

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

SESSION LAW 2015-241  
HOUSE BILL 97

AN ACT TO MAKE BASE BUDGET APPROPRIATIONS FOR CURRENT OPERATIONS OF STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES, AND FOR OTHER PURPOSES.

The General Assembly of North Carolina enacts:

**PART I. INTRODUCTION AND TITLE OF ACT**

**TITLE OF ACT**

**SECTION 1.1.** This act shall be known as the "Current Operations and Capital Improvements Appropriations Act of 2015."

**INTRODUCTION**

**SECTION 1.2.** The appropriations made in this act are for maximum amounts necessary to provide the services and accomplish the purposes described in the budget. Savings shall be effected where the total amounts appropriated are not required to perform these services and accomplish these purposes and, except as allowed by the State Budget Act or this act, the savings shall revert to the appropriate fund at the end of each fiscal year.

**PART II. CURRENT OPERATIONS AND EXPANSION GENERAL FUND**

**CURRENT OPERATIONS AND EXPANSION/GENERAL FUND**

**SECTION 2.1.** Appropriations from the General Fund of the State for the maintenance of the State's departments, institutions, and agencies and for other purposes as enumerated, are made for the fiscal biennium ending June 30, 2017, according to the following schedule:

<b>Current Operations – General Fund</b>	<b>FY 2015-2016</b>	<b>FY 2016-2017</b>
<b>EDUCATION</b>		
Community Colleges System Office	1,069,066,998	1,065,895,520
Department of Public Instruction	8,516,769,297	8,419,444,621
University of North Carolina – Board of Governors		
Appalachian State University	127,841,892	127,835,582
East Carolina University		
Academic Affairs	210,407,112	210,739,558
Health Affairs	73,527,686	73,527,686
Elizabeth City State University	33,759,228	33,759,228
Fayetteville State University	48,741,530	48,741,530
NC A&T State University	90,898,021	90,898,021
NC Central University	82,132,848	82,132,848
NC State University		
Academic Affairs	392,256,502	392,249,291
Agricultural Extension	38,595,927	38,595,927
Agricultural Research	53,099,332	53,099,332

G.S. 131D-4.6 and G.S. 131E-114. This prohibition shall not restrict the Department from doing any of the following:

- (1) Issuing a license to a facility that is acquiring an existing special care unit.
- (2) Issuing a license for a special care unit in any area of the State upon a determination by the Secretary of the Department of Health and Human Services that increased access to this type of care is necessary in that area during the moratorium imposed by this section.
- (3) Processing all completed applications for special care unit licenses received by the Division of Health Service Regulation along with the applicable license fee prior to June 1, 2013.
- (4) Issuing a license to a facility that was in possession of a certificate of need as of July 31, 2013, that included authorization to operate special care unit beds."

**SECTION 12G.2.(a1)** The Department shall submit a report to the Joint Legislative Oversight Committee on Health and Human Services by March 1, 2016, containing at least the following information:

- (1) The number of licensed special care units in the State.
- (2) The capacity of the currently licensed special care units to serve people in need of their services.
- (3) The anticipated growth in the number of people who will need the services of a licensed special care unit.
- (4) The number of applications received from special care units seeking licensure as permitted by this section, and the number of those applications that were not approved.

**SECTION 12G.2.(b)** This section is effective when this act becomes law.

## LICENSURE OF OVERNIGHT RESPITE FACILITIES

**SECTION 12G.3.(a)** Article 1 of Chapter 131D of the General Statutes is amended by adding a new section to read:

**"§ 131D-6.1. Licensure to offer overnight respite; rules; enforcement.**

(a) As used in this section, "overnight respite services" means the provision of group care and supervision in a place other than their usual place of abode on a 24-hour basis for a specified period of time to adults who may be physically or mentally disabled in order to provide temporary relief for a caregiver and includes services provided by any facility certified to provide adult day care services pursuant to G.S. 131D-6, or adult day health services pursuant to 10A NCAC, Chapter 06, Subchapter S, or both. Overnight respite services may include the services of the adult day care program or the adult day health program.

(b) Any facility described under subsection (a) of this section seeking to offer overnight respite services shall apply to the Department for licensure to offer a program of overnight respite services. The Department shall annually license facilities providing a program of overnight respite services under rules adopted by the Medical Care Commission pursuant to subsection (c) of this section. As part of the licensure process, the Division of Health Service Regulation shall inspect the construction projects associated with, and the operations of, each facility providing a program of overnight respite services for compliance with the rules adopted by the Medical Care Commission pursuant to subsection (c) of this section.

