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HOUSE BILL 2245*
Committee Substitute Favorable 7/3/90
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Short Title: Prison Bonds/Cap.

(Public)

Sponsors:

Referred to:

June 1, 1990

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE ISSUANCE OF NOT IN EXCESS OF SEVENTY-FIVE MILLION DOLLARS BONDS OF THE STATE TO PROVIDE FUNDS, WITH ANY OTHER AVAILABLE FUNDS, FOR STATE PRISON FACILITIES, SUCH AUTHORIZED BONDS TO BE ISSUED WITHOUT AN ELECTION DURING THE BIENNIUM ENDED JUNE 30, 1991, IN AN AMOUNT NOT IN EXCESS OF SUCH AUTHORIZED AMOUNT AND NOT IN EXCESS OF TWO-THIRDS OF THE AMOUNT BY WHICH THE STATE'S OUTSTANDING INDEBTEDNESS SHALL HAVE BEEN REDUCED DURING THE 1987-89 BIENNIUM, AND TO RAISE THE PRISON POPULATION CAP.

The General Assembly of North Carolina enacts:

Section 1. **Short title.** This act shall be known and may be cited as the "Prison Facilities Legislative Bond Act of 1990."

Sec. 2. **Findings and determinations.** It is the intent and purpose of the General Assembly by this act to provide for the issuance of general obligation bonds of the State in order to facilitate the payment of the capital costs required in connection with providing additional prison facilities.

Sec. 3. **Definitions.** As used in this act, unless the context otherwise requires:

- (1) "Bonds" means the bonds issued under this act.

- 1 (2) " Cost" means, without intending thereby to limit or restrict any proper
2 definition of such word in financing the cost of State prison facilities
3 as authorized by this act,
4 a. The cost of constructing, reconstructing, enlarging, acquiring
5 and improving prison facilities, and acquiring equipment and
6 land therefor,
7 b. The cost of engineering, architectural and other consulting
8 services as may be required,
9 c. Administrative expenses and charges,
10 d. The cost of bond insurance, investment contracts, credit
11 enhancement and liquidity facilities, interest-rate swap
12 agreements, financial and legal consultants and related costs of
13 bond and note issuance, to the extent and as determined by the
14 State Treasurer, and
15 e. Any other costs and expenses necessary or incidental to the
16 purposes of this act.
- 17 (3) " Credit facility" means an agreement entered into by the State
18 Treasurer on behalf of the State with a bank, savings and loan
19 association or other banking institution, an insurance company,
20 reinsurance company, surety company or other insurance institution, a
21 corporation, investment banking firm or other investment institution,
22 or any financial institution or other similar provider of a credit facility,
23 which provider may be located within or without the United States of
24 America, such agreement providing for prompt payment of all or any
25 part of the principal or purchase price (whether at maturity,
26 presentment or tender for purchase, redemption or acceleration),
27 redemption premium, if any, and interest on any bonds or notes
28 payable on demand or tender by the owner, in consideration of the
29 State agreeing to repay the provider of the credit facility in accordance
30 with the terms and provisions of such agreement.
- 31 (4) " Notes" means the notes issued under this act.
- 32 (5) " Par formula" means any provision or formula adopted by the State to
33 provide for the adjustment, from time to time, of the interest rate or
34 rates borne by any bonds or notes, including:
35 a. A provision providing for such adjustment so that the purchase
36 price of such bonds or notes in the open market would be as
37 close to par as possible,
38 b. A provision providing for such adjustment based upon a
39 percentage or percentages of a prime rate or base rate, which
40 percentage or percentages may vary or be applied for different
41 periods of time, or
42 c. Such other provision as the State Treasurer may determine to be
43 consistent with this act and will not materially and adversely

1 affect the financial position of the State and the marketing of
2 bonds or notes at a reasonable interest cost to the State.

3 **Sec. 4. Authorization of bonds and notes.** The State Treasurer is hereby
4 authorized, by and with the consent of the Council of State as herein provided, to issue
5 and sell at one time or from time to time in the biennium ending June 30, 1991, general
6 obligation bonds of the State to be designated "State of North Carolina Capital
7 Improvement Bonds" or notes of the State as herein provided, in an aggregate principal
8 amount not to exceed seventy-five million dollars (\$75,000,000), said amount not being
9 in excess of two-thirds of the amount by which the State's outstanding indebtedness was
10 reduced during the biennium ended June 30, 1989, for the purpose of providing funds,
11 with any other available funds, for the uses authorized in this act.

