

# Key Actions of Interest to Older Adults and Aging Advocates 2004 Short Legislative Session

## Significant Items from Joint Conference Report on the Continuation, Expansion, and Capital Budget

(note: parenthesis denotes budget reduction, "R" means recurring and "NR" means non-recurring)

### Department of Health and Human Services

#### Division of Aging and Adult Services

<b>Senior Centers</b>	\$281,000 R
Provides funding for Senior Center Outreach and Development.	\$1,550,000 NR
Restores a recurring reduction for Senior Centers made in FY 2002-03, and provides additional one-time funds for senior centers for FY 2004-05.	
<b>Increase Rates for Adult Day/Health Care Providers</b>	\$520,000 R
Provides funding to increase the daily rate funded by the State Adult Day Care Fund for Adult Day Care and Adult Day Health Care services by \$5.00 per day.	
<b>Home and Community Care Block Grant</b>	\$800,000 R
Provides funding (\$340,000) to partially restore a reduction to the Home and Community Care Block Grant in FY 2003-04, and provides \$460,000 for a \$5.00 daily rate increase for Adult Day Care and Adult Day Health Care funded by this block grant.	

*Total Increase in Funding for the* \$3,151,000  
*Division of Aging and Adult Services*

**Division of Social Services**

**Reduce Excess State Funds for State/County Special Assistance** (\$5,100,000) R

Reduces excess state funding in the State/County Special Assistance Program realized by maximizing federal funds in the Medicaid Program for Adult Care Home Personal Care Services (note: Funding for the State/County Special Assistance Program continues to be in the budget for the State Division of Social Services, however, the Division of Aging and Adult Services is now responsible for program administration).

**State/County Special Assistance Rate Adjustment** \$3,000,000 R

Provides state funds for State/County Special Assistance recipients to increase the monthly rate from \$1,066 per month to \$1,084 per month. Counties will be required to provide a \$3,000,000 match.

**Division of Public Health**

**Arthritis Prevention Program** \$25,000 NR

Provides a grant-in-aid for a private local project in Mecklenburg County.

**Public Health Incubators** \$1,125,000 NR

Provides funding that will be transferred to UNC-CH for the promotion of regionalism for public health activities. Funding will be given to coalitions to address public health issues in a region.

**Public Health Improvements** \$100,000 R

Provides funding for local health departments that have been accredited through the Public Health Accreditation and funds for the Pilot Accreditation Advisory Board.

**Division of Medical Assistance**

**Prosthetic and Orthotic Coverage for Adults** \$900,000 R

Expands Medicaid coverage for medically necessary prosthetics and orthotics for adults over 21.

**Office of the Secretary**

**Adult Day Services Reimbursement Study** \$250,000 NR  
Provides funding for a contract with a national adult day services center to provide training and consultation services and to study the current reimbursement methodology for adult day services.

**Receipt Supported Positions – Housing Program** -0-  
Creates three positions in the Office of the Secretary to work in collaboration with the N.C. Housing Finance Agency and the DHHS Housing Work Group to expand community housing opportunities for DHHS clients. Positions are 100% receipt supported from the Federal Real Choice Systems Change Grant. Effective January 1, 2005.

**Long Term Care Criminal Record Checks** \$200,000 R  
Provides funding to DHHS to implement a system for conducting criminal records background checks for potential employees in long-term care facilities. Provides for the transfer of non-recurring funds to the Department of Justice to upgrade an existing billing system currently used for criminal records checks. \$250,000 NR

**Department of Administration**

**Veterans Affairs Division**

**New Nursing Home for Veterans** \$500,000 NR  
Provides start-up funds for the operation of the 90 bed State veterans’ nursing home in Salisbury. The nursing home, which opened in the spring of 2004, is the State’s second veterans’ nursing home (other one in Fayetteville).

## **Significant Provisions In 2004 Budget Bill** **(House Bill 1414 (Session Law 2004-124))**

(A copy of the Budget Bill and the joint conference committee report, commonly called the money document, which details the reduction and expansion items in the budget can be viewed online at the website for the N.C. General Assembly ([www.ncleg.net](http://www.ncleg.net)) under the section labeled News and Information.