(c) The Medical Care Commission shall adopt rules governing the licensure of adult day care and adult day health facilities providing a program of overnight respite services in accordance with this section. The Medical Care Commission shall seek input from stakeholders before proposing rules for adoption as required by this subsection. The rules shall limit the provision of overnight respite services for each adult to (i) not more than 14 consecutive calendar days, and not more than 60 total calendar days, during a 365-day period or (ii) the amount of respite allowed under the North Carolina Innovations waiver or Community Alternatives Program for Disabled Adults (CAP/DA) waiver, as applicable. The rules shall include minimum requirements to ensure the health and safety of overnight respite participants. These requirements shall address all of the following:

- (1) Program management.
- (2) Staffing.
- (3) Building specifications.
- (4) Fire safety.

- (5) Sanitation.
- (6) Nutrition.
- (7) Enrollment.
- (8) Bed capacity limitations, which shall not exceed six beds in each adult day care program.
- (9) Medication management.
- (10) Program activities.
- (11) Personal care, supervision, and other services.

(d) The Medical Care Commission shall, as necessary, amend the rules pertaining to the provision of respite care in adult care homes and family care homes to address each of the categories enumerated in subsection (c) of this section.

(e) The Division of Health Service Regulation shall have the authority to enforce the rules adopted by the Medical Care Commission under subsections (c) and (d) of this section and shall be responsible for conducting annual inspections and investigating complaints pertaining to overnight respite services in facilities licensed to provide a program of overnight respite services.

(f) Each facility licensed to provide a program of overnight respite services under this section shall periodically report the number of individuals served and the average daily census to the Division of Health Service Regulation on a schedule determined by the Division.

(g) The Division of Health Service Regulation is authorized to do both of the following with respect to a facility licensed to provide overnight respite services under this section in a manner that complies with the provisions of G.S. 131D-2.7:

- (1) Suspend admissions to programs of overnight respite services in facilities licensed to provide these services.
- (2) Suspend or revoke a facility's license to provide a program of overnight respite services.

(h) Nothing in this section shall be construed to prevent a facility licensed to provide overnight respite services under this section from receiving State funds or participating in any government insurance plan, including the Medicaid program, to the extent authorized or permitted under applicable State or federal law.

(i) The Department shall charge each adult day care and each adult day health facility seeking to provide overnight respite services a nonrefundable initial licensure fee of three hundred fifty dollars (\$350.00) and a nonrefundable annual renewal licensure fee in the amount of three hundred fifteen dollars (\$315.00)."

**SECTION 12G.3.(b)** G.S. 131D-6(b) reads as rewritten:

"(b) As used in this section "adult day care program" means the provision of group care and supervision in a place other than their usual place of abode on a less than 24-hour basis to adults who may be physically or mentally ~~disabled~~, disabled, except that an adult day care program provider may provide overnight respite services on a 24-hour basis in accordance with G.S. 131D-6.1. The Department of Health and Human Services shall annually inspect and certify all adult day care programs, under rules adopted by the Social Services Commission. The Social Services Commission shall adopt rules to protect the health, safety, and welfare of persons in adult day care programs. These rules shall include minimum standards relating to management of the program, staffing requirements, building requirements, fire safety, sanitation, nutrition, and program activities. Adult day care programs are not required to provide transportation to participants; however, those programs that choose to provide transportation shall comply with rules adopted by the Commission for the health and safety of participants during transport.

The Department of Health and Human Services shall enforce the rules of the Social Services Commission."

**SECTION 12G.3.(c)** G.S. 131E-267(g) reads as rewritten:

"(g) The fee imposed for the review of the following residential construction projects is:

<b>Residential Project</b>	<b>Project Fee</b>
Family Care Homes	\$225.00 flat fee
ICF/MR Group Homes	\$350.00 flat fee
Group Homes: 1-3 beds	\$125.00 flat fee
Group Homes: 4-6 beds	\$225.00 flat fee
Group Homes: 7-9 beds	\$275.00 flat fee
<u>Adult Day Care Overnight Respite Facility</u>	<u>\$225.00 flat fee</u>

Adult Day Health Overnight Respite Facility

\$225.00 flat fee

Other residential:

More than 9 beds

\$275.00 plus \$0.15 per square foot of project space."

**SECTION 12G.3.(d)** Of the funds appropriated to the Department of Health and Human Services, Division of Health Service Regulation, the sum of eighty-two thousand six hundred six dollars (\$82,606) for the 2015-2016 fiscal year and the sum of eighty-eight thousand thirty-three dollars (\$88,033) for the 2016-2017 fiscal year shall be used to create one full-time equivalent Nursing Consultant position and one full-time equivalent Engineer/Architect position within the Division dedicated to inspecting adult day care, adult day health, adult care home, and family care home facilities seeking licensure to provide overnight respite services in accordance with G.S. 131D-6.1, as enacted by subsection (a) of this section.

