.1 of S.L. 1998-217, as
24 amended by Section 31.18A of S.L. 2004-124, reads as rewritten:

25 "(b) This section becomes effective January 1, 1999, and expires June 30, ~~2005-~~
26 2006."

27 **SECTION 29.28.(d)** Subsection (c) of Section 32.25 of S.L. 2001-424, as
28 amended by Section 31.18A of S.L. 2004-124, reads as rewritten:

29 "**SECTION 32.25.(c)** This section becomes effective July 1, 2001, and expires June
30 30, ~~2005-~~ 2006."

31 **SECTION 29.28.(e)** G.S. 135-3(8)c. reads as rewritten:

- 32 c. Should a beneficiary who retired on an early or service
33 retirement allowance under this Chapter be reemployed, or
34 otherwise engaged to perform services, by an employer
35 participating in the Retirement System on a part-time,
36 temporary, interim, or on a fee-for-service basis, whether
37 contractual or otherwise, and if such beneficiary earns an
38 amount during the 12-month period immediately following the
39 effective date of retirement or in any calendar year which
40 exceeds fifty percent (50%) of the reported compensation,
41 excluding terminal payments, during the 12 months of service
42 preceding the effective date of retirement, or twenty thousand
43 dollars (\$20,000), whichever is greater, as hereinafter indexed,
44 then the retirement allowance shall be suspended as of the first
45 day of the month following the month in which the
46 reemployment earnings exceed the amount above, for the
47 balance of the calendar year. The retirement allowance of the
48 beneficiary shall be reinstated as of January 1 of each year
49 following suspension. The amount that may be earned before
50 suspension shall be increased on January 1 of each year by the
51 ratio of the Consumer Price Index to the Index one year earlier,
52 calculated to the nearest tenth of a percent (1/10 of 1%).

53 The computation of postretirement earnings of a beneficiary
54 under this sub-subdivision, G.S. 135-3(8)c., who has been
55 retired at least six months and has not been employed in any

1 capacity, ~~except as a substitute teacher or a part time tutor,~~
2 capacity with a public school for at least six months
3 immediately preceding the effective date of reemployment,
4 shall not include earnings while the beneficiary is employed to
5 teach on a ~~substitute, interim, or permanent~~ basis in a public
6 school. The Department of Public Instruction shall certify to the
7 Retirement System that a beneficiary is employed to teach by a
8 local school administrative unit under the provisions of this
9 sub-subdivision and as a retired teacher as the term is defined
10 under the provisions of G.S. 115C-325(a)(5a).

11 Beneficiaries employed under this sub-subdivision are not
12 entitled to any benefits otherwise provided under this Chapter
13 as a result of this period of employment."

14 **SECTION 29.28.(f)** G.S. 115C-325(a)(5a) reads as rewritten:

15 "(5a) "Retired teacher" means a beneficiary of the Teachers' and State
16 Employees' Retirement System of North Carolina who has been retired
17 at least six months, has not been employed in any ~~capacity, other than~~
18 ~~as a substitute teacher or a part time tutor, with a local board of~~
19 ~~education or a charter school~~ capacity for at least six months,
20 immediately preceding the effective date of reemployment, is
21 determined by a local board of education or a charter school to have
22 had satisfactory performance during the last year of employment by a
23 local board of education or a charter school, and who is employed to
24 teach as provided in G.S. 135-3(8)c. A retired teacher at a school other
25 than a charter school shall be treated the same as a probationary
26 teacher except that (i) a retired teacher is not eligible for career status
27 and (ii) the performance of a retired teacher who had attained career
28 status prior to retirement shall be evaluated in accordance with a local
29 board of education's policies and procedures applicable to career
30 teachers."

31 **SECTION 29.28.(g)** Notwithstanding any other provision of law, each local
32 school administrative unit shall pay to the Teachers' and State Employees' Retirement
33 System a Reemployed Teacher Contribution Rate of eleven and seventy-hundredths
34 percent (11.70%) as a percentage of covered salaries that the retired teachers, who are
35 exempt from the earnings cap, are being paid. Each local school administrative unit
36 shall report monthly to the Retirement Systems Division on payments made pursuant to
37 this subsection.

38 Notwithstanding any other provision of law, any portion of the payment made
39 by a local school administrative unit to a reemployed teacher who is exempt from the
40 earnings cap, consisting of salary plus the Reemployed Teacher Contribution Rate, that
41 exceeds the State-supported salary level for that position, shall be paid from local funds.

42 **SECTION 29.28.(h)** G.S. 135-1(20) reads as rewritten:

43 "(20) "Retirement" ~~shall mean~~ means the termination of employment and the
44 ~~withdrawal- complete separation~~ complete separation from active service with no intent or
45 agreement, express or implied, to return to service. A retirement
46 ~~allowance granted under the provisions of this Chapter. Chapter may~~
47 only be granted upon retirement of a member. In order for a member's
48 retirement to become effective in any month, the member must render
49 no ~~service~~ service, including part-time, temporary, substitute, or
50 contractor service, at any time during that month. the six months
51 immediately following the effective date of retirement."

52 **SECTION 29.28.(i)** Subsection (h) of this section becomes effective July 1,
53 2005, but does not apply to participants in The University of North Carolina Phased
54 Retirement Program until June 30, 2007. The remainder of this section becomes
55 effective June 30, 2005.

1
2 Requested by: Senators Garrou, Dalton, Hagan

3 **OPTIONAL RETIREMENT PROGRAM VESTING**

4 **SECTION 29.29.** G.S. 135-5.1(b) reads as rewritten:

5 "(b) Participation in the Optional Retirement Program shall be governed as
6 follows:

- 7 (1) Those participating in the Optional Retirement Program immediately
8 prior to July 1, 1985, under the provisions of Chapter 338, Session
9 Laws of 1971, are deemed automatically enrolled in the Program as
10 established by this section.
- 11 (2) Eligible employees initially appointed on or after July 1, 1985, shall at
12 the same time of entering upon eligible employment elect (i) to join
13 the Retirement System in accordance with the provisions of law
14 applicable thereto or (ii) to participate in the Optional Retirement
15 Program. This election shall be in writing and filed with the
16 Retirement System and with the employing institution and shall be
17 effective as of the date of entry into eligible service.
- 18 (3) An election to participate in the Optional Retirement Program shall be
19 irrevocable. An eligible employee failing to elect to participate in the
20 Optional Retirement Program at the time of entry into eligible service
21 shall automatically be enrolled as a member of the Retirement System.
- 22 (4) No election by an eligible employee of the Optional Retirement
23 Program shall be effective unless it is accompanied by an appropriate
24 application for the issuance of a contract or contracts or trust
25 participation under the Program.
- 26 (5) If any participant having less than ~~five years~~ one year of coverage
27 under the Optional Retirement Program leaves the employ of The
28 University of North Carolina and either retires or commences
29 employment with an employer not having a retirement program with
30 the same company underwriting the participant's annuity contract,
31 regardless of whether the annuity contract is held by the participant, a
32 trust, or the Retirement System, the participant's interest in the
33 Optional Retirement Program attributable to contributions of The
34 University of North Carolina shall be forfeited and shall either (i) be
35 refunded to The University of North Carolina and forthwith paid by it
36 to the Retirement System and credited to the pension accumulation
37 fund or (ii) be paid directly to the Retirement System and credited to
38 the pension accumulation fund."
39

40 Requested by: Senators Thomas, Rand, Dalton, Garrou, Hagan

41 **INCREASE BENEFIT/SHERIFFS' SUPPLEMENTAL PENSION FUND**

42 **SECTION 29.30.(a)** G.S. 143-166.85(a) reads as rewritten:

43 "(a) An eligible retired sheriff shall be entitled to and receive an annual pension
44 benefit, payable in equal monthly installments, equal to one share for each full year of
45 eligible service as sheriff multiplied by his total number of years of eligible service. The
46 amount of each share shall be determined by dividing the total number of years of
47 eligible service for all eligible retired sheriffs on December 31 of each calendar year
48 into the amount to be disbursed as monthly pension payments in accordance with the
49 provisions of G.S., 143 166.83(b). In no event however shall a monthly pension under
50 this Article exceed an amount, which when added to a retired allowance at retirement
51 from the Local Governmental Employees' Retirement System or to the amount he
52 would have been eligible to receive if service had not been forfeited by the withdrawal
53 of accumulated contributions, is greater than seventy -five percent (75%) of a sheriff's
54 equivalent annual salary immediately preceding retirement computed on the latest

1 monthly base rate, to a maximum amount of ~~one thousand two hundred dollars (\$1,200).~~
2 one thousand five hundred dollars (\$1,500)."

3 **SECTION 29.30.(b)** G.S. 7A-304(a)(3a) reads as rewritten:

4 "(3a) For the supplemental pension benefits of sheriffs, the sum of
5 ~~seventy five cents (75¢)~~ one dollar twenty-five cents (\$1.25) to be
6 remitted to the Department of Justice and administered under the
7 provisions of Article 12G of Chapter 143 of the General Statutes."
8

9 Requested by: Senators Garrou, Dalton, Hagan, Rand

10 **STATE HEALTH PLAN CHANGES**

11 **SECTION 29.31.(a)** G.S. 135-40.5 reads as rewritten:

12 **"§ 135-40.5. Benefits not subject to deductible or coinsurance.**

13 (a) Repealed by Session Laws 1985, c. 192, s. 5.

14 (b) Repealed by Session Laws 1991, c. 427, s. 20.

15 (c) Preadmission Testing. – The Plan will pay one hundred percent (100%) of
16 reasonable and customary charges for diagnostic, laboratory and x-ray examinations
17 performed on an outpatient basis.

18 (d) Repealed by Session Laws 2001-253, s. 1(d), effective July 1, 2001.

19 (e) Routine Diagnostic Examinations. – The Plan will pay one hundred percent
20 (100%) of allowable charges for routine diagnostic examinations and tests, including
21 breast, colon, rectal, and prostate exams, X rays, ~~mammograms~~, blood and blood
22 pressure checks, urine tests, tuberculosis tests, and general health checkups that are
23 medically necessary for the maintenance and improvement of individual health but no
24 more often than once every three years for covered individuals to age 40 years, once
25 every two years for covered individuals to age 50 years, and once a year for covered
26 individuals age 50 years and older, unless a more frequent occurrence is warranted by a
27 medical condition when such charges are incurred in a medically supervised facility.
28 The Plan will pay one hundred percent (100%) of allowable charges for mammograms
29 once per year for covered individuals age 40 years and over, and not more often than
30 once every three years for covered individuals to age 40 years, when such charges are
31 incurred in a medically supervised facility. Routine diagnostic examinations and tests
32 covered under this subsection also include examinations and tests for the screening for
33 the early detection of cervical cancer. The coverage shall be in accordance with the
34 most recently published American Cancer Society guidelines or guidelines adopted by
35 the North Carolina Advisory Committee on Cancer Coordination and Control for any
36 covered female. For the purposes of this subsection, "examinations and laboratory tests
37 for the screening for the early detection of cervical cancer" means conventional PAP
38 smear screening, liquid-based cytology, and human papilloma virus (HPV) detection
39 methods for women with equivocal findings on cervical cytologic analysis that are
40 subject to the approval of and have been approved by the United States Food and Drug
41 Administration. Provided, however, that charges for such examinations and tests are not
42 covered by the Plan when they are incurred to obtain or continue employment, to secure
43 insurance coverage, to comply with legal proceedings, to attend schools or camps, to
44 meet travel requirements, to participate in athletic and related activities, or to comply
45 with governmental licensing requirements. The maximum amount payable under this
46 subsection for a covered individual is one hundred fifty dollars (\$150.00) per fiscal
47 year.

48 (f) Immunizations. – The Plan will pay one hundred percent (100%) of allowable
49 charges for immunizations for the prevention of contagious diseases as generally
50 accepted medical practices would dictate when directed by an attending physician.

51 (g) Prescription Drugs. – The Plan's allowable charges for prescription legend
52 drugs to be used outside of a hospital or skilled nursing facility are to be determined by
53 the Plan's Executive Administrator and Board of Trustees. The Plan will pay allowable
54 charges for each outpatient prescription drug less a copayment to be paid by each
55 covered individual equal to the following amounts: pharmacy charges up to ten dollars

1 (\$10.00) for each generic prescription, ~~twenty five dollars (\$25.00)~~ thirty dollars
 2 (\$30.00) for each branded prescription, and ~~thirty five dollars (\$35.00)~~ forty dollars
 3 (\$40.00) for each branded prescription with a generic equivalent drug, and ~~forty dollars~~
 4 (\$40.00) fifty dollars (\$50.00) for each branded or generic prescription not on a
 5 formulary used by the Plan. Allowable charges shall not be greater than a pharmacy's
 6 usual and customary charge to the general public for a particular prescription.
 7 Prescriptions shall be for no more than a 34-day supply for the purposes of the
 8 copayments paid by each covered individual. By accepting the copayments and any
 9 remaining allowable charges provided by this subsection, pharmacies shall not balance
 10 bill an individual covered by the Plan. A prescription legend drug is defined as an article
 11 the label of which, under the Federal Food, Drug, and Cosmetic Act, is required to bear
 12 the legend: "Caution: Federal Law Prohibits Dispensing Without Prescription." Such
 13 articles may not be sold to or purchased by the public without a prescription order.
 14 Benefits are provided for insulin even though a prescription is not required. The Plan
 15 may use a pharmacy benefit manager to help manage the Plan's outpatient prescription
 16 drug coverage. In managing the Plan's outpatient prescription drug benefits, the Plan
 17 and its pharmacy benefit manager shall not provide coverage for erectile dysfunction,
 18 growth hormone, antiwrinkle, weight loss, and hair growth drugs unless such coverage
 19 is medically necessary to the health of the member. The Plan and its pharmacy benefit
 20 manager shall not provide coverage for growth hormone and weight loss drugs and
 21 antifungal drugs for the treatment of nail fungus and botulinum toxin without approval
 22 in advance by the pharmacy benefit manager. Any formulary used by the Plan's
 23 Executive Administrator and pharmacy benefit manager shall be an open formulary.
 24 Plan members shall not be assessed more than two thousand five hundred dollars
 25 (\$2,500) per person per fiscal year in copayments required by this subsection."

26 **SECTION 29.31.(b)** The first paragraph of G.S. 135-40.6 reads as rewritten:

27 **"§ 135-40.6. Benefits subject to deductible and coinsurance (comprehensive**
 28 **benefits).**

29 The benefits provided in this section are subject to a deductible of three hundred
 30 fifty dollars (\$350.00) per covered individual to an aggregate maximum of one thousand
 31 fifty dollars (\$1,050) per employee and child(ren) or employee and family coverage
 32 contract per fiscal year and are payable on the basis of eighty percent (80%) by the Plan
 33 and twenty percent (20%) by the covered individual up to a maximum of ~~one thousand~~
 34 ~~five hundred dollars (\$1,500)~~ two thousand dollars (\$2,000) out-of-pocket per fiscal
 35 year. The aggregate maximum out-of-pocket required of individuals covered by this
 36 section shall not be more than ~~four thousand five hundred dollars (\$4,500)~~ six thousand
 37 dollars (\$6,000) per employee and child(ren) or employee and family coverage contract
 38 per fiscal year.

39 "...."

40 **SECTION 29.31.(c)** G.S. 135-40.6(8)n. reads as rewritten:

41 **"§ 135-40.6. Benefits subject to deductible and coinsurance (comprehensive**
 42 **benefits).**

43 ...
 44 (8) Other Covered Charges. –

45 ...

46 n. Chiropractic Services: Limited to the alignment of the spine and
 47 releasing of pressure by manipulation in accordance with the
 48 definitions in G.S. 90-143. Covered services shall be provided
 49 only to Plan members over the age of five years. Maximum
 50 benefits for x-rays, manipulations, and modalities shall be two
 51 thousand dollars (\$2,000) per fiscal year."

52 **SECTION 29.31.(d)** G.S. 135-40.8 reads as rewritten:

53 **"§ 135-40.8. Out-of-pocket expenditures.**

54 (a) For the balance of any fiscal year after each eligible employee, retired
 55 employee, or dependent satisfies the cash deductible, the Plan pays eighty percent

1 (80%) of the eligible expenses outlined in G.S. 135-40.6. The remaining twenty percent
2 (20%) is paid by the covered individual until ~~one thousand five hundred dollars (\$1,500)~~
3 two thousand dollars (\$2,000) per covered individual up to an aggregate of ~~four~~
4 ~~thousand five hundred dollars (\$4,500)~~six thousand dollars (\$6,000) per employee and
5 child(ren) or employee and family coverage contract per fiscal year in excess of the
6 deductible has been paid out of pocket. The Plan then pays one hundred percent (100%)
7 of the remaining covered expenses.

8 (b) Repealed by Session Laws 2001-253, s. 1(m), effective July 1, 2001.

9 (c) Notwithstanding any other provision of this Article, on the first day of each
10 confinement the Plan does not pay the first one hundred ~~dollars (\$100.00)~~ fifty dollars
11 (\$150.00) of the room accommodation charge allowable under G.S. 135-40.6(1). Any
12 readmission within 60 days after discharge for the same reason shall be considered the
13 same confinement for the purpose of this subsection. The exclusion made under this
14 subsection shall not count toward the deductible nor toward the maximum amount of
15 coinsurance out-of-pocket costs.

16 (c1) Notwithstanding any other provision of this Article, the Plan does not pay the
17 first ~~fifty dollars (\$50.00)~~ one hundred fifty dollars (\$150.00) of the facility fees and
18 ancillary charges for allowable charges exceeding five hundred dollars (\$500.00) per
19 episode of care for hospital outpatient departments and ambulatory surgical facilities
20 under G.S. 135-40.6(4). Readmission within 30 days after discharge for the same reason
21 shall be considered the same episode of care for the purpose of this subsection. The
22 exclusion made under this subsection shall not count toward the deductible nor toward
23 the maximum amount of coinsurance out-of-pocket costs.

24 (c2) Notwithstanding any other provision of this Article, the Plan does not pay the
25 first ~~one hundred dollars (\$100.00)~~ one hundred fifty dollars (\$150.00) of allowable
26 emergency room charges when admission to a hospital pursuant to the emergency room
27 use does not immediately follow. This subsection shall apply only when less costly
28 alternative means of emergency medical care are reasonably available as determined by
29 the Executive Administrator and Board of Trustees. The exclusion made under this
30 subsection shall not count toward the deductible nor toward the maximum amount of
31 coinsurance out-of-pocket costs.

32 (c3) Notwithstanding any other provision of this Article, the Plan does not pay for
33 the first fifteen dollars (\$15.00) of allowable charges for each home, office, or skilled
34 nursing facility visit under the provisions of G.S. 135-40.6(7)a. and b.,
35 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
36 co-payment assessed by this subsection shall be assessed only once per person per
37 provider per day and shall not apply to laboratory, pathology, and radiology services, or
38 to charges for injected medications. The exclusion made under this subsection shall not
39 count toward the deductible nor toward the maximum amount of coinsurance
40 out-of-pocket costs.

41 (d) Where a network of qualified preferred providers of inpatient and outpatient
42 hospital care is reasonably available for use by those individuals covered by the Plan,
43 use of providers outside of the preferred network shall be subject to a twenty percent
44 (20%) coinsurance rate up to five thousand dollars (\$5,000) per fiscal year per covered
45 individual up to an aggregate of fifteen thousand dollars (\$15,000) per employee and
46 child(ren) or employee and family coverage contract per fiscal year in addition to the
47 general coinsurance percentage and maximum fiscal year amount specified by
48 G.S. 135-40.4 and G.S. 135-40.6. The Plan then pays one hundred percent (100%) of
49 the remaining covered expenses.

50 (e) Where qualified out-of-state preferred providers of medical care are not
51 reasonably available in medical emergencies, the Plan pays the amounts covered by
52 subsection (a) of this section. Any amount of charges for services under this section that
53 exceeds the amount allowed by the Plan for the services of qualified preferred providers
54 under this section shall be negotiated between the Plan and the provider of medical
55 services, and the Plan shall ensure that the Plan member is not held financially

1 responsible for the amount of these excess charges. If a Plan member is not capable of
 2 making a decision about choosing an in-State qualified preferred provider and
 3 emergency services personnel transport the Plan member to a provider outside of the
 4 Plan network, then the coverage under this subsection shall apply. As used in this
 5 section, a "medical emergency" is the sudden and unexpected onset of a condition
 6 manifesting itself by acute symptoms of sufficient severity that, in the absence of
 7 immediate medical care, could imminently result in injury or danger to self or others."
 8

9 Requested by: Senators Dalton, Garrou, Hagan
 10 **FOREST CITY EMPLOYEES IN STATE HEALTH PLAN**

11 **SECTION 29.32.** Section 31.26(j) of S.L. 2004-124 reads as rewritten:

12 **"SECTION 31.26.(j)** This section applies ~~to~~to:

- 13 (1) Bladen, Cherokee, Rutherford, Washington, and Wilkes Counties
- 14 ~~only, only, and~~
- 15 (2) The Town of Forest City only."

16
 17 **PART XXX. CAPITAL APPROPRIATIONS.**

18
 19 Requested by: Senators Garrou, Dalton, Hagan
 20 **GENERAL FUND CAPITAL APPROPRIATIONS/INTRODUCTION**

21 **SECTION 30.1.** The appropriations made by the 2005 General Assembly
 22 for capital improvements are for constructing, repairing, or renovating State buildings,
 23 utilities, and other capital facilities, for acquiring sites for them where necessary, and
 24 acquiring buildings and land for State government purposes.
 25

26 Requested by: Senators Garrou, Dalton, Hagan
 27 **CAPITAL APPROPRIATIONS/GENERAL FUND**

28 **SECTION 30.2.** There is appropriated from the General Fund for the
 29 2005-2006 fiscal year the following amount for capital improvements:
 30

Capital Improvements – General Fund	2005-2006
33 Department of Commerce – State Ports Authority	
34 Ports of Wilmington and Morehead City	
35 for equipment, capital, and infrastructure	\$ 5,000,000
36	
37 Department of Environment and Natural Resources	
38 Water Resources Development Projects	14,760,000
39	
40 Department of Health and Human Services	
41 Division of Public Health	100,000
42	
43 University of North Carolina System – Board of Governors	
44 UNC-Chapel Hill – Renaissance Computing Institute	500,000
45 UNC-Greensboro and NC A&T Joint Millennium Campus	5,000,000
46 Winston-Salem State University – Laboratory Facility Planning Funds	750,000
47	
48 TOTAL CAPITAL IMPROVEMENTS – GENERAL FUND	\$ 26,110,000

49
 50 Requested by: Senators Garrou, Dalton, Hagan
 51 **WATER RESOURCES DEVELOPMENT PROJECT FUNDS**

52 **SECTION 30.3.(a)** The Department of Environment and Natural Resources
 53 shall allocate the funds appropriated in this act for water resources development projects
 54 to the following projects whose costs are as indicated:
 55

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
(12) Ocracoke NCCAT Estuarine Shoreline Protection	1,500,000
(13) Far Creek Maintenance Dredging	120,000
(14) Belhaven Harbor Environmental Improvements	250,000
(15) Lower Lockwoods Folly River	286,000
(16) Walters Slough Maintenance Dredging	122,000
(17) Hurricane Isabel Emergency Stream Cleanup – Northeastern North Carolina	1,370,000
(18) State-Local Projects	2,000,000
(19) Princeville Flood Control	250,000
(20) Currituck Sound Water Management Study	300,000
(21) Aquatic Weed Control, Lake Gaston and Statewide	375,000
(22) Tar River and Pamlico Sound Feasibility Study	100,000
(23) Deep Creek (Yadkin County) Water Management	2,000,000
(24) North Carolina Oyster Habitat Restoration	50,000
(25) Emergency Flood Control Projects	187,000
(26) Projected Feasibility Studies	100,000
(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.