### **Part V. Block Grants**

The Budget Bill specifies how appropriations from federal block grant funds are made for the fiscal year ending June 30, 2005. Items of particular relevance to aging advocates include the following:

#### **Social Services Block Grant** (these are the same amounts as for FY 2003-04)

Allocation for in-home services provided by county departments of social services \$2,101,114

Division of Aging – Home and Community Care Block Grant \$1,840,234

Adult day care services \$2,155,301

Department of Administration for the N.C. State Commission of Indian Affairs In-Home Services Program for the Elderly \$203,198

UNC-CH CARES Program for training and consultation services \$247,920

Office of the Secretary – Office of Economic Opportunity for N.C. Senior Citizens’ Federation for outreach services to low-income elderly persons \$41,302

#### **Preventive Health Services Block Grant**

Osteoporosis Task Force Activities \$150,000

### **Part VI. General Provisions**

**Report on use of State funds by non-State entities** (Section 6.24): Stipulates that every non-State entity that receives, uses, or expends any State funds shall use or expend the funds only for purposes for which they were appropriated by the General Assembly or collected by the State. The term “non-State entity” means a firm, organization, corporation, partnership, association, institution, unit of local government, or any other organization that is not a State agency, department, or institution. If the Director of the Budget finds that a non-State entity has spent or encumbered State funds for an unauthorized purpose, the Director shall take appropriate administrative action to ensure that no further irregularities occur and shall report to the Attorney General any facts that pertain to an apparent violation of a criminal law or an apparent instance of malfeasance, misfeasance, or nonfeasance in connection with the use of State funds. The responsibilities of the State agency and a grantee are specified. The provision further spells out that a grantee that receives, uses, or expends between \$15,000 and \$300,000 in

State funds annually must file annually with the State Auditor and the State agency that disbursed the funds a sworn accounting of receipts and expenditures of the State funds and a description of activities and accomplishments undertaken by the grantee with State funds.

#### **Part X. Department of Health and Human Services**

**Centralize Criminal Record Check Functions** (Section 10.1): Stipulates that the Department of Health and Human Services shall centralize all activities throughout the Department relating to the coordination and processing of criminal record checks required by law. The centralization shall include the transfer of positions, corresponding State appropriations, federal funds, and other funds. The Department shall implement the centralization beginning January 1, 2005, and shall report on the details of the centralization and implementation to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than January 1, 2005.

**Section 10.2 - Study Issues Related to Mentally Ill Residents of Long-Term Care Facilities** (Section 10.2): Directs the Department of Health and Human Services to work with long-term care providers and advocates for the elderly and the mentally ill to study issues concerning the care of mentally ill individuals residing in long-term care facilities. The study shall include: (1) Examining whether current State statutes and Departmental rules adequately address the populations served by long-term care facilities. (2) Exploring the development of separate licensure categories within the adult care home and nursing home designations to address the various populations being served. (3) Examining adult care home rules to determine whether they are easy to understand, attainable under current staffing patterns, give appropriate guidance to facility operators according to the needs and characteristics of residents served, support residents' freedom of choice, and whether they support the autonomy, dignity, and independence philosophy of assisted living. (4) Determining the most effective way to identify mentally ill individuals that have mental health treatment needs. (5) Examining the criteria for admission of mentally ill individuals to long-term care facilities to ensure that the health and safety of all residents are safeguarded. (6) Providing recommendations for improving the quality of care for mentally ill individuals in adult care homes and nursing homes including the potential cost associated with implementing the recommendations. (7) Identifying specific problems that exist due to mixing aging and mentally ill populations. The Department shall report its findings and recommendations to the North Carolina Study Commission on Aging by October 1, 2005. The Department of Health and Human Services shall include in this report how it defines "mentally ill" for purposes of this study.

**Automatic Enrollment Medicare Prescription Drug Discount Card** (Section 10.2 B): Provides that notwithstanding any other provision of law to the contrary, the Department of Health and Human Services may enroll senior citizens into the federal Medicare Prescription Drug Discount Program as follows: (1) Current and future participants in the State's Senior Care Prescription Drug Assistance Program whose income is not more than 135% of the federal poverty level are eligible for automatic enrollment; (2) Prior to automatic enrollment, the Department shall give any person eligible for automatic enrollment the opportunity to decline automatic enrollment; and (3) the State's Senior Care Prescription Drug Assistance Program shall be payor of last resort.

**Regulation of Physician Assistants Receiving, Prescribing, or Dispensing Free Prescription Drugs** (Section 10.2E): States that the North Carolina Medical Board shall have sole jurisdiction to regulate and license physician assistants receiving, prescribing, or dispensing prescription drugs under the supervision of a licensed physician without charge or fee to the patient. Further notes that the provisions of G.S. 90-18.1(c)(1), (c)(2), and G.S. 9085.21(b), shall not apply to the receiving, prescribing, or dispensing of prescription drugs without charge or fee to the patient."