12 If the seventy-five million dollars (\$75,000,000) maximum principal amount
13 of bonds and notes herein authorized shall be in excess of two-thirds of the amount by
14 which the State's outstanding indebtedness shall have been reduced during the biennium
15 ended June 30, 1989, and the amount of bonds and notes issued hereunder shall on that
16 account be less than seventy-five million dollars (\$75,000,000), the difference between
17 the proceeds of said bonds and notes and the seventy-five million dollars (\$75,000,000)
18 aggregate bond proceeds set forth above may be made up from other available sources
19 or the costs of the authorized uses may be reduced.

20 **Sec. 5. Uses of bond and note proceeds.** The proceeds of bonds and notes
21 shall be used for financing the cost of State prison facilities, under the supervision of the
22 Department of Correction, as herein provided, including, without limitation, the cost of
23 constructing capital facilities, renovating or reconstructing existing facilities, acquiring
24 equipment related thereto, purchasing land, paying costs of issuance of bonds and notes
25 and paying contractual services necessary for the completion of the purposes of this act.

26 The proceeds of bonds and notes, including premium thereon, if any, except
27 the proceeds of bonds the issuance of which has been anticipated by bond anticipation
28 notes or the proceeds of refunding bonds or notes, shall be placed by the State Treasurer
29 in a special fund to be designated the "State Prison Facilities Legislative Bond Fund of
30 1990" and shall be disbursed as herein provided.

31 Any additional moneys which may be received by means of a grant or grants
32 from the United States of America or any agency or department thereof or from any
33 other source to aid in financing the cost of any prison facilities authorized by this act
34 may be placed by the State Treasurer in the State Prison Facilities Legislative Bond
35 Fund of 1990 or in a separate fund and shall be disbursed, to the extent permitted by the
36 terms of such grant or grants, without regard to any limitations imposed by this act.

37 The proceeds of bonds and notes may be used with any other moneys made
38 available by the General Assembly for the cost of State prison facilities, including the
39 proceeds of any other State bond issues, whether heretofore made available or which
40 may be made available at the session of the General Assembly at which this act is
41 ratified or any subsequent sessions. The proceeds of bonds and notes shall be expended
42 and disbursed under the direction and supervision of the Director of the Budget. The
43 funds provided by this act shall be disbursed for the purposes provided in this act upon
44 warrants drawn on the State Treasurer by the State Comptroller, which warrants shall

1 not be drawn until requisition has been approved by the Director of the Budget and
 2 which requisition shall be approved only after full compliance with the Executive
 3 Budget Act, Article 1 of Chapter 143 of the General Statutes, as it may be amended
 4 from time to time.

5 The Office of State Budget and Management shall provide quarterly reports
 6 to the Joint Legislative Commission on Governmental Operations, the Chairpersons of
 7 the Senate and House Appropriation Committees, and the Fiscal Research Division on
 8 the expenditure of moneys from the State Prison Facilities Bond Fund. The reports
 9 shall continue until the completion of the projects provided for in the State Prison
 10 Facilities Legislative Bond Fund of 1990.

11 Sec. 6. Allocation of proceeds.

12 (1) **Descriptions, custodial levels, beds, projected allocations.** The
 13 proceeds of bonds and notes shall be allocated and expended for
 14 paying the cost of prison facilities, to the extent and as provided in this
 15 act and subject to change as herein provided, as follows:

<u>Project Description</u>	<u>Custodial Level</u>	<u>Beds</u>	<u>Projected Allocation</u>
17 Caswell Correctional 18 Center	Medium	104	\$ 3,456,536
19 Columbus Correctional 20 Center	Medium	104	3,087,200
21 Pender Correctional 22 Center	Medium	208	4,610,628
23 Western Institution	Close	480	28,724,300
24 Burke Youth Center	Minimum	100	2,782,956
25 Randolph Correctional 26 Center	Medium	208	6,239,363
27 Montgomery Correctional 28 Center	Medium	104	4,227,592
29 N.C. Correctional 30 Institution for Women 31 (A & B Dormitory 32 Replacement) 33 Anson or Lenoir 34 Correctional 35 Institution	Medium	208	3,720,110
36			
37 Contingencies			<u>1,525,898</u>
38			
39	Total		\$75,000,000
40			

