

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE DRS65126-RCz-1* (01/24)

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

Sponsors: Senator Nesbitt.

Referred to:

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

PART I. INCREASE AVAILABILITY OF SUBSTANCE ABUSE TREATMENT.

START-UP FUNDING FOR SUBSTANCE ABUSE TREATMENT PROGRAMS.

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

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

1 requests for proposals to create regional substance abuse treatment programs. LMEs
2 shall distribute funds appropriated under this section no later than six months after the
3 funds are distributed to LMEs by DHHS, and in no event later than June 30, 2008.

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

15 **SUBSTANCE ABUSE TREATMENT SERVICES AND PREVENTION.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 **DRUG TREATMENT COURTS.**

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

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

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

38 **SECTION 2.1.** There is appropriated from the General Fund to the
39 Department of Health and Human Services (DHHS) the sum of five million two
40 hundred fifty thousand dollars (\$5,250,000) for the 2007-2008 fiscal year and the sum
41 of five million two hundred fifty thousand dollars (\$5,250,000) for the 2008-2009 fiscal
42 year.

1 year. The funds shall be used to pay for operating cost subsidies for approximately
2 thousand 1,000 independent- and supportive-living apartments for individuals with
3 mental health, developmental, or substance abuse disabilities. DHHS shall maximize
4 the number of subsidies that can be paid for with these funds by giving first priority to
5 North Carolina Housing Finance Agency-financed apartments, giving second priority to
6 other publicly subsidized apartments, and third priority to market-rate apartments. Up
7 to two hundred fifty thousand dollars (\$250,000) may be used for administration of the
8 subsidies.

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

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

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

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

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

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

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

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

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

15 **EXPAND CRISIS SERVICES**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30

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

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

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

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

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

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

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

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

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

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

43 44 **CRISIS INTERVENTION TEAMS.**

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

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

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

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

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

27
28 **SECTION 5.1.** Funds remaining in the Trust Fund for Mental Health,
29 Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs
30 that are not obligated as of February 1, 2007, may only be obligated to provide
31 community-based programs. Any funds not obligated as of February 1, 2007, and not
32 subsequently obligated to provide community-based programs shall be deemed to be
33 unencumbered and shall be allocated to local management entities (LMEs) such that
34 each LME receives a percentage of the total allocation that is equal to that local
35 management entity's percentage of the State's total population that is below the federal
36 poverty level. DHHS shall distribute the funds no later than 30 days after the enactment
37 of the Current Operations and Capital Appropriations Act for the 2007-2009 biennium.

38 **SECTION 5.2.** Effective July 1, 2007, G.S. 143C-9-2 reads as rewritten:
39 "**§ 143C-9-2. Trust Fund for Mental Health, Developmental Disabilities, and**
40 **Substance Abuse Services and Bridge Funding Needs.**

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

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

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

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

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

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

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

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

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

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

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

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

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

22 **ADDITIONAL MENTAL HEALTH SERVICES.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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