**Medicaid Assessment Program for ICF/MR Facilities** (Section 10.8.): Directs the Secretary of Health and Human Services to implement a Medicaid assessment program for State ICF/MR facilities and ICF/MR facilities licensed under Chapter 122C of the General Statutes. The assessment shall be imposed in a manner consistent with federal regulations under 42 C.F.R. Part 433, Subpart B. The Department shall impose the assessment effective on or before October 1, 2004. Funds realized from assessments imposed shall be used only to draw down federal Medicaid matching funds and to implement a rate increase for private ICF/MR facility rates. Funds realized from the Medicaid assessment program shall not be used to supplant State funds appropriated for private ICF/MR services. The Secretary shall use funds realized from the Medicaid assessment program to reduce State funds appropriated for public ICF/MR services. Funds realized from the assessment on licensed ICF/MR facilities shall be used to pay 100% of the nonfederal share for increasing rates for licensed ICF/MR facilities. The Secretary shall adopt rules to implement this provision.

**Community Alternatives Programs** (Section 10.9): Stipulated that in administering Community Alternative (CAP) Programs, the Department of Health and Human Services shall ensure that expenditures do not exceed the budget for these programs. The Department shall further ensure that CAP slots are fully allocated and filled in a timely manner within budgeted expenditures and shall ensure that budgeted expenditures are not limited by the non allocation of or delays in filling CAP slots. Further states that the Community Alternatives Programs for Disabled Adults (CAP/DA) services shall be provided for the 2004-2005 fiscal year to any eligible person who entered a nursing facility on or before June 1, 2004, within the existing availability of the county allocation or within the existing availability of services.

**Pilot Program to Test New Approaches to Managing Access to and Utilization of Health Care Services to Medicaid Recipients** (Section 10.11): Requires the Department of Health and Human Services to establish and implement two or more pilot programs to test new approaches to management of access to and utilization of health care services to Medicaid recipients. The purpose of the pilot programs is to determine if additional cost savings can be achieved in addition to that provided by the Community Care of North Carolina program. With respect to at least two of the pilot programs, the Department shall contract with a physician-owned and managed network that has demonstrated success in improving the cost-effectiveness of Medicaid services in at least one state other than North Carolina. The Department shall develop a payment methodology that may include sharing savings with contractors providing medical management services but the methodology shall not allow increased spending relative to current appropriations. The Department may apply for federal waivers necessary to implement this. The Department shall report on the implementation of the pilot programs to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division not later than February 1, 2005.

**PACE Pilot Program Funds** (Section 10.12): States that the Department of Health and Human Services, Division of Medical Assistance, shall develop a pilot program to implement the Program for All-Inclusive Care for the Elderly (PACE). One pilot site shall be planned for the southeastern area of the State and the other pilot site shall be planned for the western area of the State. The Division shall design the pilot program to access federal Medicaid and Medicare dollars to provide acute and long-term care services for older patients through the use of interdisciplinary teams. When implemented, services provided through the PACE pilot program may include physician visits, drugs, rehabilitation services, personal care services, hospitalization, and nursing home care. The PACE pilot program may also offer social services intervention, case management, respite care, or extended home care nursing. Of the funds appropriated to the Department of Health and Human Services, Division of Medical Assistance, for the 2004-05 fiscal year, the sum of \$123,156 shall be used to support two positions in the Division of Medical Assistance to develop the pilot programs. These funds may also be used to contract for actuarial analysis as part of the development of the pilot programs. The Department of Health and Human Services shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee on Health and Human Services on March 1, 2005, on PACE pilot program development. The report shall include services proposed to be offered under the pilot program, administrative structure of the pilot program, number of Medicare and Medicaid eligible recipients anticipated to receive services from the PACE pilot sites, and the projected savings to the State from PACE pilot program implementation. Nothing in this provision obligates the General Assembly to appropriate funds to implement the PACE program statewide.

**DHHS Study Medicaid Institutional Bias** (Section 10.13): Stipulates that the Department of Health and Human Services shall contract with an independent entity to study whether the State's Medicaid program has a bias that favors support for individuals in institutional settings over support for individuals living at home and, if a bias is found, to determine and recommend ways to alleviate the bias. The entity selected by the Department shall be one that has documented experience in conducting similar studies. The study shall include consideration of all in-home services paid under the State's Medicaid program, including CAP/DA, home health, and personal care services. The Department shall report the results of the study to the North Carolina Study Commission on Aging by January 2005. From State and federal funds available to the Department of Health and Human Services for the 2004-05 fiscal year, the sum of \$150,000 may be used to fund the study.

**Long-Term Care Facility Criminal Record Checks** (Section 10.19): The essence of this lengthy provision is that the Department of Health and Human Services will serve as a clearinghouse for criminal record checks conducted on individuals seeking employment in long-term care facilities. The North Carolina Department of Justice will return the results of national criminal history record checks for employment positions not covered by federal law to Department of Health and Human Services' Division of Facility Services. Within five business days after receipt of a national criminal history of a person seeking employment in a nursing home, home care agency, adult care home, or area authority, the results of the national criminal history record check must be made available to the facility. The sum of \$200,000 was appropriated to the Department of Health and Human Services to implement the background checks system. In addition, the sum of \$250,000 in non-recurring funds will be transferred from the Department of Health and Human Services to the Department of Justice to be used to upgrade the existing billing system currently used for criminal record checks.