41 The project listed as "Anson or Lenoir Correctional Institution" shall be
 42 constructed in Anson County, unless the County of Lenoir in a timely
 43 fashion makes sufficient land available to the State for the project at no
 44 cost to the State, and the land is found suitable by the Director of the

- 1 Budget, in which case the Director of the Budget may locate the
2 project in Lenoir County.
- 3 (2) **Increases in projected allocations.** Projected allocations set forth
4 above may be increased to reflect the availability of other funds,
5 including, without limitation, contingency funds, income earned on the
6 investment of bond and note proceeds and the proceeds of any grants.
- 7 (3) **Contingency funds.** The amount allocated for contingencies set forth
8 above shall be placed by the State Treasurer in a special account in the
9 State Prison Facilities Legislative Bond Fund of 1990 to be designated
10 the "State Prison Facilities Contingency Account." The funds in the
11 State Prison Facilities Contingency Account shall be disbursed in
12 accordance with the procedures herein established for disbursements
13 from the State Prison Facilities Legislative Bond Fund of 1990. The
14 funds in the State Prison Facilities Contingency Account shall be
15 expended for paying the cost of projects, including, without limitation,
16 the costs of issuance of bonds and notes, increased project costs
17 resulting from construction costs exceeding projected costs,
18 inflationary factors and changes in projects and allocations.
- 19 (4) **Administration.** The office of State Budget and Management may
20 contract for and supervise all aspects of administration, technical
21 assistance, design, construction or demolition of prison facilities in
22 order to implement the providing of prison facilities under the
23 provisions of this act without being subject to the requirements of the
24 following statutes and rules implementing those statutes: G.S. 143-
25 135.26(1), 143-128, 143-129, 143-131, 143-132, 143-134, 143-135.26,
26 143-64.10 through 143-64.13, 113A-1 through 113A-10, 113A-50
27 through 113-66, 133-1.1(b), 133-1.1(g) and 143-408.1; provided,
28 however, of the funds allocated under the provisions of this act for the
29 construction of prison facilities, the Office of State Budget and
30 Management shall have a verifiable ten percent (10%) goal for
31 participation by minority and women-owned businesses. All contracts
32 for the design, construction, or demolition of prison facilities shall
33 include a penalty for failure to complete the work by a specified date.
34 In implementing the providing of prison facilities under the provisions
35 of this act, the Office of State Budget and Management shall endeavor
36 to contract for and supervise the administration, technical assistance,
37 design, construction and demolition of prison facilities such that, of the
38 projects described in subsection (1), prison facilities providing at least
39 1,556 beds shall be completed and placed in service within 12 months
40 of the date that bonds are issued pursuant to this act.
- 41 (5) **Changes.** The Director of the Budget is empowered, when the
42 Director determines it is in the best interest of the State and the State
43 prison system to do so, and if the cost of a particular project is less
44 than the projected allocation, to use the excess funds to increase the

1 size of that project or increase the size of any other project itemized in
2 this section, or to increase the amount allocated to a particular
3 institution within the aggregate amount of funds available under this
4 act including the proceeds of any investment earnings. Prior to taking
5 any action under this subsection, the Governor may consult with the
6 Advisory Budget Commission.

- 7 (6) **Quarterly reports.** The Office of State Budget and Management shall
8 provide quarterly reports to the Chairman of the Appropriations
9 Committee and the Base Budget Committee in the Senate, the
10 Chairman of the Appropriations Committee in the House, the Joint
11 Legislative Commission on Governmental Operations, and the Fiscal
12 Research Division as to any changes in projects and allocations made
13 under this section.

14 Sec. 7. Issuance of bonds and notes.

- 15 (1) **Terms and conditions.** Bonds or notes may bear such date or dates,
16 may be serial or term bonds or notes, or any combination thereof, may
17 mature in such amounts and at such time or times, not exceeding 40
18 years from their date or dates, may be payable at such place or places,
19 either within or without the United States of America, in such coin or
20 currency of the United States of America as at the time of payment is
21 legal tender for payment of public and private debts, may bear interest
22 at such rate or rates, which may vary from time to time, and may be
23 made redeemable before maturity, at the option of the State or
24 otherwise as may be provided by the State, at such price or prices,
25 including a price less than the face amount of the bonds or notes, and
26 under such terms and conditions, all as may be determined by the State
27 Treasurer, by and with the consent of the Council of State.