1 (5) The actual cost of each project.

2 The semiannual reports shall also show those projects advanced in schedule,
3 those projects delayed in schedule, and an estimate of the amount of funds expected to
4 revert to the General Fund.

5
6 Requested by: Senators Garrou, Dalton, Hagan

7 **PROCEDURES FOR DISBURSEMENT OF CAPITAL FUNDS**

8 **SECTION 30.4.** The appropriations made by the 2005 General Assembly
9 for capital improvements shall be disbursed for the purposes provided by this act.
10 Expenditure of funds shall not be made by any State department, institution, or agency
11 until an allotment has been approved by the Governor as Director of the Budget. The
12 allotment shall be approved only after full compliance with the Executive Budget Act,
13 Article 1 of Chapter 143 of the General Statutes. Prior to the award of construction
14 contracts for projects to be financed in whole or in part with self-liquidating
15 appropriations, the Director of the Budget shall approve the elements of the method of
16 financing of those projects including the source of funds, interest rate, and liquidation
17 period. Provided, however, that if the Director of the Budget approves the method of
18 financing a project, the Director shall report that action to the Joint Legislative
19 Commission on Governmental Operations at its next meeting.

20 Where direct capital improvement appropriations include the purpose of
21 furnishing fixed and movable equipment for any project, those funds for equipment
22 shall not be subject to transfer into construction accounts except as authorized by the
23 Director of the Budget. The expenditure of funds for fixed and movable equipment and
24 furnishings shall be reviewed and approved by the Director of the Budget prior to
25 commitment of funds.

26 Capital improvement projects authorized by the 2005 General Assembly shall
27 be completed, including fixed and movable equipment and furnishings, within the limits
28 of the amounts of the direct or self-liquidating appropriations provided, except as
29 otherwise provided in this act. Capital improvement projects authorized by the 2005
30 General Assembly for the design phase only shall be designed within the scope of the
31 project as defined by the approved cost estimate filed with the Director of the Budget,
32 including costs associated with site preparation, demolition, and movable and fixed
33 equipment.

34
35 Requested by: Senators Garrou, Dalton, Hagan

36 **ENCUMBERED APPROPRIATIONS AND PROJECT RESERVE FUNDS**

37 **SECTION 30.5.** When each capital improvement project appropriated by the
38 2005 General Assembly, other than those projects under the Board of Governors of The
39 University of North Carolina, is placed under a construction contract, direct
40 appropriations shall be encumbered to include all costs for construction, design,
41 investigation, administration, movable equipment, and a reasonable contingency.
42 Unencumbered direct appropriations remaining in the project budget shall be placed in a
43 project reserve fund credited to the Office of State Budget and Management. Funds in
44 the project reserve may be used for emergency repair and renovation projects at State
45 facilities with the approval of the Director of the Budget. The project reserve fund may
46 be used, at the discretion of the Director of the Budget, to allow for award of contracts
47 where bids exceed appropriated funds, if those projects supplemented were designed
48 within the scope intended by the applicable appropriation or any authorized change in it,
49 and if, in the opinion of the Director of the Budget, all means to award contracts within
50 the appropriation were reasonably attempted. At the discretion of the Director of the
51 Budget, any balances in the project reserve fund shall revert to the original source.

52
53 **REPAIR AND RENOVATION RESERVE ALLOCATION**

54 **SECTION 30.6.** Of the funds in the Reserve for Repairs and Renovations
55 for the 2005-2006 fiscal year, forty-six percent (46%) shall be allocated to the Board of

1 Governors of The University of North Carolina for repairs and renovations pursuant to
2 G.S. 143-15.3A, in accordance with guidelines developed in The University of North
3 Carolina Funding Allocation Model for Reserve for Repairs and Renovations, as
4 approved by the Board of Governors of The University of North Carolina, and fifty-four
5 percent (54%) shall be allocated to the Office of State Budget and Management for
6 repairs and renovations pursuant to G.S. 143-15.3A.

7 Notwithstanding G.S. 143-15.3A, the Board of Governors may allocate funds
8 for the repair and renovation of facilities not supported from the General Fund if the
9 Board determines that sufficient funds are not available from other sources and that
10 conditions warrant General Fund assistance. Any such finding shall be included in the
11 Board's submission to the Joint Legislative Commission on Governmental Operations
12 on the proposed allocation of funds.

13 The Board of Governors and the Office of State Budget and Management
14 shall consult with the Joint Legislative Commission on Governmental Operations prior
15 to the allocation or reallocation of these funds.

16
17 Requested by: Senators Garrou, Dalton, Hagan

18 **PROJECT COST INCREASE**

19 **SECTION 30.7.** Upon the request of the administration of a State agency,
20 department, or institution, the Director of the Budget may, when in the Director's
21 opinion it is in the best interest of the State to do so, increase the cost of a capital
22 improvement project. Provided, however, that if the Director of the Budget increases
23 the cost of a project, the Director shall report that action to the Joint Legislative
24 Commission on Governmental Operations at its next meeting. The increase may be
25 funded from gifts, federal or private grants, special fund receipts, excess patient receipts
26 above those budgeted at the University of North Carolina Hospitals at Chapel Hill, or
27 direct capital improvement appropriations to that department or institution.

28
29 Requested by: Senators Garrou, Dalton, Hagan

30 **NEW PROJECT AUTHORIZATION**

31 **SECTION 30.8.** Upon the request of the administration of any State agency,
32 department, or institution, the Director of the Budget may authorize the construction of
33 a capital improvement project not specifically authorized by the General Assembly if
34 such project is to be funded by gifts, federal or private grants, special fund receipts,
35 excess patient receipts above those budgeted at the University of North Carolina
36 Hospitals at Chapel Hill, or self-liquidating indebtedness. Prior to authorizing the
37 construction of a capital improvement project pursuant to this section, the Director shall
38 consult with the Joint Legislative Commission on Governmental Operations.

39
40 Requested by: Senators Garrou, Dalton, Hagan

41 **ADVANCE PLANNING OF CAPITAL IMPROVEMENT PROJECTS**

42 **SECTION 30.9.** Funds that become available by gifts, excess patient
43 receipts above those budgeted at the University of North Carolina Hospitals at Chapel
44 Hill, federal or private grants, receipts becoming a part of special funds by act of the
45 General Assembly, or any other funds available to a State department or institution may
46 be utilized for advance planning through the working drawing phase of capital
47 improvement projects, upon approval of the Director of the Budget.

48
49 Requested by: Senators Garrou, Dalton, Hagan

50 **APPROPRIATIONS LIMITS/REVERSION OR LAPSE**

51 **SECTION 30.10.** Except as permitted in previous sections of this act, the
52 appropriations for capital improvements made by the 2005 General Assembly may be
53 expended only for specific projects set out by the 2005 General Assembly and for no
54 other purpose. Construction of all capital improvement projects enumerated by the
55 2005 General Assembly shall be commenced, or self-liquidating indebtedness with

1 respect to them shall be incurred, within 12 months following the first day of the fiscal
2 year in which the funds are available. If construction contracts on those projects have
3 not been awarded or self-liquidating indebtedness has not been incurred within that
4 period, the direct appropriation for those projects shall revert to the original source, and
5 the self-liquidating appropriation shall lapse; except that direct appropriations may be
6 placed in a reserve fund as authorized in this act. This deadline with respect to both
7 direct and self-liquidating appropriations may be extended with the approval of the
8 Director of the Budget up to an additional 12 months if circumstances and conditions
9 warrant such extension.

10 PART XXXI. LOTTERY.

11 LOTTERY

12
13
14 **SECTION 31.1.(a)** If House Bill 1023, 2005 Regular Session, becomes law,
15 then the title of House Bill 1023, 2005 Regular Session, is amended by deleting the
16 following phrase "TO FUND COLLEGE AND UNIVERSITY SCHOLARSHIPS,".

17 **SECTION 31.1.(b)** If House Bill 1023, 2005 Regular Session, becomes law,
18 then G.S. 18C-103(4), as enacted by that act, reads as rewritten:

19 "§ 18C-103. Definitions.

20 As used in this Chapter, unless the context requires otherwise:

- 21
22 (4) 'Game' or 'lottery game' means any procedure or amusement
23 authorized by the Commission where prizes are distributed among
24 persons who have paid, or unconditionally agreed to pay, for tickets or
25 shares that provide the opportunity to win those prizes. prizes and does
26 not utilize a video gaming machine as defined in G.S. 14-306.1(c).

27
28 **SECTION 31.1.(c)** If House Bill 1023, 2005 Regular Session, becomes law,
29 then G.S. 18C-110, as enacted by that act, reads as rewritten:

30 "§ 18C-110. Establishment of the North Carolina State Lottery Commission to be 31 a self-supporting agency of the State.

32 There is created the North Carolina State Lottery Commission to establish and
33 oversee the operation of a Lottery. The Commission shall be located in the Department
34 of ~~Commerce Administration~~ for budgetary purposes only; otherwise, the Commission
35 shall be an independent, self-supporting, and revenue-raising agency of the State. The
36 Commission shall reimburse other governmental entities that provide services to the
37 Commission."

38 **SECTION 31.1.(d)** If House Bill 1023, 2005 Regular Session, becomes law,
39 then G.S. 18C-111, as enacted by that act, reads as rewritten:

40 "§ 18C-111. Commission membership; appointment; selection of chair; vacancies; 41 removal; meetings; compensation.

42 (a) The Commission shall consist of nine members, ~~three~~ five of whom shall be
43 appointed by the Governor, ~~three~~ two of whom shall be appointed by the General
44 Assembly upon the recommendation of the President Pro Tempore of the Senate, and
45 ~~three~~ two of whom shall be appointed by the General Assembly upon the
46 recommendation of the Speaker of the House of Representatives. The Governor shall
47 select the initial chair of the Commission from among its membership, who shall serve
48 as chair for one year from the date of appointment. Thereafter, the Commission shall
49 select a chair from among its membership to serve at the pleasure of the Commission.

50 (b) Of the initial appointees of the Governor, ~~one member~~ three members shall
51 serve a term of one year, one member shall serve a term of two years, and one member
52 shall serve a term of three years. Of the initial appointees of the General Assembly upon
53 the recommendation of the President Pro Tempore of the Senate, ~~one member shall~~
54 ~~serve a term of one year~~, one member shall serve a term of two years, and one member
55 shall serve a term of three years. Of the initial appointees of the General Assembly upon

1 the recommendation of the Speaker of the House of Representatives, ~~one member shall~~
 2 ~~serve a term of one year~~, one member shall serve a term of two years, and one member
 3 shall serve a term of three years. All succeeding appointments shall be for terms of five
 4 years. Members shall not serve for more than two successive terms.

5 (c) Vacancies shall be filled by the appointing authority for the unexpired portion
 6 of the term in which they occur.

7 (d) The Commission shall meet at least quarterly upon the call of the chair. A
 8 majority of the total membership of the Commission shall constitute a quorum.

9 (e) Members of the Commission shall receive per diem, subsistence, and travel
 10 as provided in G.S. 138-5 and G.S. 138-6."

11 **SECTION 31.1.(e)** If House Bill 1023, 2005 Regular Session, becomes law,
 12 then G.S. 18C-112, as enacted by that act, reads as rewritten:

13 "**§ 18C-112. Qualifications of Commissioners.**

14 (a) Of the members of the Commission appointed by the Governor, at least one
 15 member shall have a minimum of five years' experience in law enforcement, and no
 16 more than two members shall be from the same political party as the
 17 Governor.enforcement.

18 (b) Of the members appointed by the General Assembly upon the
 19 recommendation of the President Pro Tempore of the Senate, one member shall be a
 20 certified public accountant, and no more than two members shall be from the same
 21 political party as the President Pro Tempore of the Senate.accountant.

22 (c) Of the members of the Commission appointed by the General Assembly upon
 23 the recommendation of the Speaker of the House of Representatives, one member shall
 24 have retail sales experience, and no more than two members shall be from the same
 25 political party as the Speaker of the House of Representatives.at least five years retail
 26 sales experience as an owner or manager.

27 (d) In making appointments to the Commission, the appointing authorities shall
 28 consider the composition of the State with regard to geographic representation and
 29 gender, ethnic, racial, and age composition."

30 **SECTION 31.1.(f)** If House Bill 1023, 2005 Regular Session, becomes law,
 31 then G.S. 18C-114(a)(8) and G.S. 18C-114(a)(11), as enacted by that act, read as
 32 rewritten:

33 "(a) The Commission shall have the following powers and duties:

34
 35 ~~(8)~~ To determine the salary of the Director and the terms and conditions
 36 for employment contracts for the Director.To charge a fee of lottery
 37 vendors not to exceed the cost of the criminal record check of the
 38 lottery vendor.

39
 40 ~~(11)~~ To approve and authorize the Director to enter into contracts with
 41 lottery game retailers upon terms and conditions as specified by the
 42 Commission. To specify the authority, selection, and role of the
 43 Director and other employees of the Commission. All of the following
 44 apply to all employees of the Commission:

45 a. No employee of the Commission may have a financial interest
 46 in any lottery vendor or lottery contractor.

47 b. No employee of the Commission with decision-making
 48 authority shall participate in any decision involving the retailer
 49 or vendor with whom the employee has a financial interest.

50 c. No employee of the Commission who leaves the employment of
 51 the Commission may represent any vendor or retailer before the
 52 Commission for a period of two years following termination of
 53 employment with the Commission.

54 d. A background investigation shall be conducted on each
 55 applicant for employment with the Commission.

1 e. The Commission shall bond all employees with access to lottery
2 funds or revenue and security."

3 **SECTION 31.1.(g)** If House Bill 1023, 2005 Regular Session, becomes law,
4 then G.S. 18C-120(b)(3) and G.S. 18C-120(b)(6), as enacted by that act, read as
5 rewritten:

6 "(b) The Director shall have the following powers and duties, under the
7 supervision of the Commission:

8 ...
9 (3) To set the salaries of all Commission employees, subject to the
10 approval of the ~~Commission, and to employ all personnel of the~~
11 ~~Commission. Commission.~~ Except for the provisions of Articles 6 and
12 7 of Chapter 126 of the General Statutes, all employees of the
13 Commission shall be exempt from the State Personnel Act.

14 ...
15 (6) To ~~receive reports of alleged violations of the law relating to the~~
16 ~~operation of the Lottery and report those violations to coordinate and~~
17 ~~collaborate with the appropriate law enforcement authority.~~ authorities
18 regarding investigations of violations of the laws relating to the
19 operation of the Lottery and make reports to the Commission
20 regarding those investigations.

21 "

22 **SECTION 31.1.(h)** If House Bill 1023, 2005 Regular Session, becomes law,
23 then G.S. 18C-121, as enacted by that act, reads as rewritten:

24 "**§ 18C-121. Accountability; books and records.**

25 The Director shall ~~make and keep~~ have made and kept books and records that
26 accurately and completely reflect each day's transactions, including the distribution of
27 tickets or shares to lottery game retailers, receipt of funds, prize claims, prizes paid
28 directly by the Commission, expenses, and all other financial transactions involving
29 lottery funds necessary to permit preparation of financial statements that conform with
30 generally accepted accounting principles."

31 **SECTION 31.1.(i)** If House Bill 1023, 2005 Regular Session, becomes law,
32 then G.S. 18C-122, as enacted by that act, reads as rewritten:

33 "**§ 18C-122. Independent audits.**

34 (a) At the beginning of each calendar year, the ~~Director-Commission~~ shall
35 engage an independent firm experienced in security procedures, including computer
36 security and systems security, to conduct a comprehensive study and evaluation of all
37 aspects of security in the operation of the Commission and of the Lottery. At a
38 minimum, such a security assessment should include a review of network vulnerability,
39 application vulnerability, application code review, wireless security, security policy and
40 processes, security/privacy program management, technology infrastructure and
41 security controls, security organization and governance, and operational effectiveness.

42 ...
43 (d) Biennially at the end of the fiscal year, the ~~Director-Commission~~ shall engage
44 an independent auditing firm that has experience in evaluating the operation of lotteries
45 to perform an audit of the Lottery. The results of this audit shall be presented to the
46 Commission, to the Governor, and to the General Assembly."

47 **SECTION 31.1.(j)** If House Bill 1023, 2005 Regular Session, becomes law,
48 then G.S. 18C-130(e), as enacted by that act, reads as rewritten:

49 "~~The only advertising of the Lottery that shall be permitted is point of sale~~
50 ~~advertising and advertising on the premises of lottery retailers.~~ Lottery advertising shall
51 be designed and presented in a manner to minimize the appeal of lottery games to
52 minors. The use of cartoon characters or of false, misleading, or deceptive information
53 in lottery advertising is prohibited. All advertising promoting the sale of lottery tickets
54 or shares for a particular game shall include the actual or estimated overall odds of
55 winning the game."

1 **SECTION 31.1.(k)** If House Bill 1023, 2005 Regular Session, becomes law,
2 then G.S. 18C-132, as enacted by that act, is amended by adding the following new
3 subsection to read:

4 "(l) All prizes are subject to the State income tax."

5 **SECTION 31.1.(l)** If House Bill 1023, 2005 Regular Session, becomes law,
6 then G.S. 18C-140, as enacted by that act, reads as rewritten:

7 "**§ 18C-140. Contracting with lottery game retailers.**

8 The Commission may contract with lottery game retailers to sell tickets or shares for
9 lottery games upon such terms and conditions as it considers appropriate. The contract
10 entered into between the Commission and the lottery game retailer shall be considered a
11 permit for purposes of Chapter 18B of the General Statutes. No contract to act as a
12 lottery game retailer is assignable or transferable. All contracts with lottery game
13 retailers shall provide that the Director may terminate the contract if the lottery game
14 retailer knowingly violates a provision of this Chapter."

15 **SECTION 31.1.(m)** If House Bill 1023, 2005 Regular Session, becomes
16 law, then G.S. 18C-141(b), as enacted by that act, reads as rewritten:

17 "(b) The Director may not recommend contracting with any of the following:

- 18 (1) A natural person under 21 years of age. This minimum age shall not
19 prohibit employees of a lottery game retailer who are under 21 years of
20 age from selling lottery tickets or shares during their employment.
- 21 (2) A person who would be engaged exclusively in the business of selling
22 lottery tickets or shares or operating electronic computer terminals or
23 other devices solely for entertainment.
- 24 (3) A person who is not current in filing all applicable tax returns to the
25 State and in payment of all taxes, interest, and penalties owed to the
26 State, excluding items under formal appeal under applicable statutes.
27 Upon request of the Director, the Department of Revenue shall provide
28 this information about a specific person to the Commission.
- 29 (4) A person who resides in the same household as a member of the
30 Commission, the Director, or any other employee of the Commission."

31 **SECTION 31.1.(n)** If House Bill 1023, 2005 Regular Session, becomes law,
32 then G.S. 18C-142, as enacted by that act, reads as rewritten:

33 "**§ 18C-142. Compensation for lottery game retailers.**

34 The amount of compensation paid to lottery game retailers for their sales of lottery
35 tickets or shares shall be ~~six percent (6%)~~ seven percent (7%) of the retail price of the
36 tickets or shares sold for each lottery game. The Commission shall ~~authorize an~~
37 ~~incentive bonus of up to one percent (1%) of the retail price of the tickets or shares sold~~
38 ~~based on~~ require submission of reports and remission of lottery revenues to the
39 Commission on a timely basis."

40 **SECTION 31.1.(o)** If House Bill 1023, 2005 Regular Session, becomes law,
41 then G.S. 18C-143, as enacted by that act, reads as rewritten:

42 "**§ 18C-143. Responsibilities of lottery game retailers.**

43 (a) A lottery game retailer shall comply with all provisions of this Article and the
44 contract with the Commission.

45 (b) A lottery game retailer shall sell no lottery tickets or shares unless the retailer
46 conspicuously displays a certificate of authority, signed by the Director, to sell lottery
47 tickets or shares. The Commission shall issue a certificate of authority to each lottery
48 game retailer for purposes of display for each retail outlet owned or operated by the
49 lottery game retailer. No certificate is assignable or transferable.

50 (c) A lottery game retailer shall furnish an appropriate bond or letter of credit, if
51 so requested by the Director. The Commission may authorize the Director to purchase
52 blanket bonds covering the activities of any or all lottery game retailers.

53 (d) The Commission shall adopt rules to establish procedures governing how the
54 lottery game retailers:

- 1 (1) Account for all tickets or shares in their custody, including tickets and
- 2 shares sold.
- 3 (2) Account for the money collected from the sale of tickets and shares.
- 4 (3) Remit funds to the Commission, provided that all payments shall be in
- 5 the form of electronic fund transfers or other recorded financial
- 6 instruments as authorized by the Commission and approved by the
- 7 Director.

8 (e) No lottery retailer or applicant to be a lottery retailer shall pay, give, or make
9 any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality, or
10 service, excluding food and beverages having an aggregate value not exceeding one
11 hundred dollars (\$100.00) in any calendar year, to the Director, to any member or
12 employee of the Commission, or to any member of the immediate family residing in the
13 same household as one of these individuals."