**SECTION 12G.3.(e)** The Department of Health and Human Services, Division of Aging and Adult Services, shall add adult day care overnight respite programs as a service category under the Home and Community Care Block Grant. Counties may elect to use (i) an adult day care or adult day health facility licensed to provide a program of overnight respite under G.S. 131D-6.1, as enacted by subsection (a) of this section, (ii) an adult care home, or (iii) a family care home to provide overnight respite services to caregivers of older adults from funds received under the Home and Community Care Block Grant.

**SECTION 12G.3.(f)** The Department of Health and Human Services, Division of Medical Assistance, shall take any and all action necessary to amend the North Carolina Innovations waiver and the North Carolina Community Alternatives Program for Disabled Adults (CAP/DA) waiver for the purpose of allowing facilities licensed to provide adult day health overnight respite services under G.S. 131D-6.1, as enacted by subsection (a) of this section, to become allowable providers of overnight respite under each waiver.

**SECTION 12G.3.(g)** The overnight respite pilot program authorized under S.L. 2011-104 is repealed on the earlier of June 30, 2017, or the date the overnight respite licensure process established pursuant to G.S. 131D-6.1, as enacted by subsection (a) of this section, is implemented and fully operational. For the purpose of this subsection, the overnight respite licensure process shall not be deemed fully operational prior to the adoption of rules pursuant to G.S. 131D-6.1(c), as enacted by subsection (a) of this section. The Department of Health and Human Services shall report to the Revisor of Statutes the date that G.S. 131D-6.1, as enacted by subsection (a) of this section, is implemented and fully operational.

**SUBPART XII-H. DIVISION OF MEDICAL ASSISTANCE (MEDICAID)**

**REINSTATE MEDICAID ANNUAL REPORT**

**SECTION 12H.1.(a)** The Department of Health and Human Services, Division of Medical Assistance, shall reinstate the publication of the Medicaid Annual Report and accompanying tables, which was discontinued after 2008. The Division shall publish the report and tables on its Web site and shall not publish copies in print.

**SECTION 12H.1.(b)** If the Department of Health and Human Services, Division of Medical Assistance, has not complied with the requirements of subsection (a) of this section by June 1, 2016, then the Office of State Budget and Management shall not allot any funds to the Department of Health and Human Services, Division of Central Management and Support, until the 2015 Medicaid Annual Report and accompanying tables have been published in accordance with subsection (a) of this section.

**MEDICAID ELIGIBILITY**

**SECTION 12H.2.(a)** Families and children who are categorically and medically needy are eligible for Medicaid, subject to the following annual income levels:

Family Size	Categorically Needy Income Level	Medically Needy Income Level
1	\$ 5,208	\$ 2,904
2	6,828	3,804
3	8,004	4,404
4	8,928	4,800

**SECTION 33.3.** The Fiscal Research Division shall issue a report on budget actions taken by the 2015 Regular Session of the General Assembly. The report shall be in the form of a revision of the Committee Report adopted for House Bill 97 pursuant to G.S. 143C-5-5. The Director of the Fiscal Research Division shall send a copy of the report issued pursuant to this section to the Director of the Budget. The report shall be published on the General Assembly's Internet Web site for public access.

**ADJUSTMENT OF ALLOCATIONS TO GIVE EFFECT TO THIS ACT FROM JULY 1, 2015**

**SECTION 33.3A.(a)** The appropriations and authorizations to allocate and spend funds set out in S.L. 2015-133, S.L. 2015-184, and S.L. 2015-233 expire when this act becomes law. At such time, this act governs appropriations and expenditures.

When this act becomes law, the Director of the Budget shall adjust allocations to give effect to this act from July 1, 2015.

**SECTION 33.3A.(b)** Section 2.1 of S.L. 2015-214 is repealed.

**MOST TEXT APPLIES TO THE 2015-2017 FISCAL BIENNIUM**

**SECTION 33.4.** Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2015-2017 fiscal biennium, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2015-2017 fiscal biennium.

**EFFECT OF HEADINGS**

**SECTION 33.5.** The headings to the Parts, subparts, and sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act, except for effective dates referring to a Part or subpart.

**SEVERABILITY**

**SECTION 33.6.** 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.

**EFFECTIVE DATE**

**SECTION 33.7.** Except as otherwise provided, this act becomes effective July 1, 2015.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of September, 2015.

s/ Tom Apodaca  
Presiding Officer of the Senate

s/ Tim Moore  
Speaker of the House of Representatives

s/ Pat McCrory  
Governor

Approved 9:35 a.m. this 18<sup>th</sup> day of September, 2015