- 28 (2) **Signatures; form and denomination; registration.** Bonds or notes
29 may be issued as certificated or uncertificated obligations. If issued as
30 certificated obligations, bonds or notes shall be signed on behalf of the
31 State by the Governor or shall bear his facsimile signature, shall be
32 signed by the State Treasurer or shall bear his facsimile signature, and
33 shall bear the Great Seal of the State or a facsimile thereof shall be
34 impressed or imprinted thereon. If bonds or notes bear the facsimile
35 signatures of the Governor and the State Treasurer, the bonds or notes
36 shall also bear a manual signature which may be that of a bond
37 registrar, trustee, paying agent or designated assistant of the State
38 Treasurer. Should any officer whose signature or facsimile signature
39 appears on bonds or notes cease to be such officer before the delivery
40 of the bonds or notes, the signature or facsimile signature shall
41 nevertheless have the same validity for all purposes as if the officer
42 had remained in office until delivery and bonds or notes may bear the
43 facsimile signatures of persons who at the actual time of the execution
44 of the bonds or notes shall be the proper officers to sign any bond or

1 note although at the date of the bond or note such persons may not
2 have been such officers. The form and denomination of bonds or
3 notes, including the provisions with respect to registration of the bonds
4 or notes and any system for their registration, shall be as the State
5 Treasurer may determine in conformity with this act; provided,
6 however, that nothing in this act shall prohibit the State Treasurer from
7 proceeding, with respect to the issuance and form of the bonds or
8 notes, under the provisions of Chapter 159E of the General Statutes,
9 the Registered Public Obligations Act, as said Chapter may be
10 amended from time to time, as well as under this act.

- 11 (3) **Manner of sale; expenses.** Subject to determination by the Council of
12 State as to the manner in which bonds or notes shall be offered for
13 sale, whether at public or private sale, whether within or without the
14 United States of America and whether by publishing notices in certain
15 newspapers and financial journals, mailing notices, inviting bids by
16 correspondence, negotiating contracts of purchase or otherwise, the
17 State Treasurer is authorized to sell bonds or notes at one time or from
18 time to time at such rate or rates of interest which may vary from time
19 to time, and at such price or prices, including a price less than the face
20 amount of the bonds or notes, as the State Treasurer may determine.
21 All expenses incurred in the preparation, sale and issuance of bonds or
22 notes shall be paid by the State Treasurer from the proceeds of bonds
23 or notes or other available moneys.

- 24 (4) Notes; repayment.

- 25 a. By and with the consent of the Council of State, the State
26 Treasurer is hereby authorized to borrow money, and to execute
27 and issue notes of the State for the same, but only in the
28 following circumstances and under the following conditions:
29 1. For anticipating the sale of bonds to the issuance of
30 which the Council of State shall have given consent, if
31 the State Treasurer shall deem it advisable to postpone
32 the issuance of the bonds;
33 2. For the payment of interest on or any installment of
34 principal of any bonds then outstanding, if there shall not
35 be sufficient funds in the State treasury with which to
36 pay the interest or installment of principal as they
37 respectively become due;
38 3. For the renewal of any loan evidenced by notes herein
39 authorized;
40 4. For the providing of prison facilities as herein
41 authorized; and
42 5. For refunding bonds or notes as herein authorized.
43 b. Funds derived from the sale of bonds or notes may be used in
44 the payment of any bond anticipation notes issued under this

1 act. Funds provided by the General Assembly for the payment
2 of interest on or principal of bonds shall be used in paying the
3 interest on or principal of any notes and any renewals thereof,
4 the proceeds of which shall have been used in paying interest on
5 or principal of the bonds.

6 (5) **Refunding bonds and notes.** By and with the consent of the Council
7 of State, the State Treasurer is authorized to issue and sell refunding
8 bonds and notes pursuant to the provisions of the State Refunding
9 Bond Act, as it may be amended from time to time, for the purpose of
10 refunding bonds or notes issued pursuant to this act. The refunding
11 bonds and notes may be combined with any other issues of State bonds
12 and notes similarly secured.

13 (6) **Tax exemption.** Bonds and notes and their transfer (including any
14 profit made on the sale thereof) shall be exempt from all State, county
15 and municipal taxation or assessment, direct or indirect, general or
16 special, whether imposed for the purpose of general revenue or
17 otherwise, excluding inheritance and gift taxes. The interest on bonds
18 and notes shall not be subject to taxation as to income, nor shall the
19 bonds and notes be subject to taxation when constituting a part of the
20 surplus of any bank, trust company or other corporation.