14 **SECTION 31.1.(p)** If House Bill 1023, 2005 Regular Session, becomes law,
15 then G.S. 18C-151, as enacted by that act, reads as rewritten:

16 "**§ 18C-151. Contracts.**

17 (a) Except as otherwise provided in this subsection for contracts for the purchase
18 of services, apparatus, supplies, materials, or equipment requiring an estimated
19 expenditure of public money in an amount equal to or more than seventy-five thousand
20 dollars (\$75,000), Article 8 of Chapter 143 of the General Statutes shall apply to all
21 contracts entered into by the Commission, including the provisions relating to minority
22 participation goals, and the Commission shall be considered a political subdivision of
23 the State for those purposes of contracting under Article 8 of Chapter 143 of the General
24 Statutes. Commission. Contracts for the provision of services to the Commission shall be
25 treated as a contract for the purchase of apparatus, supplies, materials, or equipment.
26 The bonding requirements of G.S. 143-129(b) for construction contracts shall apply to
27 all contracts of the Commission and may be waived at the discretion of the
28 Commission. In recognition of the particularly sensitive nature of the Lottery and the
29 competence, quality of product, experience, and timeliness, fairness, and integrity in the
30 operation and administration of the Lottery and maximization of the objective of raising
31 revenues, a contract for the purchase of services, apparatus, supplies, materials, or
32 equipment requiring an estimated expenditure of public money in an amount equal to or
33 more than seventy-five thousand dollars (\$75,000) may be awarded by the Commission
34 only after the following have occurred:

- 35 (1) The Commission has invited proposals to be submitted by
36 advertisement by electronic means or advertisement in a newspaper
37 having general circulation in the State of North Carolina and
38 containing the following information:
 - 39 a. The time and place where a complete description of the
40 services, apparatus, supplies, materials, or equipment may be
41 had.
 - 42 b. The time and place for opening of the proposals.
 - 43 c. A statement reserving to the Commission the right to reject any
44 or all proposals.
- 45 (2) Proposals may be rejected for any reason determined by the
46 Commission to be in the best interest of the Lottery.
- 47 (3) All proposals shall be accompanied by a bond or letter of credit in an
48 amount equal to not less than five percent (5%) of the proposal and the
49 fee to cover the cost of the criminal record check conducted under
50 G.S. 114-19.6.
- 51 (4) The Commission has complied with G.S. 143-128.2 and
52 G.S. 143-128.3.
- 53 (5) The Commission may not award a contract to a lottery vendor who has
54 been convicted of a felony or any gambling offense in any state or
55 federal court of the United States within 10 years of entering into the

1 contract, or employs officers and directors who have been convicted of
2 a felony or any gambling offense in any state or federal court of the
3 United States within 10 years of entering into the contract.

4 (6) The Commission shall investigate and compare the overall business
5 practices, ethical reputation, criminal record, civil litigation,
6 competence, integrity, background, and regulatory compliance record
7 of lottery vendors.

8 (7) The Commission may engage an independent firm experienced in
9 evaluating government procurement proposals to aid in evaluating
10 proposals for a major procurement.

11 (8) The Commission shall award the contract to the responsible lottery
12 vendor who submits the best proposal that maximizes the benefits to
13 the State.

14 (b) Upon the completion of the bidding process, a contract may be awarded to a
15 lottery contractor with whom the Commission has previously contracted for the same
16 purposes.

17 (c) Before a contract ~~required to be let under G.S. 143-129~~ is awarded, the
18 Director shall conduct ~~an~~ a thorough background investigation of all of the following:

19 (1) The vendor to whom the contract is to be awarded.

20 (2) Any parent or subsidiary corporation of the vendor to whom the
21 contract is to be awarded.

22 (3) All shareholders with a five percent (5%) or more interest in the
23 vendor or parent or subsidiary corporation of the vendor to whom the
24 contract is to be awarded.

25 (4) All officers and directors of the vendor or parent or subsidiary
26 corporation of the vendor to whom the contract is to be awarded.

27 (d) The Commission may terminate the contract, without penalty, of a lottery
28 contractor that fails to comply with the Commission's instruction to implement the
29 recommendations of the State Auditor or an independent auditor in an audit conducted
30 of Lottery security or operations.

31 (e) After entering into a contract with a lottery contractor, the Commission shall
32 require the lottery contractor to periodically update the information required to be
33 disclosed under G.S. 18C-149. Any contract with a lottery contractor who does not
34 periodically update the required disclosures may be terminated by the Commission.

35 (f) No lottery system vendor nor any applicant for a major procurement contract
36 may pay, give, or make any economic opportunity, gift, loan, gratuity, special discount,
37 favor, hospitality, or service, excluding food and beverages having an aggregate value
38 not exceeding one hundred dollars (\$100.00) in any calendar year, to the Director, any
39 member or employee of the corporation, or a member of the immediate family residing
40 in the same household as any of these individuals."

41 **SECTION 31.1.(q)** If House Bill 1023, 2005 Regular Session, becomes law,
42 then G.S. 18C-152, as enacted by that act, reads as rewritten:

43 **"§ 18C-152. Investigation of lottery vendors.**

44 (a) Lottery vendors shall cooperate with the Director in completing any
45 investigation required under G.S. 18C-151(c), including any appropriate investigation
46 authorizations needed to facilitate these investigations.

47 (b) The Commission shall adopt rules that provide for disclosures of information
48 required to be disclosed under subsection (c) of this section by lottery vendors to ensure
49 that the vendors provide all the information necessary to allow for a full and complete
50 evaluation by the Director and Commission of the competence, integrity, background,
51 and character of the lottery vendors. Information shall be disclosed for the following:

52 (1) If the vendor is a corporation, the officers, directors, and each
53 stockholder in that corporation; however, in the case of owners of
54 equity securities of a publicly traded corporation, only the names and

- 1 addresses of those known to the corporation to own beneficially five
2 percent (5%) or more of the securities need be disclosed.
3 (2) If the vendor is a trust, the trustee and all persons entitled to receive
4 income or benefits from the trust.
5 (3) If the vendor is an association, the members, officers, and directors.
6 (4) If the vendor is a partnership or joint venture, all of the general
7 partners, limited partners, or joint venturers.
8 (5) For any vendor, any person who can exercise control or authority, or
9 both, on behalf of the vendor.

10 (c) For purposes of this subsection, the term "vendor" shall include the vendor
11 and each of the persons applicable under subsection (b) of this section. At a minimum,
12 the vendor required to disclose information for a thorough background investigation
13 under G.S. 18C-151 shall disclose all of the following:

- 14 (1) A disclosure of the vendor's name, phone number, and address.
15 (2) A disclosure of all the states and jurisdictions in which the vendor does
16 business and the nature of the business for each state or jurisdiction.
17 (3) A disclosure of all the states and jurisdictions in which the vendor has
18 contracts to supply gaming goods or services, including lottery goods
19 and services, and the nature of the goods or services involved for each
20 state or jurisdiction.
21 (4) A disclosure of all the states and jurisdictions in which the vendor has
22 applied for, has sought renewal of, has received, has been denied, has
23 pending, or has had revoked a lottery or gaming license or permit of
24 any kind or had fines or penalties assessed on a license, permit,
25 contract, or operation and the disposition of such in each such state or
26 jurisdiction. If any lottery or gaming license, permit, or contract has
27 been revoked or has not been renewed or any lottery or gaming
28 license, permit, or application has been either denied or is pending and
29 has remained pending for more than six months, all of the facts and
30 circumstances underlying the failure to receive that license shall be
31 disclosed.
32 (5) A disclosure of the details of any finding or plea, conviction, or
33 adjudication of guilt in a state or federal court of the vendor for any
34 felony or any other criminal offense other than a minor traffic
35 violation.
36 (6) A disclosure of the details of any bankruptcy, insolvency,
37 reorganization, or corporate or individual purchase or takeover of
38 another corporation, including bonded indebtedness, or any pending
39 litigation of the vendor.
40 (7) If at least twenty-five percent (25%) of the cost of a vendor's contract
41 is subcontracted, the vendor shall disclose all of the information
42 required by this section for the subcontractor as if the subcontractor
43 were itself a vendor.
44 (8) Any additional disclosures and information the Commission
45 determines to be appropriate for the contract involved.

46 ~~(e)~~(d) All documents compiled by the Director in conducting the investigation of
47 the lottery vendors shall be held as confidential information under Chapter 132."

48 **SECTION 31.1.(r)** If House Bill 1023, 2005 Regular Session, becomes law,
49 then G.S. 18C-162, as enacted by that act, reads as rewritten:

50 **"§ 18C-162. Allocation of revenues.**

51 (a) To the extent practicable, the Commission shall allocate revenues to the
52 North Carolina State Lottery Fund in the following manner:

- 53 (1) At least fifty percent (50%) of the total annual revenues, as described
54 in this Chapter, shall be returned to the public in the form of prizes.

- 1 (2) ~~At least thirty four percent (34%)~~ thirty-five percent (35%) of the total
2 annual revenues, as described in this Chapter, shall be transferred as
3 provided in G.S. 18C-164.
- 4 (3) ~~No more than sixteen percent (16%)~~ eight percent (8%) of the total
5 annual revenues, as described in this Chapter, shall be allocated for
6 payment of expenses of the Lottery.
- 7 (4) No more than seven percent (7%) of the total annual revenues, as
8 described in this Chapter, shall be allocated for compensation paid to
9 lottery game retailers.
- 10 (b) Unclaimed prize money held by the Commission in the North Carolina State
11 Lottery Fund may be used by the Commission to enhance prizes in other lottery games.
- 12 (c) To the extent that the expenses of the Commission are less than ~~sixteen~~
13 ~~percent (16%)~~ eight percent (8%) of total annual revenues, the Commission may
14 allocate any surplus funds:
- 15 (1) To increase prize payments; or
16 (2) To the benefit of the public purposes as described in this Chapter."
- 17 **SECTION 31.1.(s)** If House Bill 1023, 2005 Regular Session, becomes law,
18 then G.S. 18C-163(3), as enacted by that act, is repealed.
- 19 **SECTION 31.1.(t)** If House Bill 1023, 2005 Regular Session, becomes law,
20 then G.S. 18C-164(b), as enacted by that act, reads as rewritten:
- 21 "(b) ~~On June 30 of each year, the~~The Commission shall distribute the net revenue
22 of the North Carolina State Lottery Fund as follows:
- 23 (1) ~~Fifty percent (50%)~~ During the 2005-2006 fiscal year, seventy million
24 dollars (\$70,000,000) shall be transferred to the Public School
25 Building Capital and Technology Fund created in Article 38A of
26 Chapter 115C of the General Statutes and is appropriated for
27 expenditure in accordance with that Article. The amounts transferred
28 under this subdivision shall be transferred in four equal installments,
29 one during each fiscal quarter. It is the purpose of this subdivision for
30 counties to appropriate funds generated under this subdivision to
31 increase the level of county spending for public school capital outlay
32 purposes other than the retirement of indebtedness. A county must
33 continue to spend for public school capital outlay purposes the same
34 amount of money it would have spent for those purposes if it had not
35 received the monies appropriated under this subdivision.
- 36 (2) ~~Twenty five percent (25%) shall be transferred to the State~~
37 ~~Educational Assistance Authority and is appropriated to fund~~
38 ~~scholarships pursuant to Article 35A of Chapter 115C of the General~~
39 ~~Statutes. Beginning with the 2006-2007 fiscal year and annually~~
40 ~~thereafter, one hundred fifty million dollars (\$150,000,000) shall be~~
41 ~~transferred to a special revenue fund to be established by the State~~
42 ~~Treasurer and to be known as the County Assistance Fund. The~~
43 ~~amounts transferred under this subdivision shall be transferred in four~~
44 ~~equal installments, one during each fiscal quarter. Monies in this Fund~~
45 ~~shall be used to pay for school construction projects in local school~~
46 ~~administrative units and to retire indebtedness incurred for school~~
47 ~~construction projects incurred on or after January 1, 2003. Monies in~~
48 ~~this Fund shall be distributed based on average daily membership, the~~
49 ~~county's ability to pay, the county's tax rate, growth in average daily~~
50 ~~membership, the county's debt capacity, and an appropriate~~
51 ~~requirement for matching funds from the county.~~
- 52 (3) ~~Twenty five percent (25%)~~ Beginning with the 2005-2006 fiscal year,
53 and annually thereafter, after the revenue is distributed as provided in
54 subdivisions (1) and (2) of this subsection, the remainder shall be
55 transferred to a special revenue fund to be established in the State

1 treasury and to be known as the Education Enhancement Fund. This
2 fund shall be subject to appropriation by the General Assembly and
3 shall be used to further the goal of providing enhanced educational
4 opportunities so that all students in the public schools can achieve their
5 full potential. Initially, the Fund shall be used for the following
6 primary purposes:

- 7 a. To support reduction of class size in early grades to class size
8 allotments not exceeding 1:18 in order to eliminate achievement
9 gaps.
10 b. To support academic prekindergarten programs for at-risk
11 four-year-olds who would otherwise not be served in a
12 high-quality education program in order to help those
13 four-year-olds be prepared developmentally to succeed in
14 school.
15 c. To support other educational priorities identified by the General
16 Assembly."

17 **SECTION 31.1.(u)** If House Bill 1023, 2005 Regular Session, becomes law,
18 then G.S. 18C-171, as enacted by that act, reads as rewritten:

19 **"§ 18C-171. Lawful activity.**

20 Other than this Chapter, any other State or local law, ordinance, or regulation
21 providing any penalty, ~~disability~~, restriction, regulation, or prohibition for the
22 manufacture, transportation, storage, distribution, advertising, possession, or sale of any
23 lottery tickets or shares or for the operation of any lottery game shall not apply to the
24 operation of the Commission or lottery games established by this ~~Chapter~~. Chapter
25 where the penalty, restriction, regulation, or prohibition applies only to the Lottery as
26 operated by the North Carolina State Lottery Commission."

27 **SECTION 31.1.(v)** If House Bill 1023, 2005 Regular Session, becomes law,
28 then Sections 2 and 4 of that act are repealed.

29 **SECTION 31.1.(w)** If House Bill 1023, 2005 Regular Session, becomes law,
30 then G.S. 114-19.6, as enacted by that act, reads as rewritten:

31 **"§ 114-19.16. Criminal record checks for the North Carolina State Lottery**
32 **Commission and its Director.**

33 The Department of Justice may provide to the North Carolina State Lottery
34 Commission and to its Director from the State and National Repositories of Criminal
35 Histories the criminal history of any prospective employee of the Commission and any
36 ~~prospective lottery retailer or lottery contractor~~ lottery vendor. The North Carolina State
37 Lottery Commission or its Director shall provide to the Department of Justice, along
38 with the request, the fingerprints of the prospective employee of the Commission, or of
39 the ~~prospective lottery retailer or lottery contractor~~ lottery vendor, a form signed by the
40 prospective employee of the Commission, or of the ~~prospective lottery retailer or lottery~~
41 ~~contractor~~ lottery vendor consenting to the criminal record check and use of fingerprints
42 and other identifying information required by the State and National Repositories, and
43 any additional information required by the Department of Justice. The fingerprints of
44 the prospective employee of the Commission, or ~~prospective lottery retailer or lottery~~
45 ~~contractor~~ lottery vendor, shall be forwarded to the State Bureau of Investigation for a
46 search of the State's criminal history record file, and the State Bureau of Investigation
47 shall forward a set of fingerprints to the Federal Bureau of Investigation for a national
48 criminal history record check. The North Carolina State Lottery Commission and its
49 Director shall remit any fingerprint information retained by the Commission to alcohol
50 law-enforcement agents appointed under Article 5 of Chapter 18B of the General
51 Statutes and shall keep all information obtained pursuant to this section confidential.
52 The Department of Justice shall charge a reasonable fee only for conducting the checks
53 of the national criminal history records authorized by this section."

54 **SECTION 31.1.(x)** If House Bill 1023, 2005 Regular Session, becomes law,
55 then G.S. 18B-101 is amended by adding a new subdivision to read:

1 "(8a) 'Lottery law' or 'lottery laws' means any provision of Chapter 18C of
2 the General Statutes and the rules issued by the Lottery Commission
3 under the authority of Chapter 18C of the General Statutes.'"

4 **SECTION 31.1.(y)** If House Bill 1023, 2005 Regular Session, becomes law,
5 then G.S. 18B-500(b) reads as rewritten:

6 "(b) Subject Matter Jurisdiction. – After taking the oath prescribed for a peace
7 officer, an alcohol law-enforcement agent shall have authority to arrest and take other
8 investigatory and enforcement actions for any criminal offense. The primary
9 responsibility of an agent shall be enforcement of the ABC ~~laws-laws~~, lottery laws, and
10 Article 5 of Chapter 90 (The Controlled Substances Act); however, an agent may
11 perform any law-enforcement duty assigned by the Secretary of Crime Control and
12 Public Safety or the Governor."

13 **SECTION 31.1.(z)** If House Bill 1023, 2005 Regular Session, becomes law,
14 then G.S. 18B-500(d) reads as rewritten:

15 "(d) Service of Commission Orders. – Alcohol law-enforcement agents may serve
16 and execute notices, orders, or demands issued by the Alcoholic Beverage Control
17 Commission or the North Carolina State Lottery Commission for the surrender of
18 permits or relating to any administrative proceeding. While serving and executing such
19 notices, orders, or demands, alcohol law-enforcement agents shall have all the power
20 and authority possessed by law-enforcement officers when executing an arrest warrant."

21 **SECTION 31.1.(aa)** If House Bill 1023, 2005 Regular Session, becomes
22 law, then, effective for taxable years beginning on or after January 1, 2005,
23 G.S. 105-134.5(b) reads as rewritten:

24 "(b) Nonresidents. – For nonresident individuals, the term "North Carolina taxable
25 income" means the taxpayer's taxable income as determined under the Code, adjusted as
26 provided in G.S. 105-134.6 and G.S. 105-134.7, multiplied by a fraction the
27 denominator of which is the taxpayer's gross income as determined under the Code,
28 adjusted as provided in G.S. 105-134.6 and G.S. 105-134.7, and the numerator of which
29 is the amount of that gross income, as adjusted, that is derived from North Carolina
30 sources and is attributable to the ownership of any interest in real or tangible personal
31 property in this ~~State or State~~, is derived from a business, trade, profession, or
32 occupation carried on in this State, State, or is derived from gambling activities in this
33 State.'"

34 **SECTION 31.1.(bb)** If House Bill 1023, 2005 Regular Session, becomes
35 law, then, effective for taxable years beginning on or after January 1, 2005, Article 4A
36 of Chapter 105 of the General Statutes is amended by adding a new section to read:

37 "**§ 105-163.2B. North Carolina State Lottery Commission must withhold taxes.**"

38 The North Carolina State Lottery Commission, established by Chapter 18C of the
39 General Statutes, must deduct and withhold State income taxes from the payment of
40 winnings that are reportable to the Internal Revenue Service under section 3406 of the
41 Code. The amount of taxes to be withheld is seven percent (7%) of the winnings less the
42 amount wagered. The Commission must file a return and pay the withheld taxes in the
43 time and manner required under G.S. 105-163.6 as if the winnings were wages. The
44 taxes the Commission withholds are held in trust for the Secretary.'"

45 **SECTION 31.1.(cc)** If House Bill 1023, 2005 Regular Session, becomes
46 law, then G.S. 105-259(b) is amended by adding a new subdivision to read:

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

51 ...
52 (32) To provide to the North Carolina State Lottery Commission the
53 information required under G.S. 18C-141.'"

54
55 Requested by: Senators Albertson, Garrou, Dalton, Hagan

1 **PROHIBIT THE POSSESSION OR OPERATION OF VIDEO GAMING**
2 **MACHINES EXCEPT BY A FEDERALLY RECOGNIZED INDIAN TRIBE**
3 **AS AUTHORIZED BY THE INDIAN GAMING REGULATORY ACT AND A**
4 **VALID TRIBAL-STATE COMPACT**

5 **SECTION 31.2.(a)** G.S. 14-306.1 is repealed.

6 **SECTION 31.2.(b)** Part 1 of Article 37 of Chapter 14 of the General
7 Statutes is amended by adding a new section to read:

8 **"§ 14-306.1A. Types of machines and devices prohibited by law; penalties.**

9 (a) Ban on Machines. – It shall be unlawful for any person to operate, allow to be
10 operated, place into operation, or keep in that person's possession for the purpose of
11 operation any video gaming machine as defined in subsection (b) of this section, except
12 for the exemption for a federally recognized Indian tribe under subsection (e) of this
13 section for whom it shall be lawful to operate and possess machines as listed in
14 subsection (b) of this section if conducted in accordance with an approved Class III
15 Tribal-State Compact applicable to that tribe, as provided in G.S. 147-12(14) and
16 G.S. 71A-8.

17 (b) Definitions. – As used in this section, a video gaming machine means a slot
18 machine, as defined in G.S. 14-306(a), and other forms of electrical, mechanical, or
19 computer games such as, by way of illustration:

20 (1) A video poker game or any other kind of video playing card game.

21 (2) A video bingo game.

22 (3) A video craps game.

23 (4) A video keno game.

24 (5) A video lotto game.

25 (6) Eight liner.

26 (7) Pot-of-gold.

27 (8) A video game based on or involving the random or chance matching of
28 different pictures, words, numbers, or symbols not dependent on the
29 skill or dexterity of the player.

30 For the purpose of this section, a video gaming machine is a video machine which
31 requires deposit of any coin or token, or use of any credit card, debit card, or any other
32 method that requires payment to activate play of any of the games listed in this
33 subsection. The enumeration of games in the list in this subsection does not authorize
34 the possession or operation of such game if it is otherwise prohibited by law.

35 For the purpose of this section, a video gaming machine includes those that are
36 within the scope of the exclusion provided in G.S. 14-306(b)(2) unless conducted in
37 accordance with an approved Class III Tribal-State Compact applicable to that tribe as
38 provided in G.S. 147-12(14) and G.S. 71A-8. For the purpose of this section, a video
39 gaming machine does not include those that are within the scope of the exclusion
40 provided in G.S. 14-306(b)(1).

41 (c) Exemption for Certain Machines. – This section shall not apply to
42 assemblers, repairers, manufacturers, sellers, lessors, or transporters of video gaming
43 machines who assemble, repair, manufacture, sell, lease, or transport them for use
44 out-of-state as long as the machines, while located in this State, cannot be used to play
45 the prohibited games and does not apply to those who assemble, repair, manufacture,
46 sell, or lease such machines for use only by a federally recognized Indian tribe if such
47 machines may be lawfully used on Indian land under the Indian Gaming Regulatory
48 Act.

49 (d) Ban on Warehousing. – It is unlawful to warehouse any video gaming
50 machine except in conjunction with the activities permitted under subsection (c) of this
51 section.

52 (e) Exemption for Activities Under IGRA. – Notwithstanding any other
53 prohibitions in State law, the form of Class III gaming otherwise prohibited by
54 subsections (a) through (d) of this section may be legally conducted on Indian lands
55 which are held in trust by the United States government for and on behalf of federally

1 recognized Indian tribes if conducted in accordance with an approved Class III
2 Tribal-State Gaming Compact applicable to that tribe as provided in G.S. 147-12(14)
3 and G.S. 71A-8."

4 **SECTION 31.2.(c)** G.S. 14-306.2 reads as rewritten:

5 **"§ 14-306.2. Violation of ~~G.S. 14-306.1~~ G.S. 14-306.1A a violation of the ABC laws.**

6 A violation of ~~G.S. 14-306.1~~ G.S. 14-306.1A is a violation of the gambling statutes
7 for the purposes of G.S. 18B-1005(a)(3)."

8 **SECTION 31.2.(d)** G.S. 147-12(14) reads as rewritten:

9 ~~"(14) To~~ Notwithstanding subsections (a) through (d) of G.S. 14-306.1A, to
10 negotiate and enter into Class III Tribal-State gaming compacts, and
11 amendments thereto, on behalf of the ~~State~~ State, consistent with State
12 law (G.S. 14-306.1A(e) and G.S. 71A-8) and the Indian Gaming
13 Regulatory Act, Public Law 100-497, as necessary to allow a federally
14 recognized Indian tribe to operate gaming activities—activities,
15 including those games allowed pursuant to G.S. 14-306.1A(e), in this
16 State as permitted under federal law."