**Medical Coverage Policy** (Section 10.19. (bb) under Medicaid section 10.4): States that the Department shall develop, amend, and adopt medical coverage policy in accordance with the following: (1) During the development of new medical coverage policy or amendment to existing medical coverage policy, consult with and seek the advice of the Physician Advisory Group of the North Carolina Medical Society and other organizations the Secretary deems appropriate. The Secretary shall also consult with and seek the advice of officials of the professional societies or associations representing providers who are affected by the new medical coverage policy or amendments to existing medical coverage policy. (2) At least 45 days prior to the adoption of new or amended medical coverage policy, the Department shall: publish the proposed new or amended medical coverage policy on the Department's web site; notify all Medicaid providers of the proposed, new, or amended policy; and upon request, provide persons copies of the proposed medical coverage policy. (3) During the 45-day period immediately following publication of the proposed new or amended medical coverage policy, accept oral and written comments on the proposed new or amended policy. (4) If, following the

comment period, the proposed new or amended medical coverage policy is modified, then the Department shall, at least 15 days prior to its adoption: notify all Medicaid providers of the proposed policy; upon request, provide persons notice of amendments to the proposed policy; and accept additional oral or written comments during this 15-day period."

**Adult Day Services Training and Reimbursement Methodology** (Section 10.21): Stipulates that in an effort to support and sustain adult day services in North Carolina, the Department of Health and Human Services shall contract with a national adult day services resource center to provide training and consultation to adult day services providers and State and county adult day services consultants. The selected consultant shall study the current method of reimbursement for adult day services and make recommendations regarding changes to the reimbursement methodology. The final report shall be presented to the Study Commission on Aging by January 1, 2005. Of the funds appropriated in this act to the Department of Health and Human Services, the sum of up to \$250,000 for the 2004-05 fiscal year shall be used to implement this provision.

**State/County Special Assistance** (Section 10.21A): Provides that effective October 1, 2004, the maximum monthly rate for residents in adult care home facilities shall be \$1,084 per month per resident unless adjusted by the Department in accordance with Section 10.52(f) of S.L. 2003-284.

### **Part XIX. Department of Administration**

**State Veterans Cemeteries to Provide Burial Services on Weekends** (Section 19.2): Notes that notwithstanding any other provision of law, burial services shall be conducted at the Coastal Carolina State Veterans Cemetery and the Sandhills State Veterans Cemetery from Monday through Sunday, except when the day for services falls on a State holiday. The Department of Administration may use funds credited to the Veterans Burial Fund for the 2004-05 fiscal year to cover costs incurred as a result of burials on Saturday and Sunday.

**Continuation of the Study of Advocacy Programs in the Department of Administration** (Section 19.6): States that the Department of Administration, in collaboration with appropriate entities which concentrate on public policy and business management, shall continue the study that was completed during the 2003-04 fiscal year of the functions of the advocacy programs that are housed in the Department of Administration to determine the appropriate organizational placement of the programs within State government. The study shall include the advocacy and service functions of the Division of Veterans Affairs, the Council for Women and the Domestic Violence Commission, the Commission of Indian Affairs, the Governor's Advocacy Council for Persons with Disabilities, the Human Relations Commission, and the Youth Advocacy

and Involvement Office. The study shall consider whether the functions of the programs could be more efficiently and effectively performed by an appropriate non-profit organization. The Secretary shall report the findings and recommendations to the Joint Legislative Commission on Governmental Operations and the Chairs of the Senate and House of Representatives Appropriations Committees by May 1, 2005.

**Design and Advance Planning for State Veterans Cemetery** (Section 19.7): Stipulates that of the funds appropriated in this act to the Department of Administration, the Department shall use up to \$300,000 for the 2004-05 fiscal year to fund the design and advance planning cost for the expansion of the State veterans cemetery located in Jacksonville. Any reimbursement from the U.S. Department of Veterans Affairs for the amount expended on the design and advance planning of the cemetery expansion project shall be deposited into the General Fund.

### **Part XXXI. Salaries and Employee Benefits**

#### **Retired Teachers Returning to Classroom without Loss of Retirement**

**Benefits/Option Extended** (Section 31.18A): Extends from June 30, 2004 to June 30, 2005 this option which allows retired teachers to return to the classroom without losing retirement benefits.

**Study Mandatory Retirement for Judges** (Section 31.18B): Directs the Administrative Office of the Courts to study the mandatory retirement age for judges and recommend whether the current policy should be changed. The study should evaluate increasing or eliminating the mandatory retirement age, allowing judges to reach the mandatory retirement age to finish out their elected or appointed terms, and any other options. The Administrative Office of the Courts shall report its findings and recommendations to the General Assembly by February 1, 2005.