21 (7) **Investment eligibility.** Bonds and notes are hereby made securities in
22 which all public officers, agencies and public bodies of the State and
23 its political subdivisions, all insurance companies, trust companies,
24 investment companies, banks, savings banks, savings and loan
25 associations, credit unions, pension or retirement funds, other financial
26 institutions engaged in business in the State, executors, administrators,
27 trustees and other fiduciaries may properly and legally invest funds,
28 including capital in their control or belonging to them. Bonds and
29 notes are hereby made securities which may properly and legally be
30 deposited with and received by any officer or agency of the State or
31 political subdivision of the State for any purpose for which the deposit
32 of bonds, notes or obligations of the State or any political subdivision
33 is now or may hereafter be authorized by law.

34 (8) **Faith and credit.** The faith and credit and taxing power of the State
35 are hereby pledged for the payment of the principal of and the interest
36 on bonds and notes.

37 Sec. 8. **Variable interest rates.** In fixing the details of bonds and notes, the
38 State Treasurer may provide that any of the bonds or notes may:

39 (1) Be made payable from time to time on demand or tender for purchase
40 by the owner thereof provided a credit facility supports the bonds or
41 notes, unless the State Treasurer specifically determines that a credit
42 facility is not required upon a finding and determination by the State
43 Treasurer that the absence of a credit facility will not materially and

1 adversely affect the financial position of the State and the marketing of
2 the bonds or notes at a reasonable interest cost to the State;

3 (2) Be additionally supported by credit facility;

4 (3) Be made subject to redemption or a mandatory tender for purchase
5 prior to maturity;

6 (4) Bear interest at a rate or rates that may vary for such period or periods
7 of time, all as may be provided in the proceedings providing for the
8 issuance of the bonds or notes, including, without limitation, such
9 variations as may be permitted pursuant to a par formula; and

10 (5) Be made the subject of a remarketing agreement whereby an attempt is
11 made to remarket bonds or notes to new purchasers prior to their
12 presentment for payment to the provider of the credit facility or to the
13 State.

14 If the aggregate principal amount repayable by the State under a credit facility
15 is in excess of the aggregate principal amount of bonds or notes secured by the credit
16 facility, whether as a result of the inclusion in the credit facility of a provision for the
17 payment of interest for a limited period of time or the payment of a redemption
18 premium or for any other reason, then the amount of authorized but unissued bonds or
19 notes during the term of such credit facility shall not be less than the amount of such
20 excess, unless the payment of such excess is otherwise provided for by agreement of the
21 State executed by the State Treasurer.

22 Sec. 9. Interpretation of act.

23 (a) **Additional method.** The foregoing sections of this act shall be deemed to
24 provide an additional and alternative method for the doing of the things authorized
25 thereby and shall be regarded as supplemental and additional to powers conferred by
26 other laws, and shall not be regarded as in derogation of any powers now existing.

27 (b) **Liberal construction.** This act, being necessary for the health and welfare of
28 the people of the State, shall be liberally construed to effect the purposes thereof.

29 (c) **Inconsistent provisions.** Insofar as the provisions of this act are inconsistent
30 with the provisions of any general laws, or parts thereof, the provisions of this act shall
31 be controlling.

32 (d) **Severability.** If any provision of this act or the application thereof to any
33 person or circumstance is held invalid, such invalidity shall not affect other provisions
34 or applications of the act which can be given effect without the invalid provision or
35 application, and to this end the provisions of this act are declared to be severable.

36 Sec. 10. Effective November 1, 1990, G.S. 148-4.1 reads as rewritten:

37 "§ 148-4.1. **Release of inmates.**

38 (a) Whenever the Secretary of Correction determines from data compiled by the
39 Department of Correction that it is necessary to reduce the prison population to a more
40 manageable level, he shall direct the Parole Commission to release on parole over a
41 reasonable period of time a number of prisoners sufficient to that purpose.

42 (b) Except as provided in subsection (c) and (e), only inmates who are otherwise
43 eligible for parole pursuant to Article 85 of Chapter 15A or pursuant to Article 3B of
44 this Chapter may be released under this section.