17 **SECTION 31.2.(e)** G.S. 71A-8 reads as rewritten:

18 **"§ 71A-8. Authorization for federally recognized Indian tribes.**

19 In recognition of the governmental relationship between the State, federally
20 recognized Indian tribes and the United States, a federally recognized Indian tribe may
21 conduct games consistent with the Indian Gaming Regulatory Act, Public Law 100-497,
22 that are in accordance with a valid Tribal-State compact executed by the Governor
23 pursuant to G.S. 147-12(14) and approved by the U.S. Department of Interior under the
24 Indian Gaming Regulatory Act, and such ~~games~~ games, including those permitted under
25 G.S. 14-306.1A(e), shall not be unlawful or be lawful and not against the public policy
26 of the State if the State permits such gaming for any purpose by any person,
27 organization, or entity, if conducted by a federally recognized Indian tribe on federal
28 Indian Trust Lands within the State in accordance with a Tribal-State Gaming Compact
29 applicable to that tribe as provided in G.S. 147-12(14) and G.S. 71A-8."

30 **SECTION 31.2.(f)** G.S. 14-298 reads as rewritten:

31 **"§ 14-298. Seizure of illegal gaming items.**

32 Upon a determination that probable cause exists to believe that any gaming table
33 prohibited to be used by G.S. 14-289 through G.S. 14-300, any illegal punchboard or
34 illegal slot machine, or any video game machine prohibited to be used by G.S. 14-306
35 or ~~G.S. 14-306.1~~, G.S. 14-306.1A, is in the illegal possession or use of any person
36 within the limits of their jurisdiction, all sheriffs and law enforcement officers are
37 authorized to seize the items in accordance with applicable State law. Any law
38 enforcement agency in possession of that item shall retain the item pending a
39 disposition order from a district or superior court judge. Upon application by the law
40 enforcement agency, district attorney, or owner, and after notice and opportunity to be
41 heard by all parties, if the court determines that the item is unlawful to possess, it shall
42 enter an order releasing the item to the law enforcement agency for destruction or for
43 training purposes. If the court determines that the item is not unlawful to possess and
44 will not be used in violation of the law, the item shall be ordered released to its owner
45 upon satisfactory proof of ownership. The foregoing procedures for release shall not
46 apply, however, with respect to an item seized for use as evidence in any criminal action
47 or proceeding until after entry of final judgment. This section does not prohibit any
48 activities which are legally conducted by a federally recognized Indian tribe pursuant to
49 G.S. 14-306.1A(e), 147-12(14), and 71A-8."

50 **SECTION 31.2.(g)** Effective with respect to offenses committed on or after
51 December 1, 2005, G.S. 14-309(b) is repealed.

52 **SECTION 31.2.(h)** G.S. 105-256(d)(1) is repealed, but that repeal does not
53 affect reports for activities prior to December 1, 2005.

54 **SECTION 31.2.(i)** G.S. 14-309 reads as rewritten:

55 **"§ 14-309. Violation made criminal.**

1 (a) Any person who violates any provision of G.S. 14-304 through 14-309 is
 2 guilty of a Class 1 misdemeanor for the first offense, and is guilty of a Class I felony for
 3 a second offense and a Class H felony for a third or subsequent offense.

4 (b) Notwithstanding the provisions of subsection (a) of this section, any person
 5 violating the provisions of ~~G.S. 14-306.1~~ G.S. 14-306.1A involving the operation of five
 6 or more machines prohibited by that section is guilty of a Class G felony."

7 **SECTION 31.2.(j)** This section becomes effective December 1, 2005, and
 8 applies to offenses committed on or after that date but also applies to compacts and
 9 amendments thereto executed before that date. If a court of competent jurisdiction in
 10 this State issues a stay to prohibit possession or operation of video gaming machines by
 11 a federally recognized Indian tribe, as authorized by a valid Tribal-State Compact,
 12 because that activity is not allowed on non-Indian lands pursuant to this section, this
 13 section is suspended and shall not have the force of law until such time as the stay is
 14 dissolved or a final order is entered. If a court of competent jurisdiction in this State
 15 issues a final order that prohibits the possession or operation of video gaming machines
 16 by a federally recognized Indian tribe, as authorized by a valid Tribal-State Compact,
 17 because that activity is not allowed on non-Indian lands, this section is void.
 18

19 PART XXXII. STREAMLINED SALES TAX CHANGES

20
 21 Requested by: Senators Hoyle, Kerr

22 STREAMLINED SALES TAX CHANGES

23 **SECTION 32.1.(a)** Subdivisions (4a) and (4b) of G.S. 105-164.3 are
 24 recodified as subdivisions (4b) and (4c) respectively.

25 **SECTION 32.1.(b)** G.S. 105-164.3 reads as rewritten:

26 "§ 105-164.3. Definitions.

27 The following definitions apply in this Article:

28
 29 (4a) Combined general rate. – The State's general rate of tax set in
 30 G.S. 105-164.4(a) plus the sum of the rates of the local sales and use
 31 taxes authorized by Subchapter VIII of this Chapter for every county
 32 in this State.

33
 34 (4d) Computer supply. – An item that is considered a 'school computer
 35 supply' under the Streamlined Agreement.

36
 37 (10) Food. – Substances that are sold for ingestion or chewing by humans
 38 and are consumed for their taste or nutritional value. The substances
 39 may be in liquid, concentrated, solid, frozen, dried, or dehydrated
 40 form. The term does not include an alcoholic beverage, as defined in
 41 G.S. 105-113.68, or a tobacco ~~products,~~ product, as defined in
 42 G.S. 105-113.4.

43
 44 (37b) School supply. – An item that is commonly used by a student in the
 45 course of study and is considered a 'school supply', a 'school art
 46 supply', or 'school instructional material' under the Streamlined
 47 Agreement.

48
 49 (45a) Streamlined Agreement. – The Streamlined Sales and Use Tax
 50 Agreement adopted November 12, 2002, as amended on November 19,
 51 2003, November 16, 2004, and April 16, 2005."

52 **SECTION 32.1.(c)** G.S. 105-164.4(a), as amended by Section 33.1(a) of this
 53 act, reads as rewritten:

1 "(a) A privilege tax is imposed on a retailer at the following percentage rates of
2 the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is
3 four and one-half percent (4 1/2%).

4
5 ...
6 (1b) The rate of three percent (3%) applies to the sales price of each
7 aircraft, boat, railway car, or locomotive aircraft or boat sold at retail,
8 including all accessories attached to the item when it is delivered to the
9 purchaser. The maximum tax is one thousand five hundred dollars
10 (\$1,500) per article.

11 (1c) ~~The rate of one percent (1%) applies to the sales price of the following~~
12 ~~articles:~~

13 a. ~~Horses or mules by whomsoever sold.~~

14 b. ~~Semen to be used in the artificial insemination of animals.~~

15 c. ~~Sales of fuel, other than electricity, to farmers to be used by~~
16 ~~them for any farm purposes other than preparing food, heating~~
17 ~~dwelling, and other household purposes. The quantity of fuel~~
18 ~~purchased or used at any one time shall not in any manner be a~~
19 ~~determinative factor as to whether any sale or use of fuel is or is~~
20 ~~not subject to the one percent (1%) rate of tax imposed by this~~
21 ~~subdivision.~~

22 d. ~~Sales of fuel, other than electricity, to manufacturing industries~~
23 ~~and manufacturing plants for use in connection with the~~
24 ~~operation of such industries and plants other than sales of fuels~~
25 ~~to be used for residential heating purposes. The quantity of fuel~~
26 ~~purchased or used at any one time shall not in any manner be a~~
27 ~~determinative factor as to whether any sale or use of fuel is or is~~
28 ~~not subject to the rate of tax provided in this subdivision.~~

29 e. ~~Sales of fuel, other than electricity, to commercial laundries or~~
30 ~~to pressing and dry cleaning establishments for use in~~
31 ~~machinery used in the direct performance of the laundering or~~
32 ~~the pressing and cleaning service.~~

33 f. ~~Sales to freezer locker plants of wrapping paper, cartons and~~
34 ~~supplies consumed directly in the operation of such plant.~~

35 (1d) ~~The rate of one percent (1%) applies to the sales price of the articles~~
36 ~~listed in G.S. 105-164.4A. The maximum tax is eighty dollars (\$80.00)~~
37 ~~per article. As used in G.S. 105-164.4A and G.S. 105-187.51, the term~~
38 ~~"accessories" does not include electricity.~~

39 a. ~~through k. Recodified as § 105-164.4A by Session Laws~~
40 ~~1999-360, s. 3(a), effective August 4, 1999.~~

41 (1e) ~~The rate of three percent (3%) applies to the sales price of each mobile~~
42 ~~classroom or mobile office sold at retail, including all accessories~~
43 ~~attached to the mobile classroom or mobile office when it is delivered~~
44 ~~to the purchaser. The maximum tax is one thousand five hundred~~
45 ~~dollars (\$1,500) per article. Each section of a mobile classroom or~~
46 ~~mobile office that is transported separately to the site where it is to be~~
47 ~~placed is a separate article.~~

48 ...
49 (4c) ~~The rate of six percent (6%) combined general rate applies to the gross~~
50 ~~receipts derived from providing telecommunications service. A person~~
51 ~~who provides telecommunications service is considered a retailer~~
52 ~~under this Article. Telecommunications service is taxed in accordance~~
53 ~~with G.S. 105-164.4C.~~

54 ...
55 (6) ~~The rate of five percent (5%) combined general rate applies to the gross~~
~~receipts derived from providing direct to home satellite service to~~

1 subscribers in this State. A person engaged in the business of
 2 providing direct-to-home satellite service is considered a retailer under
 3 this Article.

- 4 (7) ~~The rate of six percent (6%) combined general rate~~ applies to the sales
 5 price of spirituous liquor other than mixed beverages. As used in this
 6 subdivision, the terms 'spirituous liquor' and 'mixed beverage' have the
 7 meanings provided in G.S. 18B-101."

8 **SECTION 32.1.(d)** G.S. 105-164.4A is repealed.

9 **SECTION 32.1.(e)** G.S. 105-164.13 reads as rewritten:

10 **"§ 105-164.13. Retail sales and use tax.**

11 The sale at retail and the use, storage, or consumption in this State of the following
 12 tangible personal property and services are specifically exempted from the tax imposed
 13 by this Article:

- 14
 15 ~~(1) Commercial fertilizer, lime, land plaster, plastic mulch, plant bed~~
 16 ~~covers, and seeds~~Any of the following items sold to a farmer for
 17 agricultural purposes use by the farmer in the planting, cultivating,
 18 harvesting, or curing of farm crops or in the production of dairy
 19 products, eggs, or animals. A 'farmer' includes a dairy operator, a
 20 poultry farmer, an egg producer, a livestock farmer, a farmer of crops,
 21 and a farmer of an aquatic species, as defined in G.S. 106-758.

22 a. Commercial fertilizer, lime, land plaster, plastic mulch, plant
 23 bed covers, and seeds.

24 b. Farm machinery, attachment and repair parts for farm
 25 machinery, and lubricants applied to farm machinery. The term
 26 'machinery' includes implements that have moving parts or are
 27 operated or drawn by an animal. The term does not include
 28 implements operated wholly by hand or motor vehicles required
 29 to be registered under Chapter 20 of the General Statutes.

30 c. A horse or mule.

31 d. Fuel other than electricity.

- 32 (1a) A container sold to a farmer, as defined in subdivision (1) of this
 33 section, used for a purpose set out in that subdivision or in packaging
 34 and transporting the farmer's product for sale.

- 35
 36 ~~(2a)~~ Any of the following substances when purchased for use on animals or
 37 plants, as appropriate, held or produced for commercial purposes. This
 38 exemption does not apply to any equipment or devices used to
 39 administer, release, apply, or otherwise dispense these substances:

40 a. Remedies, vaccines, medications, litter materials, and feeds for
 41 animals.

42 b. Rodenticides, insecticides, herbicides, fungicides, and
 43 pesticides.

44 c. Defoliant for use on cotton or other crops.

45 d. Plant growth inhibitors, regulators, or stimulators, including
 46 systemic and contact or other sucker control agents for tobacco
 47 and other crops.

48 e. Semen.

- 49
 50 ~~(4c)~~ Any of the following: following items concerning the housing, raising,
 51 or feeding of animals:

52 a. Commercially manufactured facilities to be used for
 53 commercial purposes for housing, raising, or feeding animals or
 54 for housing equipment necessary for these commercial
 55 activities.

- 1 b. Building materials, supplies, fixtures, and equipment that
2 become a part of and are used in the construction, repair, or
3 improvement of an enclosure or a structure specifically
4 designed, constructed, and used for housing, raising, or feeding
5 animals or for housing equipment necessary for one of these
6 commercial activities.
- 7 c. Commercially manufactured equipment, and parts and
8 accessories for the equipment, used in a facility that is exempt
9 from tax under this subdivision or in an enclosure or a structure
10 whose building materials are exempt from tax under this
11 subdivision.
- 12 (4d) Any of the following tobacco items:
- 13 a. The lease or rental of tobacco sheets used in handling tobacco
14 in the warehouse and transporting tobacco to and from the
15 warehouse.
- 16 b. A metal flue sold for use in curing tobacco, whether the flue is
17 attached to a handfired furnace or used in connection with a
18 mechanical burner.
- 19 c. A bulk tobacco barn or rack, parts and accessories attached to
20 the tobacco barn or rack, and any similar apparatus, part, or
21 accessory used to cure or dry tobacco or another crop.
- 22 (4e) A grain, feed, or soybean storage facility, and parts and accessories
23 attached to the facility.
- 24 ...
- 25 (5a) Mill machinery and machinery, mill machinery parts and accessories
26 accessories, and manufacturing fuel that are subject to tax under
27 Article 5F of this Chapter.
- 28 (5b) Sales to a telephone company regularly engaged in providing
29 telephone service to subscribers on a commercial basis of central
30 office equipment, switchboard equipment, private branch exchange
31 equipment, and parts and accessories for the equipment
- 32 (5c) Sales of towers, broadcasting equipment, or parts and accessories for
33 the equipment to a radio or television company regulated by the
34 Federal Communications Commission or to a cable service provider.
- 35 ...
- 36 (10) Sales of the following to commercial laundries or to pressing and dry
37 cleaning establishments of articles establishments:
- 38 a. Articles or materials used for the identification of garments
39 being laundered or dry cleaned, wrapping paper, bags, hangers,
40 starch, soaps, detergents, cleaning fluids and other compounds
41 or chemicals applied directly to the garments in the direct
42 performance of the laundering or the pressing and cleaning
43 service.
- 44 b. Laundry and dry-cleaning machinery, parts and accessories
45 attached to the machinery, and lubricants applied to the
46 machinery.
- 47 c. Fuel, other than electricity, used in the direct performance of
48 the laundering or the pressing and cleaning service.
- 49 (10a) Sales of the following to a major recycling facility of (i)
50 lubricants facility:
- 51 a. Lubricants and other additives for motor vehicles or machinery
52 and equipment used at the facility and (ii) materials facility.
- 53 b. Materials, supplies, parts, and accessories, other than machinery
54 and equipment, that are not capitalized by the taxpayer and are

used or consumed in the manufacturing and material handling processes at the facility.

(10b) c. ~~Sales to a major recycling facility of electricity~~ Electricity used at the facility.

d. Equipment that is subject to tax under Article 5F of this Chapter.

~~(18) Funeral expenses, including coffins and caskets, not to exceed one thousand five hundred dollars (\$1,500). All other funeral expenses, including gross receipts for services rendered, shall be taxable at the general rate of tax set in G.S. 105-164.4. However, "services rendered" shall not include those services which have been taxed pursuant to G.S. 105-164.4(4), or to those services performed by any beautician, cosmetologist, hairdresser or barber employed by or at the specific direction of the family or personal representative of a deceased; and "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.~~ hub:

- 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

1 persons or property in interstate commerce for compensation. The Secretary shall
2 prescribe the periods of time, whether monthly, quarterly, semiannually, or otherwise,
3 with respect to which refunds may be claimed, and shall prescribe the time within
4 which, following these periods, an application for refund may be made.

5 An applicant for refund shall furnish the following information and any proof of the
6 information required by the Secretary:

- 7 (1) A list identifying the railway cars, locomotives, fuel, lubricants, repair
8 parts, and accessories purchased by the applicant inside or outside this
9 State during the refund period.
- 10 (2) The purchase price of the items listed in subdivision (1) of this
11 subsection.
- 12 (3) The sales and use taxes paid in this State on the listed items.
- 13 (4) The number of miles the applicant's motor vehicles, railroad cars,
14 locomotives, and airplanes were operated both inside and outside this
15 State during the refund period.
- 16 (5) Any other information required by the Secretary.

17 For each applicant, the Secretary shall compute the amount to be refunded as
18 follows. First, the Secretary shall determine the ratio of the number of miles the
19 applicant operated its motor vehicles, railroad cars, locomotives, and airplanes in this
20 State during the refund period to the number of miles it operated them both inside and
21 outside this State during the refund period. Second, the Secretary shall determine the
22 applicant's proportional liability for the refund period by multiplying this mileage ratio
23 by the purchase price of the items identified in subdivision (1) of this subsection and
24 then multiplying the resulting product by the tax rate that would have applied to the
25 items if they had all been purchased in this State. Third, the Secretary shall refund to
26 each applicant the excess of the amount of sales and use taxes the applicant paid in this
27 State during the refund period on these items over the applicant's proportional liability
28 for the refund period."

29 **SECTION 32.1.(h)** G.S. 105-164.28 reads as rewritten:

30 **"§ 105-164.28. Certificate of resale.**

31 (a) Seller's Responsibility. – A seller who accepts a certificate of resale from a
32 purchaser of tangible personal property has the burden of proving that the sale was not a
33 retail sale unless all of the following conditions are met:

- 34 (1) For a sale made in person, the certificate is signed by the ~~purchaser,~~
35 purchaser and states the purchaser's name, address, ~~and~~ registration
36 number, and ~~describes the type of tangible personal property generally~~
37 ~~sold by the purchaser in the regular course of business.~~ type of
38 business.
- 39 (2) For a sale made in person, the ~~purchaser is engaged in the business of~~
40 ~~selling tangible personal property of the type sold.~~ is typically used
41 in the type of business stated on the certificate.
- 42 (3) For a sale made over the Internet or by other remote means, the sales
43 tax registration number given by the purchaser matches the number on
44 the Department's registry.

45 (b) ~~Liabilities.~~ Purchaser's Liability. – A purchaser who does not resell property
46 purchased under a certificate of resale is liable for any tax subsequently determined to
47 be due on the sale. ~~A seller of property sold under a certificate of resale is jointly liable~~
48 ~~with the purchaser of the property for any tax subsequently determined to be due on the~~
49 ~~sale only if the Secretary proves that the sale was a retail sale."~~

50 **SECTION 32.1.(i)** Part 4 of Article 5 of Chapter 105 of the General Statutes
51 is amended by adding a new section to read:

52 **"§ 105-164.15A. Effective date of rate changes for services.**

53 The effective date of a rate change for a service taxable under this Article is
54 administered as follows:

1 (1) For a rate increase, the new rate applies to the first billing period that
2 starts on or after the effective date.

3 (2) For a rate decrease, the new rate applies to bills rendered on or after
4 the effective date."

5 **SECTION 32.1.(j)** Part 7A of Article 5 of Chapter 105 of the General
6 Statutes is amended by adding a new section to read:

7 **"§ 105-164.42K. Registration and effect of registration.**

8 Registration under the Agreement satisfies the registration requirements under this
9 Article. A seller who registers under the Agreement within 12 months after the State
10 becomes a member of the Agreement and who meets the following conditions is not
11 subject to assessment for sales tax for any period before the effective date of the seller's
12 registration:

13 (1) The seller was not registered with the State during the 12-month period
14 before the effective date of this State's participation in the Agreement.

15 (2) When the seller registered, the seller had not received a letter from the
16 Department notifying the seller of an audit.

17 (3) The seller continues to be registered under the Agreement and to remit
18 tax to the State for at least 36 months."

19 **SECTION 32.1.(k)** Article 5F of Chapter 105 of the General Statutes is
20 amended by adding new sections to read:

21 **"§ 105-187.51A. Tax imposed on manufacturing fuel.**

22 A privilege tax is imposed on a manufacturing industry or plant that purchases fuel
23 to operate the industry or plant. The tax is one percent (1%) of the sales price of the
24 fuel. The tax does not apply to electricity.

25 **"§ 105-187.51B. Tax imposed on recycling equipment.**

26 (a) Tax. – A privilege tax is imposed on a major recycling facility that purchases
27 any of the following tangible personal property for use in connection with the facility:

28 (1) Cranes, structural steel crane support systems, and foundations related
29 to the cranes and support systems.

30 (2) Port and dock facilities.

31 (3) Rail equipment.

32 (4) Material handling equipment.

33 (b) Rate. – The tax is one percent (1%) of the sales price of the tangible personal
34 property. The maximum tax is eighty dollars (\$80.00) per article."

35 **SECTION 32.1.(l)** G.S. 105-187.52 reads as rewritten:

36 **"§ 105-187.52. Administration.**

37 ~~The privilege tax this Article imposes on a person listed in G.S. 105-187.51 is an~~
38 ~~additional tax imposed by this Article are in addition to the State use tax. Except as~~
39 ~~otherwise provided in this Article, the collection and administration of this tax these~~
40 ~~taxes is the same as the State use tax imposed by Article 5 of this Chapter."~~

41 **SECTION 32.1.(m)** Section 18 of S.L. 2000-120, as amended by Section
42 44.1 of S.L. 2003-284, reads as rewritten:

43 **"Section 18.** Section 7 of this act becomes effective January 1, 2001. Sections 10
44 and 11 of this act become effective for taxable years beginning on or after January 1,
45 ~~2005-2010.~~ The remainder of this act is effective when it becomes law."

46 **SECTION 32.1.(n)** G.S. 105-151.21(b) reads as rewritten:

47 (b) Definitions. – The following definitions apply in this section:

48 (1) Farm machinery. – Machinery ~~subject to exempt from State sales tax~~
49 at the rate of one percent (1%) under G.S. ~~105-164.4A, 105-164.13(4e).~~

50 (2) Property taxes. – The principal amount of taxes levied and assessed by
51 a taxing unit under Subchapter II of this Chapter. The term does not
52 include costs, penalties, interest, or other charges that may be added to
53 the principal amount.

54 (3) Taxing unit. – Defined in G.S. 105-273."

55 **SECTION 32.1.(o)** G.S. 105-164.44F(a) reads as rewritten:

1 "(a) Amount. – The Secretary must distribute to the cities part of the taxes
2 imposed by G.S. 105-164.4(a) (4c) on telecommunications service. The Secretary must
3 make the distribution within 75 days after the end of each calendar quarter. The amount
4 the Secretary must distribute is eighteen and ~~twenty six hundredths percent~~
5 ~~(18.26%)~~ three one-hundredths percent (18.03%) of the net proceeds of the taxes
6 collected during the quarter, minus two million six hundred twenty thousand nine
7 hundred forty-eight dollars (\$2,620,948). This deduction is one-fourth of the annual
8 amount by which the distribution to cities of the gross receipts franchise tax on
9 telephone companies, imposed by former G.S. 105-120, was required to be reduced
10 beginning in fiscal year 1995-96 as a result of the 'freeze deduction.' The Secretary must
11 distribute the specified percentage of the proceeds, less the 'freeze deduction' among the
12 cities in accordance with this section."