## Other Bills of Interest Which Passed This Session

**House Bill 281: Technical Corrections Bill** – Several technical corrections of interest in this bill are noted below. Relevant sections are copied directly from the bill. The old language is noted by a strike through and the new language is underlined.

### Estates of Decedents

**SECTION 30.** G.S. 30-3.6(c) reads as rewritten:

"(c)A written waiver that would have been effective to waive a spouse's right to dissent in estates of decedents dying on or before December 31, 2000, under Article 1 of Chapter 30 of the General Statutes is effective to waive that spouse's right of elective share under this Article for estates of ~~decedent's decedents~~ decedents dying on or after January 1, 2001."

### Guardian:

**SECTION 31.(a)** - G.S. 35A-1213(b) reads as rewritten:

(b)~~An individual appointed as general guardian or guardian of the estate must be a resident of the State of North Carolina.~~ A nonresident of the State of North Carolina, to be appointed as general guardian, guardian of the ~~person~~ person, or guardian of the estate of a North Carolina resident, must indicate in writing his willingness to submit to the jurisdiction of the North Carolina courts in matters relating to the guardianship and must appoint a resident agent to accept service of process for the guardian in all actions or proceedings with respect to the guardianship. Such appointment must be approved by and filed with the clerk, and any agent so appointed must notify the clerk of any change in the agent's address or legal residence. The clerk ~~may~~ shall require a nonresident guardian of the estate or a nonresident general guardian to post a bond or other security for the faithful performance of the guardian's duties. The clerk may require a nonresident guardian of the person to post a bond or other security for the faithful performance of the guardian's duties."

**SECTION 31.(b)** G.S. 35A-1290(c) reads as rewritten:

"(c)It is the clerk's duty to remove a ~~guardian~~ guardian or to take other action sufficient to protect the ward's interests in the following cases:

- (1) The guardian has been adjudged incompetent by a court of competent jurisdiction and has not been restored to competence.
- (2) The guardian has been convicted of a felony under the laws of the United States or of any state or

territory of the United States or of the District of Columbia and his citizenship has not been restored.

- (3) The guardian was originally unqualified for appointment and continues to be unqualified, or the guardian would no longer qualify for appointment as guardian due to a change in residence, a change in the charter of a corporate guardian, or any other reason.
- (4) The guardian is the ward's spouse and has lost his rights as provided by Chapter 31A of the General Statutes.
- (5) The guardian fails to post, renew, or increase a bond as required by law or by order of the court.
- (6) The guardian refuses or fails without justification to obey any citation, notice, or process served on him in regard to the guardianship.
- (7) The guardian fails to file required accountings with the clerk.
- (8) The clerk finds the guardian unsuitable to continue serving as guardian for any reason.
- (9) The guardian is a nonresident of the State and refuses or fails to obey any citation, notice, or process served on the guardian or the guardian's process agent."

**SECTION 31.(c)** G.S. 35A-1291 reads as rewritten:

**"§ 35A-1291. ~~Interlocutory Emergency~~ removal; interlocutory orders on revocation.**

The clerk may remove a guardian without hearing if the clerk finds reasonable cause to believe that an emergency exists that threatens the physical well-being of the ward or constitutes a risk of substantial injury to the ward's estate. In all cases where the letters of a guardian are revoked, the clerk may, pending the resolution of any controversy in respect to such removal, make such interlocutory orders and decrees as the clerk finds necessary for the protection of the ward or the ward's estate or the other party seeking relief by such revocation."

### **State Agency Reports to the General Assembly:**

**SECTION 49.(a)** The title of Article 6 of Chapter 120 of the General Statutes reads as rewritten:

"Article 6.

~~Acts and Journals.~~ Acts, Journals, and Reports to the General Assembly."

**SECTION 49.(b)** Article 6 of Chapter 120 of the General Statutes is amended by adding the following new section to read:

**"§ 120-29.5. State agency reports to the General Assembly.**

Whenever a report is directed by law or resolution to be made to the General Assembly, the State agency preparing the report shall deliver one copy of the report to each of the

following officers: the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the House Principal Clerk, and the Senate Principal Clerk; and two copies of the report to the Legislative Library. The State agency is encouraged to inform members of the General Assembly that an electronic copy is available. This section does not affect any responsibilities for depositing documents with the State Library or the State Publications Clearinghouse under Chapter 125 of the General Statutes."

**SECTION 49.(c)** This section becomes effective October 1, 2004.

### **Health Care Personnel Registry:**

**SECTION 52.(a)** G.S. 131E-256

is amended by adding the following subsection to read:

"(a1)The Department shall include in the registry a brief statement of any individual disputing the finding entered against the individual in the health care personnel registry pursuant to subdivision (1) of subsection (a) of this section."

**SECTION 52.(b)** G.S. 131E-256(e) reads as

rewritten:

"(e)The Department shall provide an employer or potential employer of any person listed on the Health Care Personnel Registry ~~of~~ information concerning the nature of the finding or allegation and the status of the investigation."

**SECTION 52.(c)** G.S. 131E-256 is amended by

adding the following subsection to read:

"(i) In the case of a finding of neglect under subdivision (1) of subsection (a) of this section, the Department shall establish a procedure to permit health care personnel to petition the Department to have his or her name removed from the registry upon a determination that:

- (1) The employment and personal history of the nurse aid does not reflect a pattern of abusive behavior or neglect;
- (2) The neglect involved in the original finding was a singular occurrence; and
- (3) The petition for removal is submitted after the expiration of the one-year period which began on the date the petitioner's name was added to the registry under subdivision (1) of subsection (a) of this section."

**House Bill 669: Hospitals/LTC Quality Assurance** -- The bill provides that records and materials produced and considered by quality assurance, medical or peer review committees in nursing homes and adult care homes are confidential and not considered to be public records. Those records and materials would not be subject to discovery and

could not be introduced into evidence in any civil action against the long-term care facility. However, non-confidential records and materials are not immune from discovery or introduction in a civil action simply because they were presented during proceedings of the committee. Documents that are otherwise available as public records do not lose their status as public records merely because they were presented or considered during proceedings of the committee. The bill also changes the term, "primary care hospital" to "critical access hospital," it provides limited immunity for medical directors in nursing homes, and allows health care providers to apologize to patients without the apology being admitted as evidence of negligence in a civil action.

**House Bill 1513: Increase Local Government Death Benefit** – Increases the maximum death benefit payable from the Local Governmental Employees' Retirement System from a maximum benefit of \$20,000 to a minimum of \$25,000 and a maximum of \$50,000.

**House Bill 1264: Finance Vital Projects/Statistics** – Among other things, this bill authorizes the issuance of special indebtedness to finance the construction of new facilities by colleges and universities across the state. Bonds in the amount of \$423 million will be issued by the State, requiring \$705 million in debt payments, which will be divided between the Health and Wellness Trust Fund and the Tobacco Trust through the year 2030. The amount transferred each year is capped at 30% of each trust fund's receipts prior to July 1, 2007, and increases to a cap of 65% thereafter. The bill eliminates the requirement that 50% of the Health and Wellness Trust Fund's annual receipts be reserved for the creation of a permanent annuity, called the Fund Reserve. (note: The Budget bill for fiscal year 2004-05, House Bill 1414, transfers \$25 million from the Health and Wellness Trust Fund to the General Fund in April 2005).

**House Bill 1463: North Carolina Health Insurance Innovations Commission** – Establishes the Commission to address the availability and affordability of adequate health insurance coverage for small business owners and employees in North Carolina. The Commission is to have 24 members, 12 each to be appointed by the Speaker of the House and the President Pro Tempore of the Senate. The Commission shall do the following: (1) Adopt procedures and implement other administrative requirements necessary to carry out its duties under this act. (2) Identify and evaluate comprehensively the problems small employers face when they attempt to obtain health insurance coverage for themselves and their employees and consider the impact these problems have for large employees and the communities they serve. (3) Initiate regional demonstration projects to pilot innovative health care plans and products to address the problems identified. Innovative products may include piloted community education programs targeted at top illnesses in an effort to increase early detection of these illnesses. Innovative plans may also include piloted programs targeted at increasing the demand for health insurance coverage by both employers and employees through the use of policy incentives. Innovative plans and products are subject to the approval of the Commissioner of Insurance as provided in Section 5 of this act. (4) Develop clear and substantive recommendations for actions that must be taken by health insurance carriers,

health care providers, government, small business employers, large business employers, consumers, and consumer groups, in order to improve the availability and affordability of small employer health insurance coverage within the next three years. (5) Provide a report on the Commission's activities to the 2005 General Assembly, Regular Session 2006, upon its convening. Reports to the General Assembly shall include proposed legislation necessary to carry out the purposes of this act. The Commission shall consider the following issues and strategies in developing regional demonstration projects and other approaches to address the rising cost of health care: (1) Feasibility of establishing chronic disease management programs similar to those that are working successfully in this State and other states. (2) The cost-effectiveness of existing and proposed health insurance coverage mandates. (3) Promoting collaboration among providers, insurers, government agencies, and consumers to improve health care affordability. (4) Promoting consumer education about available insurance products and promoting education of small business owners about the available insurance products, available services to assist them in understanding and selecting appropriate insurance plans, and current small business tax benefits regarding health insurance deductions. (5) Review and evaluate "consumer driven" benefit plans. (6) Increasing efforts and resources to educate and motivate consumers to use health care resources appropriately. (7) Rewarding technological innovation based in quality and evidence-based outcomes that provide increased value to consumers over existing treatments. (8) Encourage case management of high utilizers. (9) Promoting evidence-based medicine.