13 **SECTION 32.1.(p)** G.S. 105-164.6 reads as rewritten:

14 "**§ 105-164.6. Imposition of Complementary use tax.**

15 (a) Tax. – An excise tax at the following percentage rates is imposed on the
16 storage, use, or consumption in this State of tangible personal property purchased inside
17 or outside the State for storage, use, or consumption in the State: at the applicable rate
18 set in G.S. 105-164.4 is imposed on the items listed below. The applicable rate is the
19 rate and maximum tax, if any, that would apply to the sale of the item.

- 20 (1) At the applicable percentage rate of the purchase price of each item or
21 article of tangible personal property that is stored, used, or consumed
22 in this State. The applicable percentage rate is the rate and the
23 maximum tax, if any, that applies to a sale of the property that is
24 stored, used, or consumed. Tangible personal property purchased inside
25 or outside this State for storage, use, or consumption in this State. This
26 subdivision includes property that becomes part of a building or
27 another structure.
- 28 (2) At the applicable percentage rate of the monthly lease or rental price
29 paid, contracted, or agreed to be paid by the lessee or renter to the
30 owner of tangible personal property that is stored, used, or consumed
31 in this State. The applicable percentage rate is the rate and the
32 maximum tax, if any, that applies to a lease or rental of the property
33 that is stored, used, or consumed. Tangible personal property leased or
34 rented inside or outside this State for storage, use, or consumption in
35 this State.
- 36 (3) Services sourced to this State.

37 (b) An excise tax at the general rate of tax set in G.S. 105-164.4 is imposed on
38 the purchase price of tangible personal property purchased inside or outside the State
39 that Liability. – The tax imposed by this section is payable by the person who purchases,
40 leases, or rents tangible personal property or who purchases a service. If the property
41 purchased becomes a part of a building or other structure in the State. The purchaser of
42 the property is liable for the tax. If the purchaser is a contractor, the contractor and
43 owner are jointly and severally liable for the tax; if State and the purchaser is a
44 subcontractor, the subcontractor and contractor contractor or subcontractor, the
45 contractor, the subcontractor, and the owner of the building are jointly and severally
46 liable for the tax. The liability of an owner or a contractor a contractor, a subcontractor,
47 or an owner who did not purchase the property is satisfied if the purchaser delivers to
48 the owner or contractor before final settlement between them by receipt of an affidavit
49 from the purchaser certifying that the tax has been paid.

50 (c) Where a retail sales tax has already been paid with respect to tangible
51 personal property in this State by the purchaser thereof, the tax shall be credited upon
52 the tax imposed by this Part. Where a retail sales and use tax is due and has been paid
53 with respect to tangible personal property in another state by the purchaser for storage,
54 use or consumption in this State, the tax shall be credited upon the tax imposed by this

1 Part.Credit. – A credit is allowed against the tax imposed by this section for the
 2 following:

3 (1) The amount of sales or use tax paid on the item to this State. Payment
 4 of sales or use tax to this State on an item by a retailer extinguishes the
 5 liability of a purchaser for the tax imposed under this section.

6 (2) The amount of sales tax paid on the item to another State. If the
 7 amount of tax paid to anotherthe other state is less than the amount of
 8 tax imposed by this Part, the purchaser shall pay to the Secretary an
 9 amount sufficient to make the tax paid to the other state and this State
 10 equal to the amount imposed by this Part. The Secretary of Revenue
 11 shall require such proof of payment of tax to another state as he deems
 12 necessary. No credit shall be given under this subsection for sales or
 13 use taxes paid in another state if thatsection, the difference is payable
 14 to this State. The credit allowed by this subdivision does not apply to
 15 tax paid to a state that does not grant a similar credit for sales or use
 16 taxes paid in North Carolina.

17 ~~(d) Every person storing, using or otherwise consuming in this State tangible~~
 18 ~~personal property purchased or received at retail either within or without this State shall~~
 19 ~~be liable for the tax imposed by this Article and the liability shall not be extinguished~~
 20 ~~until the tax has been paid to this State. Provided, however, that a receipt from a~~
 21 ~~registered retailer engaged in business in this State given to the purchaser in accordance~~
 22 ~~with the provisions of this Article shall be prima facie sufficient to relieve the purchaser~~
 23 ~~from liability for the tax to which such receipt may refer and the liability of the~~
 24 ~~purchaser shall be extinguished upon payment of the tax by any retailer from whom he~~
 25 ~~has purchased the property.~~

26 ~~(e) Except as provided herein the tax so levied is and shall be in addition to all~~
 27 ~~other taxes whether levied in the form of excise, license, privilege or other taxes.~~

28 (f) Registration. – Before a person may engage in business in this State selling or
 29 delivering tangible personal property for storage, use, or consumption in this State, the
 30 person must obtain a certificate of registration from the Department. To obtain a
 31 certificate of registration, a person must register with the Department.

32 The holder of the certificate of registration must pay the tax levied under this
 33 Article. A certificate of registration is valid unless it is revoked for failure to comply
 34 with the provisions of this Article or becomes void. A certificate issued to a retailer
 35 becomes void if, for a period of 18 months, the retailer files no returns or files returns
 36 showing no sales."

37 **SECTION 32.1.(q)** G.S. 105-164.13B(a) reads as rewritten:

38 "(a) State Exemption. – Food is exempt from the taxes imposed by this Article
 39 unless the food is included in one of the subdivisions in this subsection. The following
 40 food items are subject to tax:

- 41 ~~(1) Alcoholic beverages, as defined in G.S. 105-113.68.~~
 42 (2) Dietary supplements.
 43 (3) Food sold through a vending machine.
 44 (4) Prepared food.
 45 (5) Soft drinks."

46 **SECTION 32.1.(r)** G.S. 105-164.42B(1) reads as rewritten:

47 **"§ 105-164.42B. Definitions.**

48 The following definitions apply in this Part:

- 49 (1) Agreement. – ~~The Streamlined Sales and Use Tax~~
 50 ~~Agreement.~~ Agreement, as defined in G.S. 105-164.3.
 51

52 **SECTION 32.1.(s)** Subdivision (b)(5) of Section 5 of Part IV of Chapter 908
 53 of the 1983 Session Laws, as amended by Chapter 821 of the 1989 Session Laws and
 54 S.L. 2001-347, reads as rewritten:

1 "(b) Definitions. The definitions in G.S. 105-164.3 apply to this Part insofar as
2 they are not inconsistent with the provisions of this Part. In addition, the following
3 definitions apply in this Part:

- 4 ...
5 (5) Prepared Food and Beverages. ~~– The term has the same meaning as the~~
6 ~~term "prepared food" in G.S. 105-164.3, includes the following:~~
7 a. Prepared food, as defined in G.S. 105-164.3.
8 b. An alcoholic beverage, as defined in G.S. 18B-101, that meets
9 at least one of the conditions of prepared food under
10 G.S. 105-164.3."

11 **SECTION 32.1.(t)** Subdivision (a)(2) of Section 2 of Chapter 413 of the
12 1993 Session Laws, as amended by S.L. 2001-347, reads as rewritten:

13 "Sec. 2. Definitions; Sales and Use Tax Statutes. – (a) The definitions in
14 G.S. 105-164.3 apply to this act to the extent they are not inconsistent with the
15 provisions of this act. In addition, the following definitions apply in this act:

- 16 ...
17 (2) Prepared food and beverages. ~~– The term has the same meaning as the~~
18 ~~term "prepared food" in G.S. 105-164.3, includes the following:~~
19 a. Prepared food, as defined in G.S. 105-164.3.
20 b. An alcoholic beverage, as defined in G.S. 18B-101, that meets
21 at least one of the conditions of prepared food under
22 G.S. 105-164.3."

23 **SECTION 32.1.(u)** Section 2 of Chapter 449 of the 1985 Session Laws, as
24 amended by Chapter 826 of the 1985 Session Laws, Chapter 177 of the 1991 Session
25 Laws, and S.L. 2001-347, reads as rewritten:

26 "Sec. 2. Definitions. The definitions in G.S. 105-164.3 apply in this act. In addition,
27 the following definitions apply in this act.

- 28 (1) Net proceeds. ~~– Gross proceeds less the cost to the county of~~
29 ~~administering and collecting the tax.~~
30 (2) Prepared food and beverages. ~~– The term has the same meaning as the~~
31 ~~term "prepared food" in G.S. 105-164.3, includes the following:~~
32 a. Prepared food, as defined in G.S. 105-164.3.
33 b. An alcoholic beverage, as defined in G.S. 18B-101, that meets
34 at least one of the conditions of prepared food under
35 G.S. 105-164.3."

36 **SECTION 32.1.(v)** Subsection (b) of Section 1 of Chapter 449 of the 1993
37 Session Laws, as amended by S.L. 2001-347, reads as rewritten:

38 "(b) Definitions; Sales and Use Tax Statutes. – The definitions in G.S. 105-164.3
39 apply to this section to the extent they are not inconsistent with the provisions of this
40 section. The provisions of Article 5 and Article 9 of Chapter 105 of the General Statutes
41 apply to this section to the extent they are not inconsistent with the provisions of this
42 section. In addition, For the purposes of this section, the term 'prepared food and
43 beverages' has the same meaning as the term "prepared food" in G.S. 105-164.3.
44 includes the following:

- 45 (1) Prepared food, as defined in G.S. 105-164.3.
46 (2) An alcoholic beverage, as defined in G.S. 18B-101, that meets at least
47 one of the conditions of prepared food under G.S. 105-164.3.

48 ~~The provisions of Article 5 and Article 9 of Chapter 105 of the General Statutes apply to~~
49 ~~this section to the extent they are not inconsistent with the provisions of this section."~~

50 **SECTION 32.1.(w)** Subdivision (3) of Section 2 of Chapter 594 of the 1991
51 Session Laws, as amended by S.L. 2001-347, reads as rewritten:

52 "Sec. 2. Definitions. The definitions in G.S. 105-164.3 apply to this act to the extent
53 they are not inconsistent with the provisions of this act. The following definitions also
54 apply in this act:

55 ...

1 (3) Prepared food and beverage. – 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.(x)** Section 3.1 of S.L. 2001-347, as amended by Section 13
8 of S.L. 2003-416, reads as rewritten:

9 "**SECTION 3.1.** Part 1 of this act is effective when it becomes law and expires
10 ~~January 1, 2006, unless one of the following occurs: (i) 15 states have adopted the~~
11 ~~Streamlined Sales and Use Tax Agreement, or (ii) states representing a combined~~
12 ~~resident population equal to at least ten percent (10%) of the national resident~~
13 ~~population, as determined by the 2000 federal decennial census, have adopted the~~
14 ~~Agreement law."~~

15 **SECTION 32.1.(y)** Section 3.2 of S.L. 2001-347 reads as rewritten:

16 "**SECTION 3.2.** Section 2.8, G.S. 105-164.13(5a), as enacted by Section 2.12, and
17 Section 2.17 of Part 2 of this act become effective ~~January 1, 2006.~~ October 1, 2005. The
18 remainder of Part 2 of this act becomes effective January 1, 2002."

19 **SECTION 32.1.(z)** This subsection and subsection (m) of this section are
20 effective when they become law. Subsection (a) of this section, the changes made by
21 subsection (b) of this section to G.S. 105-164.3(4a) and (45a), the changes made by
22 subsection (c) of this section to G.S. 105-164.4(a)(4c) and (6), and subsection (i) of this
23 section become effective July 1, 2005. The remainder of this section becomes effective
24 October 1, 2005. Subsection (o) of this section applies to distributions for calendar
25 quarters that begin on or after October 1, 2005.

26 27 **PART XXXIII. SALES TAX CHANGES**

28
29 Requested by: Senators Hoyle, Kerr

30 **SALES TAX CHANGES**

31 **SECTION 33.1.(a)** Section 34.13(c) of S.L. 2001-424, as amended by
32 Section 38.1 of S.L. 2003-284, reads as rewritten:

33 "**SECTION 34.13.(c)** This section becomes effective October 16, 2001, and applies
34 to sales made on or after that date. ~~This section is repealed effective for sales made on~~
35 ~~or after July 1, 2005.~~ This section does not affect the rights or liabilities of the State, a
36 taxpayer, or another person arising under a statute amended or repealed by this section
37 before the effective date of its amendment or repeal; nor does it affect the right to any
38 refund or credit of a tax that accrued under the amended or repealed statute before the
39 effective date of its amendment or repeal."

40 **SECTION 33.1.(b)** G.S. 105-164.3 is amended by adding new subdivisions
41 to read:

42 "(1a) Cable service. – The one-way transmission to subscribers of video
43 programming or another programming service and any subscriber
44 interaction required to select or use the service.

45 ...
46 (37a) Satellite digital audio radio service. – A radio communication service
47 in which audio programming is digitally transmitted by satellite to an
48 earth-based receiver, whether directly or via a repeater station."

49 **SECTION 33.1.(c)** G.S. 105-164.4(a), as amended by subsection (a) of this
50 section and subsection (c) of Section 32.1 of this act, reads as rewritten:

51 "(a) A privilege tax is imposed on a retailer at the following percentage rates of
52 the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is
53 four and one-half percent (4 1/2%).

54 ...

1 (6) The combined general rate applies to the gross receipts derived from
 2 providing ~~direct to home satellite service to subscribers in this~~
 3 ~~State.~~ any of the following broadcast services to a subscriber in this
 4 State. A person engaged in the business of providing ~~direct to home~~
 5 ~~satellite service~~ any of these services is considered a retailer under this
 6 Article. Article:

7 a. Direct-to-home satellite service.

8 b. Cable service.

9 c. Satellite digital audio radio service. For service received by a
 10 mobile or portable station, the service is sourced to the
 11 subscriber's business or home address.

12 ...
 13 (9) The general rate of tax applies to the sales price of a warranty
 14 agreement, a maintenance agreement, a repair contract, or a similar
 15 service agreement or contract by which the seller agrees to maintain or
 16 repair tangible personal property. A person who sells a service
 17 agreement or contract is considered a retailer under this Article."

18 **SECTION 33.1.(d)** G.S. 105-164.4C(b)(2) reads as rewritten:

19 "(2) Charges for directory assistance, directory listing that is not
 20 yellow-page classified listing, call forwarding, call waiting, three-way
 21 calling, caller ID, voice mail, and other similar services."

22 **SECTION 33.1.(e)** G.S. 105-164.4C(c)(11) is repealed.

23 **SECTION 33.1.(f)** G.S. 105-164.13(1), as amended by Section 32.1(c) of
 24 this act, reads as rewritten:

25 "(1) Any of the following items sold to a farmer for use by the farmer in the
 26 planting, cultivating, harvesting, or curing of farm crops or in the
 27 production of dairy products, eggs, or animals. A 'farmer' includes a
 28 dairy operator, a poultry farmer, an egg producer, a livestock farmer, a
 29 farmer of crops, and a farmer of an aquatic species, as defined in
 30 G.S. 106-758.

31 a. Commercial fertilizer, lime, land plaster, plastic mulch, plant
 32 bed covers, potting soil, and seeds.

33 b. Farm machinery, attachment and repair parts for farm
 34 machinery, and lubricants applied to farm machinery. The term
 35 'machinery' includes implements that have moving parts or are
 36 operated or drawn by an animal. The term does not include
 37 implements operated wholly by hand or motor vehicles required
 38 to be registered under Chapter 20 of the General Statutes.

39 c. A horse or mule.

40 d. Fuel other than electricity."

41 **SECTION 33.1.(g)** G.S. 105-164.13B(a) reads as rewritten:

42 "(a) State Exemption. – Food is exempt from the taxes imposed by this Article
 43 unless the food is included in one of the subdivisions in this subsection. The following
 44 food items are subject to tax:

45 (1) Alcoholic beverages, as defined in G.S. 105-113.68.

46 (2) Dietary supplements.

47 (3) Food sold through a vending machine.

48 (4) Prepared food.

49 (5) Soft drinks.

50 (6) Repealed.

51 (7) Candy."

52 **SECTION 33.1.(h)** Part 4 of Article 5 of Chapter 105 of the General
 53 Statutes is amended by adding a new section to read:

54 **§ 105-164.21B. Credit for local cable television franchise taxes.**

1 A cable service retailer is allowed a credit against the tax imposed by this Article on
2 cable service. The credit is for local cable television franchise taxes the retailer pays to a
3 city under G.S. 160A-214 or to a county under G.S. 153A-154 based on the amount it
4 receives from subscribers for cable service. The amount received from subscribers for
5 cable service does not include receipts from the lease or rental of tangible personal
6 property.

7 When making a payment or filing a return under G.S. 105-164.16, a cable service
8 retailer may claim a credit for the applicable pro rata amount of local cable television
9 franchise taxes for which this section allows a credit. The applicable pro rata amount is
10 the creditable amount of local cable television franchise taxes the retailer paid for the
11 most recent fiscal year divided by the number of sales tax payments the retailer is
12 required to make under this Article."

13 **SECTION 33.1.(i)** G.S. 105-467(a) is amended by adding a new subdivision
14 to read:

15 "(a) Sales Tax. – The sales tax that may be imposed under this Article is limited to
16 a tax at the rate of one percent (1%) of the transactions listed in this subsection. The
17 sales tax authorized by this Article does not apply to sales that are taxable by the State
18 under G.S. 105-164.4 but are not specifically included in this subsection.

19 ..
20 (7) The sales price of a service agreement or contract subject to the
21 general rate of tax under G.S. 105-164.4(a)(9)."

22 **SECTION 33.1.(j)** Subsections (a) and (j) of this section are effective when
23 they become law. The remainder of this section becomes effective October 1, 2005.

24 **PART XXXIV. TOBACCO TAX RATE CHANGES**

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26
27 Requested by: Senators Hoyle, Kerr

28 **TOBACCO TAX RATE CHANGES**

29 **SECTION 34.1.(a)** G.S. 105-113.5 reads as rewritten:

30 **"§ 105-113.5. Tax on cigarettes.**

31 A tax is levied on the sale or possession for sale in this State, by a distributor, of all
32 cigarettes at the rate of two ~~and one half mills~~ cents (2¢) per individual cigarette."

33 **SECTION 34.1.(b)** G.S. 105-113.35(a) reads as rewritten:

34 "(a) Tax. – An excise tax is levied on tobacco products other than cigarettes at the
35 rate of ~~two percent (2%)~~ four percent (4%) of the cost price of the products. This tax
36 does not apply to the following:

- 37 (1) A tobacco product sold outside the State.
- 38 (2) A tobacco product sold to the federal government.
- 39 (3) A sample tobacco product distributed without charge."

40 **SECTION 34.1.(c)** G.S. 105-113.21(a1) reads as rewritten:

41 "(a1) Discount. – A distributor who files a timely report under G.S. 105-113.18 and
42 who sends a timely payment may deduct from the amount due with the report a discount
43 of two percent (2%). The discount a distributor deducts on all reports filed under this
44 Part for a 12-month period beginning July 1 may not exceed a maximum of one hundred
45 twenty-five thousand dollars (\$125,000). This discount covers expenses incurred in
46 preparing the records and reports required by this Part, and the expense of furnishing a
47 bond."

48 **SECTION 34.1.(d)** G.S. 105-113.39 reads as rewritten:

49 **"§ 105-113.39. Discount.**

50 A wholesale dealer or a retail dealer who is primarily liable under G.S.
51 105-113.35(b) for the excise taxes imposed by this Part, who files a timely report under
52 G.S. 105-113.37, and who sends a timely payment may deduct from the amount due
53 with the report a discount of two percent (2%). The discount a distributor deducts on all
54 reports filed under this Part for a 12-month period beginning July 1 may not exceed a
55 maximum of twelve thousand five hundred dollars (\$12,500). This discount covers

1 losses due to damage to tobacco products, expenses incurred in preparing the records
2 and reports required by this Part, and the expense of furnishing a bond."

3 **SECTION 34.1.(e)** This section becomes effective July 1, 2005.

4
5 **PART XXXV. IRC UPDATE**

6
7 Requested by: Senators Jenkins

8 **IRC UPDATE**

9 **SECTION 35.1.(a)** G.S. 105-228.90(b)(1b) reads as rewritten:

10 "(b) Definitions. – The following definitions apply in this Article:

11 ...
12 (1b) Code. – The Internal Revenue Code as enacted as of ~~May 1,~~
13 ~~2004, January 1, 2005,~~ including any provisions enacted as of that date
14 which become effective either before or after that ~~date, date,~~ but not
15 including the amendments made to section 164 of the Code by section
16 501 of P.L. 108-357."

17 **SECTION 35.1.(b)** G.S. 105-130.5(a) reads as rewritten:

18 "(a) The following additions to federal taxable income shall be made in
19 determining State net income:

20 ...
21 (16) The amount excluded from gross income under Subchapter R of
22 Chapter 1 of the Code.

23 (17) The amount excluded from gross income under section 199 of the
24 Code."

25 **SECTION 35.1.(c)** Notwithstanding subsection (a) of this section, any
26 amendments to the Internal Revenue Code enacted after May 1, 2004, that increase
27 North Carolina taxable income for the 2004 taxable year become effective for taxable
28 years beginning on or after January 1, 2005.

29 **SECTION 35.1.(d)** G.S. 105-228.90(b)(1b), as amended by subsection (a) of
30 this section, reads as rewritten:

31 "(b) Definitions. – The following definitions apply in this Article:

32 ...
33 (1b) Code. – The Internal Revenue Code as enacted as of January 1, 2005,
34 including any provisions enacted as of that date which become
35 effective either before or after that ~~date, but not including the~~
36 ~~amendments made to Section 164 of the Code by Section 501 of P.L.~~
37 ~~108-357.date."~~

38 **SECTION 35.1.(e)** G.S. 105-134.6(c) reads as rewritten:

39 "(c) Additions. – The following additions to taxable income shall be made in
40 calculating North Carolina taxable income, to the extent each item is not included in
41 taxable income:

42 ...
43 (3) Any amount deducted from gross income under section 164 of the
44 Code as state, local, or foreign income tax or as state or local general
45 sales tax to the extent that the taxpayer's total itemized deductions
46 deducted under the Code for the taxable year exceed the standard
47 deduction allowable to the taxpayer under the Code reduced by the
48 amount the taxpayer is required to add to taxable income under
49 subdivision (4) of this subsection.

50 ..."

51 **SECTION 35.1.(f)** Notwithstanding any other provision of law, a taxpayer
52 whose federal taxable income for 2004 is reduced due to a charitable contribution of
53 cash made in January 2005 for Indian Ocean tsunami relief efforts in accordance with
54 P.L. 109-1 is not required to add back the amount of the deduction related to that
55 contribution in determining North Carolina taxable income for 2004.