**House Bill 1624: Increase Retirees' Contributory Death Benefit** – Increases the contributory death benefit for retired members of the Teachers' and State Employees' Retirement System, the Local Governmental Employees' Retirement System, the Legislative Retirement System, and the Consolidated Judicial Retirement System. Provides that the existing lump sum death benefit for retired members applies to deaths that occur on or after January 1, 1999 but before July 1, 2004. Adds a new provision providing that for deaths on or after July 1, 2004, the lump sum amount will be increased from \$6,000 to \$9,000.

**House Bill 1723: Charter School Retirement Election** – Authorizes existing charter schools to elect to participate in the Teachers' and State Employees' Retirement System and the North Carolina Teachers' and State Employees' Major Medical Plan.

**Senate Bill 623: Downtown Adult Residential Facility** – Provides for a special deadline for exempt adult housing facilities located in a downtown area that are being relocated due to a major economic development project. As written, it applies only to a specific housing facility for older adults in Wake County.

**Senate Bill 1148: An Act to Provide Support and Training for Long-Term Care Providers Caring for Residents with Mental Illness** – Directs the Department of Health and Human Services to study the mission of the Geriatric Mental Health Specialty Teams to assist long-term care facilities in serving all residents who are within the

targeted population, as identified in the State Mental Health Plan. The Department shall include representatives from Area Authorities, Local Management Entities, the adult care home and the nursing home industries and other appropriate stakeholders. As part of this study, the Department shall consider whether to: (1) Create two separate teams, a Geriatric Mental Health Specialty Team to provide services to geriatric mental health residents who are part of the targeted population, and a LTC Mental Health Specialty Team to provide services to non-geriatric residents who are part of the targeted population in long-term care facilities and (2) Broaden the scope of and rename the Geriatric Mental Health Specialty Teams to LTC Mental Health Specialty Teams to reflect the expanded mission. The Department of Health and Human Services shall also standardize these criteria across all mental health specialty teams: (1) Team purpose, (2) Eligibility for services, (3) Screening processes, (4) Referral processes, and (5) Forms, training manuals, service orders, and authorizations. The Department shall proceed immediately with implementing any of these standards that are currently established. The Department shall provide a time line for implementation of the remaining criteria in its interim report. The Department shall also proceed immediately with implementation of the following: (1) Tracking expenditure data for each Team and each Area Program/Local Management Entity. (2) Tracking the number of facilities served, the number of clients served, and the types of services provided by each Team. (3) Tracking the use of clinicians with and without formal specialty training in mental health and geriatric mental health on the specialty teams. The Department shall submit an interim report to the North Carolina Study Commission on Aging and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services by October 30, 2004, on its efforts to standardize criteria; track expenditure data; and track the number of facilities served, clients served, and services provided by each Team. The Department shall submit a final report on its standardization and tracking efforts, and the results of its study, to the North Carolina Study Commission on Aging and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services by October 30, 2005.

**Senate Bill 1152: Studies Bill** -- contains a number of relevant studies including those noted below. If a bill was introduced this session relative to the study, the bill is noted.

The **Legislative Research Commission** may study the following:

- reemployment of retirees (SB 10 and HB 219)
- postretirement earnings (SB 1313, HB 1658, and HB1505)
- optional graduated 25 year retirement plan for local governments (HB 1276)
- care and safety of residents of residential care facilities (HB 1431)
- promoting patient safety in the provision of health care (HB 1765)
- meeting IRS request for a defined retirement age
- size/scope of boards and commissions (SJR 924 and HJR 1067)
- Medicaid funding (eliminating county financial participation) (HB 540/HB 1467)
- relationship between the State and local governments with respect to the provision of services (SB 1336)

The **North Carolina Building Code Council** shall study the Residential Building Code to determine which provisions, if any, are unnecessary, outdated, overly stringent, or otherwise unduly increase the cost of housing.

The **Joint Legislative Health Care Oversight Committee** may study, among other things,:

- the state cost of prescription drugs (HB 1234)
- nursing shortage (SJR 142 and HB 329)
- reducing prescription drug cost (HB 1234)
- bulk purchasing of pharmaceutical drugs (SJR 968)
- internet sale of prescription drugs

The **Department of Health and Human Services** shall study the financing of mental health, developmental disabilities, and substance abuse services

The **N.C. Study Commission on Aging** may study:

- long-term care remediation (SB 206)
- mentally ill residents in long-term care facilities (SB 1150 and HB 1490) ( there is a special provision in the Appropriations Act to have DHHS study this issue)

The **Study Commission on Health Care Workforce** shall determine methods to increase the number of people providing health and dental care in this State and to overcome existing barriers contributing to the health care provider shortages.