1 **SECTION 35.1(g)** Subsections (d) and (e) of this section become effective
 2 for taxable years beginning on or after January 1, 2005. The remainder of this section is
 3 effective when it becomes law.

4
 5 **PART XXXVI. INDIVIDUAL INCOME TAX CHANGES**

6
 7 Requested by: Senators Hoyle, Kerr
 8 **PHASE-OUT 8.25% INDIVIDUAL INCOME TAX RATE**

9 **SECTION 36.1(a)** Section 39.1 of S.L. 2003-284 is repealed.

10 **SECTION 36.1(b)** Effective for taxable years beginning on or after January
 11 1, 2006, G.S. 105-134.2(a) reads as rewritten:

12 "(a) A tax is imposed upon the North Carolina taxable income of every individual.
 13 The tax shall be levied, collected, and paid annually and shall be computed at the
 14 following percentages of the taxpayer's North Carolina taxable income.

15 (1) For married individuals who file a joint return under G.S. 105-152 and
 16 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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 24 (2) For heads of households, as defined in section 2(b) of the Code:

Over	Up To	Rate
0	\$17,000	6%
\$17,000	\$80,000	7%
\$80,000	\$160,000	7.75%
\$160,000	NA	8.25% <u>8%</u>

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 32 (3) For unmarried individuals other than surviving spouses and heads of
 33 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% <u>8%</u>

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 41 (4) For married individuals who do not file a joint return under
 42 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% <u>8%</u>

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 49 **SECTION 36.1(c)** Effective for taxable years beginning on or after January
 50 1, 2007, G.S. 105-134.2(a), as amended by this section, reads as rewritten:

51 "(a) A tax is imposed upon the North Carolina taxable income of every individual.
 52 The tax shall be levied, collected, and paid annually and shall be computed at the
 53 following percentages of the taxpayer's North Carolina taxable income.

54 (1) For married individuals who file a joint return under G.S. 105-152 and
 55 for surviving spouses, as defined in section 2(a) of the Code:

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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 NA	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)
10/1/99 to 9/30/00	One-fourteenth (1/14)
After 9/30/00	Five-sixty-ninths (5/69)

(c) The Fund shall be administered by the Department of Public Instruction."

SECTION 38.1.(c) This section is effective for taxable years beginning on or after January 1, 2007.

Requested by: Senators Hoyle, Kerr

CORPORATE THROWOUT RULE AND OUTER JURISDICTIONAL PROPERTY

SECTION 38.2.(a) G.S. 105-130.4(a) is amended by adding a new subdivision to read:

"(a) As used in this section, unless the context otherwise requires:

...
(5b) 'Outer-jurisdictional property' means tangible personal property that is not physically located in any state. The term includes orbiting satellites and undersea transmission cables.

SECTION 38.2.(b) G.S. 105-130.4(j)(1) reads as rewritten:

"(1) The property factor is a fraction, the numerator of which is the average value of the corporation's real and tangible personal property owned or rented and used in this State during the income year and the denominator of which is the average value of all the corporation's real and tangible personal property owned or rented and used during the income year. Neither the numerator nor the denominator includes outer-jurisdictional property."

SECTION 38.2.(c) G.S. 105-130.4(l) reads as rewritten:

"(l) (1) The sales factor is a ~~fraction, the fraction.~~ The numerator of which the fraction is the total sales of the corporation in this State during the income year, and the denominator of which is the total sales of the corporation everywhere the fraction is the sum of sales to the United States government and sales other than those attributable to the United States government that are attributable to a state in which the taxpayer

1 is taxable during the income year. Notwithstanding any other provision
 2 under this Part, the receipts from any casual sale of property shall be
 3 excluded from both the numerator and the denominator of the sales
 4 factor. Where a corporation is not taxable in another state on its
 5 apportionable income but is taxable in another state only because of
 6 nonapportionable income, all sales shall be treated as having been
 7 made in this State.

- 8 (2) Sales of tangible personal property are in this State if the property is
 9 received in this State by the purchaser. In the case of delivery of goods
 10 by common carrier or by other means of transportation, including
 11 transportation by the purchaser, the place at which the goods are
 12 ultimately received after all transportation has been completed shall be
 13 considered as the place at which the goods are received by the
 14 purchaser. Direct delivery into this State by the taxpayer to a person or
 15 firm designated by a purchaser from within or without the State shall
 16 constitute delivery to the purchaser in this State.
- 17 (3) Other sales are in this State if:
 18 a. The receipts are from real or tangible personal property located
 19 in this State; or
 20 b. The receipts are from intangible property and are received from
 21 sources within this State; or
 22 c. The receipts are from services and the income-producing
 23 activities are in this State."

24 **SECTION 38.2(d).** This section is effective for taxable years beginning on
 25 or after January 1, 2005.

26 **PART XXXIX. FILM INDUSTRY JOBS INCENTIVES**

27 Requested by: Senators Boseman, Hoyle

28 **FILM INDUSTRY JOBS INCENTIVES**

29 **SECTION 39.1.(a)** Part 1 of Article 4 of Chapter 105 of the General Statutes
 30 is amended by adding a new section to read:

31 **"§ 105-130.47. Credit for qualifying expenses of a production company.**

32 (a) Definitions. – The following definitions apply in this section:

33 (1) Highly compensated individual. – An individual who receives
 34 compensation in excess of one million dollars (\$1,000,000) with
 35 respect to a single production.

36 (2) Qualifying expenses. – The sum of the total amount spent in this State
 37 for the following by a production company in connection with a
 38 production:

39 a. Goods and services purchased by the production company.

40 b. Compensation and wages paid by the production company,
 41 other than amounts paid to a highly compensated individual, on
 42 which the production company remitted withholding payments
 43 to the Department of Revenue under Article 4A of this Chapter.

44 (3) Production company. – Defined in G.S. 105-164.3.

45 (b) Credit. – A taxpayer that is a production company and has qualifying
 46 expenses of at least one million dollars (\$1,000,000) with respect to a production is
 47 allowed a credit against the taxes imposed by this Part equal to fifteen percent (15%) of
 48 the production company's qualifying expenses that have been certified as required in
 49 subsection (c) of this section. For the purposes of this section, in the case of an episodic
 50 television series, an entire season of episodes is one production. The credit is computed
 51 based on all of the taxpayer's qualifying expenses incurred with respect to the
 52 production, not just the qualifying expenses incurred during the taxable year.

1 (c) Certification. – In order to be eligible for a credit under this section, a
2 taxpayer must submit a detailed accounting of its qualifying expenses to the North
3 Carolina Film Office of the Department of Commerce. The North Carolina Film Office,
4 with the assistance of the regional film commission for the location of the production,
5 must make a written certification of the amount of the qualifying expenses.

6 (d) Pass-Through Entity. – Notwithstanding the provisions of G.S. 105-131.8 and
7 G.S. 105-269.15, a pass-through entity that qualifies for the credit provided in this
8 section does not distribute the credit among any of its owners. The pass-through entity
9 is considered the taxpayer for purposes of claiming the credit allowed by this section. If
10 a return filed by a pass-through entity indicates that the entity is paying tax on behalf of
11 the owners of the entity, the credit allowed under this section does not affect the entity's
12 payment of tax on behalf of its owners.

13 (e) Return. – A taxpayer may claim the credit allowed by this section on a return
14 filed for the taxable year in which the production activities are completed. The return
15 must state the name of the production, a description of the production, and the
16 certification from the North Carolina Film Office of the qualifying expenses for which
17 the credit is claimed.

18 (f) Credit Refundable. – If the credit allowed by this section exceeds the amount
19 of tax imposed by this Part for the taxable year reduced by the sum of all credits
20 allowable, the Secretary must refund the excess to the taxpayer. The refundable excess
21 is governed by the provisions governing a refund of an overpayment by the taxpayer of
22 the tax imposed in this Part. In computing the amount of tax against which multiple
23 credits are allowed, nonrefundable credits are subtracted before refundable credits.

24 (g) Limitation. – No credit is allowed under this section for any production that
25 satisfies one of the following conditions:

26 (1) It is commercial or political advertising.

27 (2) It is a television production of a news program or sporting event.

28 (3) It contains material that is obscene, as defined in G.S. 14-190.1.

29 (h) Substantiation. – A taxpayer allowed a credit under this section must maintain
30 and make available for inspection any information or records required by the Secretary
31 of Revenue or the regional film commissions. The taxpayer has the burden of proving
32 eligibility for a credit and the amount of the credit.

33 (i) Report. – The Department of Revenue must publish by May 1 of each year
34 the following information, itemized by taxpayer for the 12-month period ending the
35 preceding April 1:

36 (1) The location of sites used in a production for which a credit was
37 claimed.

38 (2) The qualifying expenses for which a credit was claimed, classified by
39 whether the expenses were for goods, services, or compensation paid
40 by the production company.

41 (3) The number of people employed in the State with respect to credits
42 claimed.

43 (4) The total cost to the General Fund of the credits claimed.

44 (j) Sunset. – This section is repealed for qualifying expenses occurring on or
45 after January 1, 2010."

46 **SECTION 39.1.(b)** Part 2 of Article 4 of Chapter 105 of the General
47 Statutes is amended by adding a new section to read:

48 **"§ 105-151.29. Credit for qualifying expenses of a production company.**

49 (a) Definitions. – The following definitions apply in this section:

50 (1) Highly compensated individual. – An individual who receives
51 compensation in excess of one million dollars (\$1,000,000) with
52 respect to a single production.

53 (2) Qualifying expenses. – The sum of the total amount spent in this State
54 for the following by a production company in connection with a
55 production:

- 1 a. Goods and services purchased by the production company.
2 b. Compensation and wages paid by the production company,
3 other than amounts paid to a highly compensated individual, on
4 which the production company remitted withholding payments
5 to the Department of Revenue under Article 4A of this Chapter.

6 (3) Production company. – Defined in G.S. 105-164.3.

7 (b) Credit. – A taxpayer that is a production company and has qualifying
8 expenses of at least one million dollars (\$1,000,000) with respect to a production is
9 allowed a credit against the taxes imposed by this Part equal to fifteen percent (15%) of
10 the production company's qualifying expenses that have been certified as required in
11 subsection (c) of this section. For the purposes of this section, in the case of an episodic
12 television series, an entire season of episodes is one production. The credit is computed
13 based on all of the taxpayer's qualifying expenses incurred with respect to the
14 production, not just the qualifying expenses incurred during the taxable year.

15 (c) Certification. – In order to be eligible for a credit under this section, a
16 taxpayer must submit a detailed accounting of its qualifying expenses to the North
17 Carolina Film Office of the Department of Commerce. The North Carolina Film Office,
18 with the assistance of the regional film commission for the location of the production,
19 must make a written certification of the amount of the qualifying expenses.

20 (d) Pass-Through Entity. – Notwithstanding the provisions of G.S. 105-131.8 and
21 G.S. 105-269.15, a pass-through entity that qualifies for the credit provided in this
22 section does not distribute the credit among any of its owners. The pass-through entity
23 is considered the taxpayer for purposes of claiming the credit allowed by this section. If
24 a return filed by a pass-through entity indicates that the entity is paying tax on behalf of
25 the owners of the entity, the credit allowed under this section does not affect the entity's
26 payment of tax on behalf of its owners.

27 (e) Return. – A taxpayer may claim the credit allowed by this section on a return
28 filed for the taxable year in which the production activities are completed. The return
29 must state the name of the production, a description of the production, and the
30 certification from the North Carolina Film Office of the qualifying expenses for which
31 the credit is claimed.

32 (f) Credit Refundable. – If the credit allowed by this section exceeds the amount
33 of tax imposed by this Part for the taxable year reduced by the sum of all credits
34 allowable, the Secretary must refund the excess to the taxpayer. The refundable excess
35 is governed by the provisions governing a refund of an overpayment by the taxpayer of
36 the tax imposed in this Part. In computing the amount of tax against which multiple
37 credits are allowed, nonrefundable credits are subtracted before refundable credits.

38 (g) Limitation. – No credit is allowed under this section for any production that
39 satisfies one of the following conditions:

40 (1) It is commercial or political advertising.

41 (2) It is a television production of a news program or sporting event.

42 (3) It contains material that is obscene, as defined in G.S. 14-190.1.

43 (h) Substantiation. – A taxpayer allowed a credit under this section must maintain
44 and make available for inspection any information or records required by the Secretary
45 of Revenue or the regional film commissions. The taxpayer has the burden of proving
46 eligibility for a credit and the amount of the credit.

47 (i) Report. – The Department of Revenue must publish by May 1 of each year
48 the following information, itemized by taxpayer for the 12-month period ending the
49 preceding April 1:

50 (1) The location of sites used in a production for which a credit was
51 claimed.

52 (2) The qualifying expenses for which a credit was claimed, classified by
53 whether the expenses were for goods, services, or compensation paid
54 by the production company.

1 (3) The number of people employed in the State with respect to credits
2 claimed.

3 (4) The total cost to the General Fund of the credits claimed.

4 (j) Sunset. – This section is repealed for qualifying expenses occurring on or
5 after January 1, 2010."

6 **SECTION 39.1.(c)** G.S. 105-259(b), as amended by Section 30.1 of this act,
7 is amended by adding a new subdivision to read:

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

12 ...
13 (33) To exchange information concerning a tax credit claimed under
14 G.S. 105-130.47 or G.S. 105-151.29 with the North Carolina Film
15 Office of the Department of Commerce and with the regional film
16 commissions."

17 **SECTION 39.1.(d)** G.S. 143B-434.4 is repealed.

18 **SECTION 39.1.(e)** This section is effective for taxable years beginning on
19 or after January 1, 2005.

20 21 **PART XL. SET RATES FOR INSURANCE REGULATORY CHARGE AND** 22 **PUBLIC UTILITIES FEES**

23
24 Requested by: Senators Hoyle, Kerr
25 **INSURANCE REGULATORY CHARGE**

26 **SECTION 40.1.(a)** The percentage rate to be used in calculating the
27 insurance regulatory charge under G.S. 58-6-25 is five and one-half percent (5.5%) for
28 the 2005 calendar year.

29 **SECTION 40.1.(b)** This section is effective when it becomes law.

30
31 Requested by: Senators Hoyle, Kerr
32 **REGULATORY FEE FOR UTILITIES COMMISSION**

33 **SECTION 40.2.(a)** The percentage rate to be used in calculating the public
34 utility regulatory fee under G.S. 62-302(b)(2) is twelve-hundredths of one percent
35 (0.12%) for each public utility's North Carolina jurisdictional revenues earned during
36 each quarter that begins on or after July 1, 2005.

37 **SECTION 40.2.(b)** The electric membership corporation regulatory fee
38 imposed under G.S. 62-302(b1) for the 2005-2006 fiscal year is two hundred thousand
39 dollars (\$200,000).

40 **SECTION 40.2.(c)** This section becomes effective July 1, 2005.

41 42 **PART XLI. HEALTH AND HUMAN SERVICES FEES**

43
44 Requested by: Senators Hoyle, Kerr
45 **NEWBORN SCREENING FEE**

46 **SECTION 41.1.** G.S. 130A-125(c) reads as rewritten:

47 "~~The Department may impose a fee for a laboratory test performed pursuant to~~
48 ~~this section by the State Public Health Laboratory. A fee for a test must be based on the~~
49 ~~actual cost of performing the test. A fee of fourteen dollars (\$14.00) applies to a~~
50 laboratory test performed by the State Public Health Laboratory performed pursuant to
51 this section. Fees collected shall remain in the Department to be used to offset the cost
52 of the Newborn Screening Program."
53

54 **PART XLII. NATURAL AND ECONOMIC RESOURCES FEES**

55

Requested by: Senators Weinstein, Hoyle, Kerr

INCREASE VARIOUS FEES

SECTION 42.1.(a) G.S. 106-284.34(c) reads as rewritten:

"(c) No person shall distribute in this State a commercial feed, except a customer-formula feed, which has not been registered pursuant to the provisions of this section. The application for registration shall be submitted in the manner prescribed by the Commissioner. Upon approval by the Commissioner or his duly designated agent the registration shall be issued to the applicant. All registrations expire on the thirty-first day of December of each year. An annual registration fee of ~~three dollars (\$3.00)~~five dollars (\$5.00) for each commercial feed other than canned pet food shall accompany each request for registration. An annual registration fee of ~~ten dollars (\$10.00)~~twelve dollars (\$12.00) for each canned pet food shall accompany each request for registration."

SECTION 42.1.(b) G.S. 106-284.40(b)(4) reads as rewritten:

"(4) In the case of a commercial feed other than canned pet food which is distributed in the State only in packages of five pounds or less, an annual registration fee of ~~thirty dollars (\$30.00)~~forty dollars (\$40.00) shall be paid in lieu of the inspection fee specified above."

SECTION 42.1.(c) G.S. 106-277.28(3) reads as rewritten:

"(3) Each seed dealer or grower who has seed, whether originated or labeled by the dealer or grower, that is offered for sale in this State shall report the quantity of seed offered for sale and pay an inspection fee of ~~two cents (2¢)~~four cents (4¢) for each container of seeds weighing 10 pounds or more. Seed shall be subject to the inspection fee and reporting requirements only once in any 12-month period. This fee does not apply to seed grown by a farmer and offered for sale by the farmer at the farm where the seed was grown."

SECTION 42.1.(d) The Board of Agriculture shall charge the following fees for agronomic services:

<u>Test/Service</u>	<u>Fee</u>
(1) Routine nematode samples	\$ 3.00
(2) Routine waste samples	\$ 5.00
(3) Research soil and nematode samples	\$12.00
(4) Research plant, waste, and solution samples	\$12.00
(5) Nonresident nematode samples	\$14.00
(6) Nonresident plant, waste, and solution samples	\$26.00
(7) Special services for plant, waste, and solution samples:	
a. Heavy metals-soils	\$25.00
b. Nitrates-soils	\$ 5.00
c. Waste-heavy metals	\$10.00
d. Waste-N breakout	\$10.00
e. Waste-liming equivalent	\$10.00
f. Plant-chloride	\$ 5.00
g. Plant-molybdenum	\$ 5.00
h. Plant-petiole nitrates	\$ 5.00

SECTION 42.1.(e) The Board of Agriculture shall charge the following fees for animal disease diagnostic tests and services:

<u>Test/Service</u>	<u>Fee</u>
(1) Histopath	\$30.00
(2) Professional services-EIA	\$ 6.00
(3) Professional services-blood pour-off fees	\$ 1.00
(4) Vacuum tube handling fee	\$ 0.04

SECTION 42.1.(f) G.S. 81A-52 reads as rewritten:

"§ 81A-52. License.

1 All public weighmasters shall be licensed. Any person not less than 18 years of age
 2 who wishes to be a public weighmaster shall apply to the Department on a form
 3 provided by the Department. The Board may adopt rules for determining the
 4 qualifications of the applicant for a license. Public weighmasters shall be licensed for a
 5 period of one year beginning the first day of July and ending on the thirtieth day of
 6 June, and a fee of ~~twelve dollars (\$12.00)~~ nineteen dollars (\$19.00) shall be paid for each
 7 person licensed at the time of the filing of the application."

8 **SECTION 42.1.(g)** G.S. 81A-72 reads as rewritten:

9 **"§ 81A-72. Registration; certificate of registration; annual renewal.**

10 The Commissioner or his authorized agent shall register any person who has
 11 complied with the requirements of this Article by making a record of receipt of
 12 application, and the issuing of a certificate or card of registration to applicant,
 13 whereupon the applicant becomes a registered scale technician and shall be known
 14 thereafter as such. Such registration shall be in effect from date of registration until July
 15 1 next and shall be renewed on the first day of July of each year thereafter. A fee of
 16 twenty dollars (\$20.00) shall accompany each application for registration and each
 17 annual registration renewal."

18 **SECTION 42.1.(h)** G.S. 81A-11 is repealed.

19 **SECTION 42.1.(i)** Chapter 81A of the General Statutes is amended by
 20 adding the following new section to read:

21 **"§ 81A-12. Fee schedule.**

22 (a) The following fees apply to all weights that are tested and certified to meet
 23 tolerances less stringent than the American Society for Testing and Materials (ASTM)
 24 Standard E617 Class 4. This includes the National Institutes of Standards and
 25 Technology (NIST) Class F tolerance. If the weight error exceeds three-fourths of the
 26 applicable tolerance, adjustment may be required at an additional fee equal to the
 27 normal fee. No extra fee shall be charged for the normal adjustment of a weight cart.
 28 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>
<u>0-10 lb</u>	<u>\$ 5.00</u>	<u>0-5 kg</u>	<u>\$ 5.00</u>
<u>11-100 lb</u>	<u>\$ 10.00</u>	<u>6-50 kg</u>	<u>\$ 10.00</u>
<u>101-1000 lb</u>	<u>\$ 20.00</u>	<u>51-500 kg</u>	<u>\$ 20.00</u>
<u>1001-2500 lb</u>	<u>\$ 30.00</u>	<u>501-1000 kg</u>	<u>\$ 30.00</u>
<u>2501-6000 lb</u>	<u>\$ 50.00</u>	<u>1001-2500 kg</u>	<u>\$ 50.00</u>
<u>Weight Carts</u>	<u>\$125.00</u>		
<u>up to 6000 lb</u>	<u>(includes adjustment)</u>		

37 (b) The following fees apply to all weights that are tested and certified to meet
 38 ASTM Standard E617 Class 4 or the International Organization of Legal Metrology
 39 (IOLM) R111 Class F2 tolerances. If the weight error exceeds three-fourths of the
 40 applicable tolerance, adjustment may be required at an additional fee equal to the
 41 normal fee. Even if weights are rejected or condemned, fees shall be assessed for the
 42 test performed.

<u>Customary</u>	<u>Fee/Unit</u>	<u>Metric</u>	<u>Fee/Unit</u>
<u>0-10 lb</u>	<u>\$ 10.00</u>	<u>0-5 kg</u>	<u>\$ 10.00</u>
<u>11-100 lb</u>	<u>\$ 20.00</u>	<u>6-50 kg</u>	<u>\$ 20.00</u>
<u>101-1000 lb</u>	<u>\$ 40.00</u>	<u>51-500 kg</u>	<u>\$ 40.00</u>
<u>1001-2500 lb</u>	<u>\$ 60.00</u>	<u>501-1000 kg</u>	<u>\$ 60.00</u>
<u>2501-6000 lb</u>	<u>\$100.00</u>	<u>1001-2500 kg</u>	<u>\$100.00</u>

49 (c) The following fees apply to all weights that are calibrated. Calibration means
 50 determining actual mass and conventional mass values with an assigned uncertainty
 51 specific to the test. If necessary and considered feasible by the metrologist, adjustments
 52 to ASTM Class 1, 2, or 3 tolerances or IOLM Class E2, F1, or F2 tolerances may be
 53 made for an additional fee of two times the normal fee. Adjustments to weights of this
 54 group shall require a minimum of 10 days for weights to return to environmental

1 equilibrium before a final calibration value can be assigned. Even if weights are rejected
 2 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

9 (d) The following fees apply to all weights that are calibrated using NIST
 10 weighing designs. These weights are tested in groups (typically either a 1, 2, 3, 5 series
 11 or a 1, 2, 2, 5 series) and are subject to the minimum per series fee shown. The best
 12 uncertainty possible from the North Carolina Standards Laboratory shall be assigned to
 13 the mass values of the weights. If necessary and considered feasible by the metrologist,
 14 adjustments to ASTM Class 0, 1, 2, or 3 tolerances or IOLM Class E1, E2, F1, or F2
 15 tolerances may be made for an additional fee of two times the normal fee. Adjustments
 16 to weights of this group shall require a minimum of 10 days for weights to return to
 17 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

23 (e) The following fees apply to volumetric standard calibration.