The **North Carolina Blue Ribbon Commission on Medicaid Reform** is continued.

A **Legislative Study Commission on State Guardianship Laws** was created (HB 1409 and SB 1152). Specifics relative to this Study Commission, as taken from the Studies Bill, are as follows:

**SECTION 45.1.** There is created the Legislative Study Commission on State Guardianship Laws. The purpose of the Commission is to review State law pertaining to guardianship and its relationship to other pertinent State laws such as the health care power of attorney, the right to a natural death, and durable power of attorney.

**SECTION 45.2.** The Commission shall consist of 16 members as follows:

- (1) Four members of the House of Representatives appointed by the Speaker of the House of Representatives.
- (2) Four members of the Senate appointed by the President Pro Tempore of the Senate.
- (3) The Director of the Administrative Office of the Courts, or the Director's designee.
- (4) The Director of the Division of Aging in the Department of Health and Human Services, or the Director's designee.

- (5) A county director of social services appointed by the President Pro Tempore of the Senate.
- (6) A clerk of superior court appointed by the Speaker of the House of Representatives.
- (7) A physician who specializes in geriatrics appointed by the President Pro Tempore of the Senate.
- (8) An attorney who has experience in guardianship matters appointed by the Speaker of the House of Representatives.
- (9) A representative of the Governor's Advocacy Council for Persons With Disabilities.
- (10) An area authority or county program director for mental health, developmental disabilities, and substance abuse services, appointed by the Speaker of the House of Representatives.

In addition, representatives designated by the following organizations shall serve as ex officio, nonvoting members of the Commission:

- (1) The North Carolina Bar Association.
- (2) The Arc of North Carolina.
- (3) North Carolina Guardianship Association.
- (4) Alzheimer's Association - Western Chapter.
- (5) Alzheimer's Association - Eastern Chapter.
- (6) Carolina Legal Assistance.
- (7) The Area Agencies on Aging.
- (8) County Departments of Aging.
- (9) Friends of Residents in Long Term Care.

The Speaker of the House of Representatives shall designate one Representative as cochair, and the President Pro Tempore shall designate one Senator as cochair. Vacancies on the Commission shall be filled by the same appointing authority as made the initial appointment. The Commission shall expire upon delivering its final report.

The Commission, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission may meet at any time upon the joint call of the cochairs. The Commission may meet in the Legislative Building or the Legislative Office Building. The Commission may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Commission in its work. The House of Representatives' and the Senate's Supervisors of Clerks shall assign clerical staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission. Members of the Commission shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

**SECTION 45.3.** In conducting the study, the Commission shall consider the following:

- (1) Whether guardianship should be a remedy of last resort used only if less restrictive alternatives are insufficient.

- (2) The definition of incompetency.
- (3) Whether courts should be required to make express findings regarding the extent of a person's incapacity and limit the scope of the guardianship accordingly.
- (4) Legal rights retained or lost as a result of being adjudicated incompetent.
- (5) The proper role of attorneys and guardians ad litem in guardianship proceedings.
- (6) The role of public human services agencies in providing guardianship services.
- (7) Legal procedures and protections in guardianship proceedings.
- (8) Public monitoring of guardianship.
- (9) Funding for guardianship services provided by public and nonprofit agencies.
- (10) Educating citizens with respect to guardianship and alternatives to guardianship.
- (11) Prudent investor rules.
- (12) Powers, duties, and liabilities of guardians.
- (13) Review of the State's adult protective services law.
- (14) Enactment of the Uniform Guardianship and Protective Proceedings Act (UGPPA).
- (15) Whether guardianship statutes need revision to provide greater protection of the health and welfare of incapacitated adults.
- (16) Whether the State should track the number of people under private guardianship and, if so, proposed methods for the tracking.

**SECTION 45.4.** The Legislative Study Commission on State Guardianship Laws may make an interim report to the 2005 General Assembly not later than the convening of the 2005 General Assembly, and shall make its final report to the 2006 Regular Session of the 2005 General Assembly upon its convening.

**SECTION 45.5.** All State departments and agencies and local governments and their subdivisions shall furnish the Commission with any information in their possession or available to them.

**SECTION 45.6.** Of the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Commission.

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None of the bills (HB 1413/HB1470/HB1489/SB1068/SB1146) related to extending the **tax credit for long-term care insurance** passed in the 2004 session, therefore, the credit expired for the taxable year beginning January 1, 2004.