24 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
Over 5 gal	Add \$0.40 per each additional gallon	Over 20 liters	Add \$0.10 per each additional liter

29 Volumetric Flasks, Graduates, Provers, Slicker Plate Standards, or Test Measures
 30 Tested By the Gravimetric Calibration Method

<u>Customary</u>	<u>Fee/Test Point</u>	<u>Metric</u>	<u>Fee/Test Point</u>
0-100 gal set-up fee	\$50.00	0-500 liters set-up fee	\$50.00
Calibration Fee	Add \$2.00 per gallon	Calibration Fee	Add \$0.50 per liter

35 Small Volume Provers (SVPs) Tested By The Gravimetric Calibration Method

<u>Customary</u>	<u>Fee/Test Point</u>	<u>Metric</u>	<u>Fee/Test Point</u>
0-100 gal set-up fee	\$ 100.00	0-500 liters set-up fee	\$100.00
Calibration Fee	Add \$2.00 per gallon	Calibration Fee	Add \$0.50 per liter

40 (f) The following fees apply to tape measures and rigid rules.

Set-Up Fee	\$ 40.00 per instrument
Calibration Fee	\$ 10.00 calibration interval

43 (g) The following fees apply to liquid-in-glass and electronic thermometers.

Set-Up Fee	\$ 40.00/instrument
Calibration Fee	\$ 20.00/calibration point

46 Resistance Thermometry Coefficient

47 Calculation and Report \$ 100.00/ instrument

48 (h) Any special tests or weight cleaning shall be billed at the rate of seventy
 49 dollars (\$70.00) per hour prorated to the nearest tenth of an hour, with a minimum
 50 charge of thirty-five dollars (\$35.00).

51 (i) A minimum charge of twenty-five dollars (\$25.00) per invoice shall apply.

52 (j) If travel is required in connection with the performance of any of these
 53 services, the Department shall be reimbursed at the rates provided in G.S. 138-6.

54 (k) The Department may refuse to accept for testing any weight or measure the
 55 Department deems unsuited for its intended use.

1 (l) The fee for tests performed on weights or measures that will be used
 2 primarily outside of the State of North Carolina shall be twice the amounts set forth in
 3 this section."

4
 5 Requested by: Senators Hoyle, Kerr

6 **LABOR COMMISSIONER FEE AUTHORITY FOR MINE INSPECTIONS**

7 **SECTION 42.2.** G.S. 74-24.7 is amended by adding a new subsection to
 8 read:

9 "(h) An annual inspection and investigation fee of one thousand two hundred
 10 thirty dollars (\$1,230) is imposed on an operator of a mine subject to an inspection or
 11 investigation under this section. The fee may be collected at the time of inspection or
 12 investigation. If the fee is not collected at the time of inspection or investigation, the
 13 Director must bill the operator of the mine for the amount of the fee and the amount of
 14 the fee is payable by the operator upon receipt of the bill. Fees collected under this
 15 subsection shall be credited to the Department of Labor and applied to the cost of
 16 administering this Article."

17
 18 **PART XLIII. JUSTICE AND PUBLIC SAFETY FEES**

19
 20 Requested by: Senators Thomas, Hoyle, Kerr

21 **GENERAL COURT OF JUSTICE FEE INCREASES**

22 **SECTION 43.1.(a)** G.S. 7A-304(a)(4) reads as rewritten:

23 "(a) In every criminal case in the superior or district court, wherein the defendant
 24 is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed
 25 against the prosecuting witness, the following costs shall be assessed and collected,
 26 except that when the judgment imposes an active prison sentence, costs shall be
 27 assessed and collected only when the judgment specifically so provides, and that no
 28 costs may be assessed when a case is dismissed.

29 ..
 30 (4) For support of the General Court of Justice, the sum of ~~seventy-six~~
 31 ~~dollars (\$76.00)~~ eighty-six dollars (\$86.00) in the district court,
 32 including cases before a magistrate, and the sum of ~~eighty-three dollars~~
 33 ~~(\$83.00)~~ ninety-three dollars (\$93.00) in the superior court, to be
 34 remitted to the State Treasurer. For a person convicted of a felony in
 35 superior court who has made a first appearance in district court, both
 36 the district court and superior court fees shall be assessed. The State
 37 Treasurer shall remit the sum of one dollar and five cents (\$1.05) of
 38 each fee collected under this subdivision to the North Carolina State
 39 Bar for the provision of services described in G.S. 7A-474.4, and
 40 ninety-five cents (\$.95) of each fee collected under this subdivision to
 41 the North Carolina State Bar for the provision of services described in
 42 G.S. 7A-474.19."

43 **SECTION 43.1.(b)** G.S. 7A-305(a)(2) reads as rewritten:

44 "(a) In every civil action in the superior or district court, except for actions
 45 brought under Chapter 50B of the General Statutes, the following costs shall be
 46 assessed:

47 ..
 48 (2) For support of the General Court of Justice, the sum of ~~sixty-nine~~
 49 ~~dollars (\$69.00)~~ seventy-nine dollars (\$79.00) in the superior court,
 50 and the sum of ~~fifty-four dollars (\$54.00)~~ sixty-four dollars (\$64.00) in
 51 the district court except that if the case is assigned to a magistrate the
 52 sum shall be ~~forty-three dollars (\$43.00)~~ fifty-three dollars (\$53.00).
 53 Sums collected under this subdivision shall be remitted to the State
 54 Treasurer. The State Treasurer shall remit the sum of one dollar and
 55 five cents (\$1.05) of each fee collected under this subdivision to the

1 North Carolina State Bar for the provision of services described in
2 G.S. 7A-474.4, and ninety-five cents (\$.95) of each fee collected under
3 this subdivision to the North Carolina State Bar for the provision of
4 services described in G.S. 7A-474.19."

5 **SECTION 43.1.(c)** G.S. 7A-306(a)(2) reads as rewritten:

6 "(a) In every special proceeding in the superior court, the following costs shall be
7 assessed:

8
9 (2) For support of the General Court of Justice the sum of ~~thirty dollars~~
10 ~~(\$30.00)~~, forty dollars (\$40.00). In addition, in proceedings involving
11 land, except boundary disputes, if the fair market value of the land
12 involved is over one hundred dollars (\$100.00), there shall be an
13 additional sum of thirty cents (30¢) per one hundred dollars (\$100.00)
14 of value, or major fraction thereof, not to exceed a maximum
15 additional sum of two hundred dollars (\$200.00). Fair market value is
16 determined by the sale price if there is a sale, the appraiser's valuation
17 if there is no sale, or the appraised value from the property tax records
18 if there is neither a sale nor an appraiser's valuation. Sums collected
19 under this subdivision shall be remitted to the State Treasurer. The
20 State Treasurer shall remit the sum of one dollar and five cents (\$1.05)
21 of each ~~thirty dollar (\$30.00)~~ forty-dollar (\$40.00) General Court of
22 Justice fee collected under this subdivision to the North Carolina State
23 Bar for the provision of services described in G.S. 7A-474.4."

24 **SECTION 43.1.(d)** G.S. 7A-307(a)(2) and (2a) read as rewritten:

25 "(a) In the administration of the estates of decedents, minors, incompetents, of
26 missing persons, and of trusts under wills and under powers of attorney, in trust
27 proceedings under G.S. 36A-23.1, and in collections of personal property by affidavit,
28 the following costs shall be assessed:

29
30 (2) For support of the General Court of Justice, the sum of ~~thirty dollars~~
31 ~~(\$30.00)~~, forty dollars (\$40.00), plus an additional forty cents (40¢)
32 per one hundred dollars (\$100.00), or major fraction thereof, of the
33 gross estate, not to exceed ~~three thousand dollars (\$3,000)~~, six
34 thousand dollars (\$6,000). Gross estate shall include the fair market
35 value of all personalty when received, and all proceeds from the sale of
36 realty coming into the hands of the fiduciary, but shall not include the
37 value of realty. In collections of personal property by affidavit, the fee
38 based on the gross estate shall be computed from the information in
39 the final affidavit of collection made pursuant to G.S. 28A-25-3 and
40 shall be paid when that affidavit is filed. In all other cases, this fee
41 shall be computed from the information reported in the inventory and
42 shall be paid when the inventory is filed with the clerk. If additional
43 gross estate, including income, comes into the hands of the fiduciary
44 after the filing of the inventory, the fee for such additional value shall
45 be assessed and paid upon the filing of any account or report
46 disclosing such additional value. For each filing the minimum fee shall
47 be fifteen dollars (\$15.00). Sums collected under this subdivision shall
48 be remitted to the State Treasurer. The State Treasurer shall remit the
49 sum of one dollar and five cents (\$1.05) of each ~~thirty dollar (\$30.00)~~
50 forty-dollar (\$40.00) General Court of Justice fee collected under this
51 subdivision to the North Carolina State Bar for the provision of
52 services described in G.S. 7A-474.4.

53 (2a) Notwithstanding subdivision (2) of this subsection, the fee of forty
54 cents (40¢) per one hundred dollars (\$100.00), or major fraction, of the
55 gross estate, not to exceed ~~three thousand dollars (\$3,000)~~, six

1 thousand dollars (\$6,000), shall not be assessed on personalty received
2 by a trust under a will when the estate of the decedent was
3 administered under Chapters 28 or 28A of the General Statutes.
4 Instead, a fee of twenty dollars (\$20.00) shall be assessed on the filing
5 of each annual and final account."

6 **SECTION 43.1.(e)** G.S. 15A-145(e) reads as rewritten:

7 "(e) A person who files a petition for expunction of a criminal record under this
8 section must pay the clerk of superior court a fee of ~~sixty five dollars (\$65.00)~~ one
9 hundred twenty-five dollars (\$125.00) at the time the petition is filed. Fees collected
10 under this subsection shall be deposited in the General Fund. This subsection does not
11 apply to petitions filed by an indigent."

12 **SECTION 43.1.(f)** G.S. 15A-1343(b1)(3c) reads as rewritten:

13 "(b1) Special Conditions. – In addition to the regular conditions of probation
14 specified in subsection (b), the court may, as a condition of probation, require that
15 during the probation the defendant comply with one or more of the following special
16 conditions:

17 ..
18 (3c) Remain at his or her residence unless the court or the probation officer
19 authorizes the offender to leave for the purpose of employment,
20 counseling, a course of study, or vocational training. The offender
21 shall be required to wear a device which permits the supervising
22 agency to monitor the offender's compliance with the condition
23 ~~electronically~~ electronically and to pay a fee for the device as specified
24 in subsection (c2) of this section."

25 **SECTION 43.1.(g)** G.S. 20-135.2A(e) reads as rewritten:

26 "(e) Any driver or passenger who fails to wear a seat belt as required by this
27 section shall have committed an infraction and shall pay a penalty of twenty-five dollars
28 (\$25.00) plus court costs in the sum of ~~fifty dollars (\$50.00)~~ seventy-five dollars
29 (\$75.00). Court costs assessed under this section are for the support of the General
30 Court of Justice and shall be remitted to the State Treasurer. Conviction of an infraction
31 under this section has no other consequence."

32
33 Requested by: Senators Thomas, Hoyle, Kerr

34 **DEVICE FEE FOR HOUSE ARREST WITH ELECTRONIC MONITORING**

35 **SECTION 43.2.** G.S. 15A-1343 is amended by adding a new section to
36 read:

37 "(c2) Electronic Monitoring Device Fee. – Any person placed on house arrest with
38 electronic monitoring under subsection (b1) of this section shall pay a fee of ninety
39 dollars (\$90.00) for the electronic monitoring device. The court may exempt a person
40 from paying the fee only for good cause and upon motion of the person placed on house
41 arrest with electronic monitoring. The court may require that the fee be paid in advance
42 or in a lump sum or sums, and a probation officer may require payment by those
43 methods if the officer is authorized by subsection (g) of this section to determine the
44 payment schedule. The fee must be paid to the clerk of court for the county in which the
45 judgment was entered or the deferred prosecution agreement was filed. Fees collected
46 under this subsection shall be transmitted to the State for deposit into the State's General
47 Fund."

48
49 Requested by: Senators Thomas, Hoyle, Kerr

50 **INCREASE BUTNER TAXES**

51 **SECTION 43.3.(a)** Section 1 of Chapter 830 of the 1983 Session Laws
52 reads as rewritten:

53 "Section 1. (a) The territorial jurisdiction of the Butner Police and Fire Protection
54 District shall include: (i) any property formerly a part of the original Camp Butner
55 reservation, including both those areas currently owned and occupied by the State and

1 its agencies and those which may have been leased or otherwise disposed of by the
2 State; (ii) the Lyons Station Sanitary District; and (iii) that part of Granville County
3 adjoining the Butner reservation and the Lyons Station Sanitary District situated north
4 and west of the intersection of Rural Paved Roads 1103 and 1106 and bounded by those
5 roads and the boundaries of said reservation and said sanitary district.

6 (b) The territorial jurisdiction set forth in subsection (a) of this section shall
7 constitute the Butner Fire and Police Protection District. The tax collectors of Durham
8 and Granville Counties shall annually collect ~~beginning with fiscal year 1983-84~~ a tax
9 of ~~twenty cents (20¢)~~ twenty-five cents (25¢) per one hundred dollars (\$100.00)
10 valuation of all real and personal property in the portions of said district in their
11 respective counties from year to year which tax shall be collected as county taxes are
12 collected and shall remit the same to the State Treasurer for deposit in the General
13 Fund."

14 **SECTION 43.3.(b)** This section is effective for taxes imposed for taxable
15 years beginning on or after July 1, 2005.

16
17 Requested by: Senators Thomas, Hoyle, Kerr

18 **FEE FOR POLICE INFORMATION NETWORK**

19 **SECTION 43.4.(a)** G.S. 114-10.1 reads as rewritten:

20 **"§ 114-10.1. Police Information Network.**

21 (a) The Division of Criminal Statistics is authorized to establish, devise, maintain
22 and operate, under the control and supervision of the Attorney General, a system for
23 receiving and disseminating to participating agencies information collected, maintained
24 and correlated under authority of G.S. 114-10 of this Article. The system shall be
25 known as the Police Information Network.

26 (b) The Attorney General is authorized to cooperate with the Division of Motor
27 Vehicles, Department of Administration, Department of Correction and other State,
28 local and federal agencies and organizations in carrying out the purpose and intent of
29 this section, and to utilize, in cooperation with other State agencies and to the extent as
30 may be practical, computers and related equipment as may be operated by other State
31 agencies.

32 (c) The Attorney General, after consultation with participating agencies, shall
33 adopt rules and regulations governing the organization and administration of the Police
34 Information Network, including rules and regulations governing the types of
35 information relating to the administration of criminal justice to be entered into the
36 system, and who shall have access to such information. The rules and regulations
37 governing access to the Police Information Network shall not prohibit an attorney who
38 has entered a criminal proceeding in accordance with G.S. 15A-141 from obtaining
39 information relevant to that criminal proceeding. The rules and regulations governing
40 access to the Police Information Network shall not prohibit an attorney who represents a
41 person in adjudicatory or dispositional proceedings for an infraction from obtaining the
42 person's driving record or criminal history.

43 (d) The Attorney General may impose an initial set up fee of two thousand six
44 hundred fifty dollars (\$2,650) for agencies to participate in the Police Information
45 Network. This one-time fee shall be used to offset the cost of the router and data circuit
46 needed to access the Network.

47 The Attorney General may also impose monthly fees on participating agencies. The
48 monthly fees collected under this subsection shall be used to offset the cost of operating
49 and maintaining the Police Information Network

50 (1) The Attorney General may impose a monthly circuit fee on agencies
51 that access the Police Information Network through a circuit
52 maintained and operated by the Department of Justice. The amount of
53 the monthly fee is three hundred dollars (\$300.00) plus an additional
54 fee amount for each device linked to the Network. The additional fee
55 amount varies depending upon the type of device. For every desktop

device after the first seven desktop devices, the additional monthly fee is twenty-five dollars (\$25.00) per device. For a mobile device, the additional monthly fee is six dollars (\$6.00) per device.

(2) The Attorney General may impose a monthly device fee on agencies that access the Police Information Network through some other approved means. The amount of the monthly device fee varies depending upon the type of device. For a desktop device, the monthly fee is twenty-five dollars (\$25.00) per device. For a mobile device, the fee is six dollars (\$6.00) per device."

SECTION 43.4.(b) G.S. 114-10.1(d), as enacted by this section, reads as rewritten:

"(d) The Attorney General may impose an initial set up fee of two thousand six hundred fifty dollars (\$2,650) for agencies to participate in the Police Information Network. This one-time fee shall be used to offset the cost of the router and data circuit needed to access the Network.

The Attorney General may also impose monthly fees on participating agencies. The monthly fees collected under this subsection shall be used to offset the cost of operating and maintaining the Police Information Network

(1) The Attorney General may impose a monthly circuit fee on agencies that access the Police Information Network through a circuit maintained and operated by the Department of Justice. The amount of the monthly fee is three hundred dollars (\$300.00) plus an additional fee amount for each device linked to the Network. The additional fee amount varies depending upon the type of device. For a desktop device after the first seven desktop devices, the additional monthly fee is twenty-five dollars (\$25.00) per device. For a mobile device, the additional monthly fee is ~~six dollars (\$6.00)~~ twelve dollars (\$12.00) per device.

(2) The Attorney General may impose a monthly device fee on agencies that access the Police Information Network through some other approved means. The amount of the monthly device fee varies depending upon the type of device. For a desktop device, the monthly fee is twenty-five dollars (\$25.00) per device. For a mobile device, the fee is ~~six dollars (\$6.00)~~ twelve dollars (\$12.00) per device."

SECTION 43.4.(c) Subsection (b) of this section becomes effective January 1, 2006. The remainder of this section is effective when it becomes law.

PART XLIV. DEPARTMENT OF TRANSPORTATION FEE CHANGES

Requested by: Senators Hoyle, Kerr

DOT FEE INCREASES

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.

1 (i1) Restoration Fee. – Any person whose drivers license has been revoked
2 pursuant to the provisions of this Chapter, other than G.S. 20-17(2), shall pay a
3 restoration fee of ~~twenty five dollars (\$25.00).~~ fifty dollars (\$50.00). A person whose
4 drivers license has been revoked under G.S. 20-17(2) shall pay a restoration fee of ~~fifty~~
5 ~~dollars (\$50.00)~~ seventy-five dollars (\$75.00) until the end of the fiscal year in which
6 the cumulative total amount of fees deposited under this subsection in the General Fund
7 exceeds ten million dollars (\$10,000,000), and shall pay a restoration fee of ~~twenty five~~
8 ~~dollars (\$25.00)~~ fifty dollars (\$50.00) thereafter. The fee shall be paid to the Division
9 prior to the issuance to such person of a new drivers license or the restoration of the
10 drivers license. The restoration fee shall be paid to the Division in addition to any and
11 all fees which may be provided by law. This restoration fee shall not be required from
12 any licensee whose license was revoked or voluntarily surrendered for medical or health
13 reasons whether or not a medical evaluation was conducted pursuant to this Chapter.
14 The ~~twenty five dollar (\$25.00) fee, and the first twenty five dollars (\$25.00) of the~~
15 ~~fifty dollar (\$50.00) fee, fifty-dollar (\$50.00) fee, and the first fifty dollars (\$50.00) of~~
16 ~~the seventy-five dollar (\$75.00) fee, shall be deposited in the Highway Fund. The~~
17 ~~remaining twenty-five dollars (\$25.00) of the fifty dollar (\$50.00) fee the seventy-five~~
18 ~~dollar (\$75.00) fee shall be deposited in the General Fund of the State. The Office of~~
19 State Budget and Management shall certify to the Department of Transportation and the
20 General Assembly when the cumulative total amount of fees deposited in the General
21 Fund under this subsection exceeds ten million dollars (\$10,000,000), and shall annually
22 report to the General Assembly the amount of fees deposited in the General Fund under
23 this subsection.

24 It is the intent of the General Assembly to annually appropriate the funds deposited
25 in the General Fund under this subsection to the Board of Governors of The University
26 of North Carolina to be used for the Center for Alcohol Studies Endowment at The
27 University of North Carolina at Chapel Hill, but not to exceed this cumulative total of
28 ten million dollars (\$10,000,000).

29
30 (l) Learner's Permit. – A person who is at least 18 years old may obtain a
31 learner's permit. A learner's permit authorizes the permit holder to drive a specified type
32 or class of motor vehicle while in possession of the permit. A learner's permit is valid
33 for a period of 18 months after it is issued. The fee for a learner's permit is ~~ten dollars~~
34 ~~(\$10.00).~~ fifteen dollars (\$15.00). A learner's permit may be renewed, or a second
35 learner's permit may be issued, for an additional period of 18 months. The permit holder
36 must, while operating a motor vehicle over the highways, be accompanied by a person
37 who is licensed to operate the motor vehicle being driven and is seated beside the permit
38 holder."

39 **SECTION 44.1.(b)** G.S. 20-11(j) reads as rewritten:

40 "(j) Duration and Fee. – A limited learner's permit expires on the eighteenth
41 birthday of the permit holder. A limited provisional license expires on the eighteenth
42 birthday of the license holder. A limited learner's permit or limited provisional license
43 issued under this section that expires on a weekend or State holiday shall remain valid
44 through the fifth regular State business day following the date of expiration. A full
45 provisional license expires on the date set under G.S. 20-7(f). The fee for a limited
46 learner's permit or a limited provisional license is ~~ten dollars (\$10.00).~~ fifteen dollars
47 (\$15.00). The fee for a full provisional license is the amount set under G.S. 20-7(i)."

48 **SECTION 44.1.(c)** G.S. 20-14 reads as rewritten:

49 "**§ 20-14. Duplicate licenses.**

50 A person may obtain a duplicate of a license issued by the Division by paying a fee
51 of ~~ten dollars and five cents (\$10.05)~~ (\$10.00) and giving the Division satisfactory proof
52 that any of the following has occurred:

- 53 (1) The person's license has been lost or destroyed.
- 54 (2) It is necessary to change the name or address on the license.

1 (3) Because of age, the person is entitled to a license with a different color
2 photographic background or a different color border.

3 (4) The Division revoked the person's license, the revocation period has
4 expired, and the period for which the license was issued has not
5 expired."

6 **SECTION 44.1.(d)** G.S. 20-16(e) reads as rewritten:

7 "(e) The Division may conduct driver improvement clinics for the benefit of those
8 who have been convicted of one or more violations of this Chapter. Each driver
9 attending a driver improvement clinic shall pay a fee of ~~twenty five dollars~~
10 ~~(\$25.00)~~ fifty dollars (\$50.00)."

11 **SECTION 44.1.(e)** G.S. 20-26(c) reads as rewritten:

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

15 (1) Limited extract copy of license record, for
16 period up to three years ~~\$5.00~~\$8.00

17 (2) Complete extract copy of license record ~~5.00~~8.00

18 (3) Certified true copy of complete license record ~~7.00~~11.00.

19 All fees received by the Division under this subsection shall be credited to the Highway
20 Fund."

21 **SECTION 44.1.(f)** G.S. 20-37.15 (a1) reads as rewritten:

22 "(a1) The application must be accompanied by a nonrefundable application fee of
23 ~~twenty dollars (\$20.00)~~ thirty dollars (\$30.00). This fee does not apply in any of the
24 following circumstances:

25 (1) When an individual surrenders a commercial driver learner's permit
26 issued by the Division when submitting the application.

27 (2) When the application is to renew a commercial drivers license issued
28 by the Division.

29 This fee shall entitle the applicant to three attempts to pass the written knowledge test
30 without payment of a new fee. No application fee shall be charged to an applicant
31 eligible for a waiver under G.S. 20-37.13(c)."

32 **SECTION 44.1.(g)** G.S. 20-37.16(d) reads as rewritten:

33 "(d) The fee for a Class A, B, or C commercial drivers license is ~~ten dollars~~
34 ~~(\$10.00)~~ fifteen dollars (\$15.00) for each year of the period for which the license is
35 issued. The fee for each endorsement is ~~one dollar and twenty five cents (\$1.25)~~ three
36 dollars (\$3.00) for each year of the period for which the endorsement is issued. The fees
37 required under this section do not apply to employees of the Driver License Section of
38 the Division who are designated by the Commissioner."

39 **SECTION 44.1.(h)** G.S. 20-42(b) reads as rewritten:

40 "(b) The Commissioner and officers of the Division designated by the
41 Commissioner may prepare under the seal of the Division and deliver upon request a
42 certified copy of any document of the Division for a fee. The fee for a document, other
43 than an accident report under G.S. 20-166.1, is ~~five dollars (\$5.00)~~ ten dollars (\$10.00).
44 The fee for an accident report is ~~four dollars (\$4.00)~~ five dollars (\$5.00). A certified
45 copy shall be admissible in any proceeding in any court in like manner as the original
46 thereof, without further certification. The certification fee does not apply to a document
47 furnished for official use to a judicial official or to an official of the federal government,
48 a state government, or a local government."

49 **SECTION 44.1.(i)** G.S. 20-50(b) reads as rewritten:

50 "(b) The Division may issue a temporary license plate for a vehicle. A temporary
51 license plate is valid for the period set by the Division. The period may not be less than
52 10 days nor more than 60 days.

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

1 The fee for a temporary license plate that is valid for 10 days is ~~three dollars (\$3.00)-~~
 2 five dollars (\$5.00). The fee for a temporary license plate that is valid for more than 10
 3 days is the amount that would be required with an application for a license plate for the
 4 vehicle. If a person obtains for a vehicle a temporary license plate that is valid for more
 5 than 10 days and files an application for a license plate for that vehicle before the
 6 temporary license plate expires, the person is not required to pay the fee that would
 7 otherwise be required for the license plate.

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

- 9 (1) It may be issued only upon proper proof that the applicant has met the
 10 applicable financial responsibility requirements.
- 11 (2) It expires on midnight of the day set for expiration.
- 12 (3) It may be used only on the vehicle for which issued and may not be
 13 transferred, loaned, or assigned to another.
- 14 (4) If it is lost or stolen, the person who applied for it must notify the
 15 Division.
- 16 (5) It may not be issued by a dealer.
- 17 (6) The provisions of G.S. 20-63, 20-71, 20-110 and 20-111 that apply to
 18 license plates apply to temporary license plates insofar as possible."

19 **SECTION 44.1.(j)** G.S. 20-73(c) reads as rewritten:

20 "(c) Penalties. – A person to whom a vehicle is transferred who fails to apply for a
 21 certificate of title within the required time is subject to a civil penalty of ~~ten dollars~~
 22 (~~\$10.00~~) fifteen dollars (\$15.00) and is guilty of a Class 2 misdemeanor. A person who
 23 undertakes to apply for a certificate of title on behalf of another person and who fails to
 24 apply for a title within the required time is subject to a civil penalty of ~~ten dollars~~
 25 (~~\$10.00~~) fifteen dollars (\$15.00). When a person to whom a vehicle is transferred fails
 26 to obtain a title within the required time because a person who undertook to apply for
 27 the certificate of title did not do so within the required time, the Division may impose a
 28 civil penalty only on the person who undertook to apply for the title. Civil penalties
 29 collected under this subsection shall be credited to the Highway Fund."

30 **SECTION 44.1.(k)** G.S. 20-85(a) reads as rewritten:

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

- 35 (1) Each application for certificate of title ~~\$35.00~~\$39.00
- 36 (2) Each application for duplicate or corrected certificate of title
 37 ~~10.00~~14.00
- 38 (3) Each application of reposessor for certificate of title ~~10.00~~14.00
- 39 (4) Each transfer of registration ~~10.00~~15.00
- 40 (5) Each set of replacement registration plates ~~10.00~~15.00
- 41 (6) Each application for duplicate registration card..... ~~10.00~~15.00
- 42 (7) Each application for recording supplementary lien..... ~~10.00~~14.00
- 43 (8) Each application for removing a lien from a certificate of title
 44 ~~10.00~~14.00
- 45 (9) Each application for certificate of title for a motor vehicle transferred
 46 to a manufacturer, as defined in G.S. 20-286, or a motor vehicle
 47 retailer for the purpose of resale..... ~~10.00~~14.00
- 48 (10) Each application for a salvage certificate of title made by an insurer
 49 ~~10.00~~15.00
- 50 (11) Each set of replacement Stock Car Racing Theme plates issued under
 51 G.S. 20-79.4 ~~25.00~~25.00."

52 **SECTION 44.1.(l)** G.S. 20-85.1 reads as rewritten:

53 **"§ 20-85.1. Registration by mail; one-day title service; fees.**

(a) The owner of a vehicle registered in North Carolina may renew that vehicle registration by mail. A postage and handling fee of one dollar (\$1.00) per vehicle to be registered shall be charged for this service.

(b) The Commissioner and the employees of the Division designated by the Commissioner may prepare and deliver upon request a certificate of title, charging a fee of ~~fifty dollars (\$50.00)~~ seventy-five dollars (\$75.00) for one-day title service, in lieu of the title fee required by G.S. 20-85(a). The fee for one-day title service must be paid by cash or by certified check.

(c) The fee collected under subsection (a) shall be credited to the Highway Fund. The fee collected under subsection (b) shall be credited to the Highway Trust Fund."

SECTION 44.1.(m) G.S. 20-87 reads as rewritten:

"§ 20-87. Passenger vehicle registration fees.

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

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

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

Motorcycles:	1-passenger capacity	\$18.00
	2-passenger capacity	22.00
	3-passenger capacity	26.00
Automobiles:	15 or fewer passengers	\$41.00 <u>\$51.00</u>
Buses:	16 or more passengers	\$1.40 <u>\$2.00</u> per
		hundred
		pounds of
		empty weight

Trucks under		
7,000 pounds		
that do not		
haul products		
for hire:	4,000 pounds.....	\$41.50
	5,000 pounds.....	\$51.00
	6,000 pounds.....	\$61.00.

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

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

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

Private passenger vehicles of not more than fifteen		
passengers		\$20.00 <u>\$28.00</u>
Private passenger vehicles over fifteen passengers		23.00 <u>31.00</u>

Provided, that a fee of only one dollar (\$1.00) shall be charged for any vehicle given by the federal government to any veteran on account of any disability suffered during war so long as such vehicle is owned by

- 1 the original donee or other veteran entitled to receive such gift under
2 Title 38, section 252, United States Code Annotated.
- 3 (6) Private Motorcycles. – The base fee on private passenger motorcycles
4 shall be ~~nine dollars (\$9.00); fifteen dollars (\$15.00);~~ except that when
5 a motorcycle is equipped with an additional form of device designed to
6 transport persons or property, the base fee shall be ~~sixteen dollars~~
7 ~~(\$16.00); twenty-two dollars (\$22.00).~~ An additional fee of three
8 dollars (\$3.00) is imposed on each private motorcycle registered under
9 this subdivision in addition to the base fee. The revenue from the
10 additional fee, in addition to any other funds appropriated for this
11 purpose, shall be used to fund the Motorcycle Safety Instruction
12 Program created in G.S. 115D-72.
- 13 (7) Dealer License Plates. – The fee for a dealer license plate is the regular
14 fee for each of the first five plates issued to the same dealer and is
15 one-half the regular fee for each additional dealer license plate issued
16 to the same dealer. The "regular fee" is the fee set in subdivision (5) of
17 this section for a private passenger motor vehicle of not more than 15
18 passengers.
- 19 (8) Driveaway Companies. – Any person engaged in the business of
20 driving new motor vehicles from the place of manufacture to the place
21 of sale in this State for compensation shall pay a fee of one-half of the
22 amount that would otherwise be payable under this section for each set
23 of plates.
- 24 (9) House Trailers. – In lieu of other registration and license fees levied on
25 house trailers under this section or G.S. 20-88, the registration and
26 license fee on house trailers shall be ~~seven dollars (\$7.00) eleven~~
27 ~~dollars (\$11.00)~~ for the license year or any portion thereof.
- 28 (10) Special Mobile Equipment. – The fee for special mobile equipment for
29 the license year or any part of the license year is two times the fee in
30 subdivision (5) for a private passenger motor vehicle of not more than
31 15 passengers.
- 32 (11) Any vehicle fee determined under this section according to the weight
33 of the vehicle shall be increased by the sum of three dollars (\$3.00) to
34 arrive at the total fee.
- 35 (12) Low-Speed Vehicles. – The fee for a low-speed vehicle is the same as
36 the fee for private passengers vehicles of not more than 15
37 passengers."

38 **SECTION 44.1.(n)** G.S. 20-88 reads as rewritten:

39 **"§ 20-88. Property-hauling vehicles.**

40 (a) Determination of Weight. – For the purpose of licensing, the weight of
41 self-propelled property-carrying vehicles shall be the empty weight and heaviest load to
42 be transported, as declared by the owner or operator; provided, that any determination
43 of weight shall be made only in units of 1,000 pounds or major fraction thereof, weights
44 of over 500 pounds counted as 1,000 and weights of 500 pounds or less disregarded.
45 The declared gross weight of self-propelled property-carrying vehicles operated in
46 conjunction with trailers or semitrailers shall include the empty weight of the vehicles to
47 be operated in the combination and the heaviest load to be transported by such
48 combination at any time during the registration period, except that the gross weight of a
49 trailer or semitrailer is not required to be included when the operation is to be in
50 conjunction with a self-propelled property-carrying vehicle which is licensed for 6,000
51 pounds or less gross weight and the gross weight of such combination does not exceed
52 9,000 pounds, except wreckers as defined under G.S. 20-4.01(50). Those
53 property-hauling vehicles registered for 4,000 pounds shall be permitted a tolerance of
54 500 pounds above the weight permitted under the table of weights and rates appearing
55 in subsection (b) of this section.

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

SCHEDULE OF WEIGHTS AND RATES

Rates Per Hundred Pound Gross Weight	
	Farmer Rate
Not over 4,000 pounds	\$0.23 <u>\$0.29</u>
4,001 to 9,000 pounds inclusive	.29 <u>.40</u>
9,001 to 13,000 pounds inclusive	.37 <u>.50</u>
13,001 to 17,000 pounds inclusive	.51 <u>.68</u>
Over 17,000 pounds	.58 <u>.77</u>

Rates Per Hundred Pound Gross Weight	
	General Rate
Not over 4,000 pounds	\$0.46 <u>\$0.59</u>
4,001 to 9,000 pounds inclusive	.63 <u>.81</u>
9,001 to 13,000 pounds inclusive	.78 <u>1.00</u>
13,001 to 17,000 pounds inclusive	1.06 <u>1.36</u>
Over 17,000 pounds	1.20 <u>1.54</u>

- (1) The minimum fee for a vehicle licensed under this subsection is ~~seventeen dollars and fifty cents (\$17.50)~~ twenty-four dollars (\$24.00) at the farmer rate and ~~twenty one dollars and fifty cents (\$21.50)~~ twenty-eight dollars (\$28.00) at the general rate.
- (2) The term "farmer" as used in this subsection means any person engaged in the raising and growing of farm products on a farm in North Carolina not less than 10 acres in area, and who does not engage in the business of buying products for resale.
- (3) License plates issued at the farmer rate shall be placed upon trucks and truck-tractors that are operated exclusively in the carrying or transportation of applicant's farm products, raised or produced on his farm, and farm supplies and not operated in hauling for hire.
- (4) "Farm products" means any food crop, livestock, poultry, dairy products, flower bulbs, or other nursery products and other agricultural products designed to be used for food purposes, including in the term "farm products" also cotton, tobacco, logs, bark, pulpwood, tannic acid wood and other forest products grown, produced, or processed by the farmer.
- (5) The Division shall issue necessary rules and regulations providing for the recall, transfer, exchange or cancellation of "farmer" plates, when vehicle bearing such plates shall be sold or transferred.
- (5a) Notwithstanding any other provision of this Chapter, license plates issued pursuant to this subsection at the farmer rate may be purchased for any three-month period at one fourth of the annual fee.
- (6) There shall be paid to the Division annually as of the first of January, the following fees for "wreckers" as defined under G.S. 20-4.01(50): a wrecker fully equipped weighing 7,000 pounds or less, seventy-five dollars (\$75.00); wreckers weighing in excess of 7,000 pounds shall pay one hundred forty-eight dollars (\$148.00). Fees to be prorated quarterly. Provided, further, that nothing herein shall prohibit a licensed dealer from using a dealer's license plate to tow a vehicle for a customer.

(c) The fee for a semitrailer or trailer is ~~ten dollars (\$10.00)~~ nineteen dollars (\$19.00) for each year or part of a year. The fee is payable on or before January 1 of

1 each year. Upon the application of the owner of a semitrailer or trailer, the Division may
 2 issue a multiyear plate and registration card for the semitrailer or trailer for a fee of
 3 seventy-five dollars (\$75.00). A multiyear plate and registration card for a semitrailer or
 4 trailer are valid until the owner transfers the semitrailer or trailer to another person or
 5 surrenders the plate and registration card to the Division. A multiyear plate may not be
 6 transferred to another vehicle.

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

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

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

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

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

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

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

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

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

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

33 **SECTION 44.1.(o)** G.S. 20-289 reads as rewritten:

34 **"§ 20-289. License fees.**

35 (a) The license fee for each fiscal year, or part thereof, shall be as follows:

36 (1) For motor vehicle dealers, distributors, distributor branches, and
 37 wholesalers, ~~fifty dollars (\$50.00)~~ seventy dollars (\$70.00) for each
 38 place of business.

39 (2) For manufacturers, ~~one hundred dollars (\$100.00)~~, one hundred fifty
 40 dollars (\$150.00) and for each factory branch in this State, ~~seventy~~
 41 ~~dollars (\$70.00)~~ one hundred dollars (\$100.00).

42 (3) For motor vehicle sales representatives, ~~ten dollars (\$10.00)~~ fifteen
 43 dollars (\$15.00).

44 (4) For factory representatives, or distributor representatives, ~~ten dollars~~
 45 ~~(\$10.00)~~ fifteen dollars (\$15.00).

46 (5) Repealed by Session Laws 1991, c. 662, s. 4.

47 (b) The fees collected under this section shall be credited to the Highway Fund.
 48 These fees are in addition to all other taxes and fees."

49 **SECTION 44.1.(p)** G.S. 20-385 reads as rewritten:

50 **"§ 20-385. Fee schedule.**

51 (a) Amounts. –

52 (1) Verification by a for-hire motor
 53 carrier of insurance for each for-hire
 54 motor vehicle operated in this State \$ 1.00

55 (2) Application by an intrastate motor carrier

- 1 for a certificate of exemption 25.0045.00
 2 (3) Certification by an interstate motor carrier
 3 that it is not regulated by the United
 4 States Department of Transportation 25.0045.00
 5 (4) Application by an interstate motor carrier
 6 for an emergency permit 10.0018.00.
 7 (b) Reciprocal Agreements. – The fee set in subdivision (a)(1) of this section
 8 does not apply to the verification of insurance by an interstate motor carrier regulated by
 9 the United States Department of Transportation if the Division had a reciprocal
 10 agreement on November 15, 1991, with another state by which no fee is imposed. The
 11 Division had reciprocal agreements as of that date with the following states: California,
 12 Delaware, Indiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri,
 13 Nebraska, New Jersey, Pennsylvania, Texas, and Vermont."
 14 **SECTION 44.1.(q)** This section becomes effective October 1, 2005, and
 15 applies to fees collected on or after that date.

16 PART XLV. INDUSTRIAL COMMISSION FEES

17 Requested by: Senators Hoyle, Kerr

18 INDUSTRIAL COMMISSION FEES

19 **SECTION 45.1.(a)** G.S. 97-73 reads as rewritten:

20 "**§ 97-73. Expenses of making examinations. Fees.**

21 (a) The Industrial Commission ~~shall~~ may establish by rule a schedule of fees for
 22 examinations ~~conducted and conducted, reports made pursuant to G.S. 97-61.1 through~~
 23 ~~97-61.6 and 97-67 through 97-71. made, documents filed, and agreements reviewed~~
 24 under this Article. The fees shall be collected in accordance with rules adopted by the
 25 Industrial Commission.

26 (b), (c) Repealed by Session Laws 2003-284, s. 10.33(d), effective July 1, 2003."

27 **SECTION 45.1.(b)** This section is effective when it becomes law.

28 PART XLVI. MISCELLANEOUS PROVISIONS

29 Requested by: Senators Garrou, Dalton, Hagan

30 EXECUTIVE BUDGET ACT APPLIES

31 **SECTION 46.1.** The provisions of the Executive Budget Act, Chapter 143,
 32 Article 1 of the General Statutes, are reenacted and shall remain in full force and effect
 33 and are incorporated in this act by reference.

34 Requested by: Senators Garrou, Dalton, Hagan

35 COMMITTEE REPORT

36 **SECTION 46.2.(a)** The Senate Appropriations/Base Budget Committee
 37 Report on the Continuation, Expansion and Capital Budgets, dated May 3, 2005, which
 38 was distributed in the Senate and House of Representatives and used to explain this act,
 39 shall indicate action by the General Assembly on this act and shall therefore be used to
 40 construe this act, as provided in G.S. 143-15 of the Executive Budget Act, and for these
 41 purposes shall be considered a part of this act and as such shall be printed as a part of
 42 the Session Laws.

43 **SECTION 46.2.(b)** The budget enacted by the General Assembly for the
 44 maintenance of the various departments, institutions, and other spending agencies of the
 45 State for the 2005-2007 fiscal biennium is a line item budget, in accordance with the
 46 Budget Code Structure and the State Accounting System Uniform Chart of Accounts set
 47 out in the Administrative Policies and Procedures Manual of the Office of the State
 48 Controller. This budget includes the appropriations made from all sources including the
 49 General Fund, Highway Fund, special funds, cash balances, federal receipts, and
 50 departmental receipts.

1 The Director of the Budget submitted the itemized budget requests to the
2 General Assembly on February 23, 2005, in the documents, "North Carolina State
3 Budget 2005-2007, Summary of Recommendations" and "State of North Carolina
4 2005-2007 Recommended Continuation Budget" volumes one through six. The
5 beginning appropriation for the 2005-2006 fiscal year and the 2006-2007 fiscal year for
6 the various departments, institutions, and other spending agencies of the State is
7 referenced in Tables 12 and 13 of the Summary of Recommendations document as the
8 recommended continuation budget.

9 The General Assembly adjusted the recommended continuation budget to
10 incorporate all nonrecurring adjustments enacted by the 2003 General Assembly as
11 required in S.L. 2004-124 and S.L. 2003-284. These adjustments affect the Division of
12 Medical Assistance, the Division of Mental Health, Developmental Disabilities, and
13 Substance Abuse Services, the Clean Water Management Trust Fund, the Department of
14 Crime Control and Public Safety, the Judicial Department, the General Assembly, the
15 Department of Revenue, the Office of State Budget and Management, the Community
16 Colleges System Office, the University of North Carolina – Board of Governors, the
17 Department of Transportation, and the Reserve for Death Benefit Trust, and the Reserve
18 for Disability Income Plan. These adjustments to the recommended continuation budget
19 are set out in the Senate Appropriations/Base Budget Committee Report on the
20 Continuation, Expansion, and Capital Budgets, dated May 3, 2005. The recommended
21 continuation budget submitted by the Director of the Budget, as adjusted by the General
22 Assembly, is referred to as the adjusted continuation budget and represents the starting
23 point for further legislative revisions.

24 The General Assembly revised the adjusted continuation budget for the
25 2005-2006 fiscal year and 2006-2007 fiscal year in accordance with the steps that
26 follow, and the line item detail in the budget enacted by the General Assembly may be
27 derived accordingly:

- 28 (1) The adjusted continuation budget was revised in accordance with
29 reductions and additions that were set out in the Senate
30 Appropriations/Base Budget Committee Report on the Continuation,
31 Expansion and Capital Budgets, dated May 3, 2005, together with any
32 accompanying correction sheets.
- 33 (2) Transfers of funds supporting programs were made in accordance with
34 the Senate Appropriations/Base Budget Committee Report on the
35 Continuation, Expansion and Capital Budgets, dated May 3, 2005,
36 together with any accompanying correction sheets.

37 **SECTION 46.2.(c)** The budget enacted by the General Assembly shall also
38 be interpreted in accordance with the special provisions in this act and in accordance
39 with other appropriate legislation.

40 In the event that there is a conflict between the line item budget certified by
41 the Director of the Budget and the budget enacted by the General Assembly, the budget
42 enacted by the General Assembly shall prevail.

43
44 Requested by: Senators Garrou, Dalton, Hagan

45 **MOST TEXT APPLIES ONLY TO THE 2005-2007 FISCAL BIENNIUM**

46 **SECTION 46.3.** Except for statutory changes or other provisions that clearly
47 indicate an intention to have effects beyond the 2005-2007 fiscal biennium, the textual
48 provisions of this act apply only to funds appropriated for, and activities occurring
49 during, the 2005-2007 fiscal biennium.

50
51 Requested by: Senators Garrou, Dalton, Hagan

52 **EFFECT OF HEADINGS**

53 **SECTION 46.4.** The headings to the parts and sections of this act are a
54 convenience to the reader and are for reference only. The headings do not expand,
55 limit, or define the text of this act, except for effective dates referring to a Part.

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Requested by: Senators Garrou, Dalton, Hagan

SEVERABILITY CLAUSE

SECTION 46.5. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

Requested by: Senators Garrou, Dalton, Hagan

EFFECTIVE DATE

SECTION 46.6. Except as otherwise provided, this act becomes effective July 1, 2005.