1 (c) Persons eligible for parole under Article 85A of Chapter 15A shall be eligible
2 for early parole under this section nine months prior to the discharge date otherwise
3 applicable, and six months prior to the date of automatic 90-day parole authorized by
4 G.S. 15A-1380.2.

5 (d) If the number of prisoners housed in facilities owned or operated by the State
6 of North Carolina for the Division of Prisons exceeds ninety-eight percent (98%) of
7 ~~18,715~~19,324 for 15 consecutive days, the Secretary of Correction shall notify the
8 Governor and the Chairman of the Parole Commission of this fact. Upon receipt of this
9 notification, the Parole Commission shall within 90 days release on parole a number of
10 inmates sufficient to reduce the prison population to ninety-seven percent (97%) of
11 ~~18,715~~19,324.

12 From the date of the notification until the prison population has been reduced to
13 ninety-seven percent (97%) of ~~18,715~~19,324, the Secretary may not accept any inmates
14 ordered transferred from local confinement facilities to the State prison system under
15 G.S. 148-32.1(b). Further, the Secretary may return any inmate housed in the State
16 prison system under an order entered pursuant to G.S. 148-32.1(b) to the local
17 confinement facility from which the inmate was transferred.

18 (e) In addition to those persons otherwise eligible for parole, from the date of
19 notification in subsection (d) until the prison population has been reduced to ninety-
20 seven percent (97%) of ~~18,715~~19,324, any person imprisoned only for a misdemeanor
21 also shall be eligible for parole and immediate termination upon admission,
22 notwithstanding any other provision of law, except those persons convicted under G.S.
23 20-138.1 of driving while impaired or any offense involving impaired driving.

24 (f) In complying with the mandate of subsection (d), the Parole Commission may
25 exercise the discretion granted to refuse parole by G.S. 15A-1371 in selecting felons to
26 be paroled under this section so long as the prison population does not exceed
27 ~~18,715~~19,324.

28 (g) In order to meet the requirements of this section, the Parole Commission shall
29 not parole any person convicted under Article 7A of Chapter 14 of a sex offense, under
30 G.S. 14-39, 14-41, or 14-43.3, under G.S. 90-95(h) of a drug trafficking offense, or
31 under G.S. 14-17. The Parole Commission may continue to consider the suitability for
32 release of such persons in accordance with the criteria set forth in Articles 85 and 85A
33 of Chapter 15A."

34 Sec. 11. Effective June 30, 1991, G.S. 148-4.1(d) as amended by Section 10
35 of this act reads as rewritten:

36 "(d) If the number of prisoners housed in facilities owned or operated by the State
37 of North Carolina for the Division of Prisons exceeds ninety-eight percent (98%) of
38 ~~19,324~~20,435 for 15 consecutive days, the Secretary of Correction shall notify the
39 Governor and the Chairman of the Parole Commission of this fact. Upon receipt of this
40 notification, the Parole Commission shall within 90 days release on parole a number of
41 inmates sufficient to reduce the prison population to ninety-seven percent (97%) of
42 ~~19,324~~20,435.

43 From the date of the notification until the prison population has been reduced to
44 ninety-seven percent (97%) of ~~19,324~~20,435, the Secretary may not accept any inmates

1 ordered transferred from local confinement facilities to the State prison system under
2 G.S. 148-32.1(b). Further, the Secretary may return any inmate housed in the State
3 prison system under an order entered pursuant to G.S. 148-32.1(b) to the local
4 confinement facility from which the inmate was transferred."

5 Sec. 12. Effective July 1, 1991, G.S. 148-4.1(e) as amended by Section 10 of
6 this act reads as rewritten:

7 "(e) In addition to those persons otherwise eligible for parole, from the date of
8 notification in subsection (d) until the prison population has been reduced to ninety-
9 seven percent (97%) of ~~19,324~~20,435, any person imprisoned only for a misdemeanor
10 also shall be eligible for parole and immediate termination upon admission,
11 notwithstanding any other provision of law, except those persons convicted under G.S.
12 20-138.1 of driving while impaired or any offense involving impaired driving."

13 Sec. 13. Effective July 1, 1991, G.S. 148-4.1(f) as amended by Section 10 of
14 this act reads as rewritten:

15 "(f) In complying with the mandate of subsection (d), the Parole Commission may
16 exercise the discretion granted to refuse parole by G.S. 15A-1371 in selecting felons to
17 be paroled under this section so long as the prison population does not exceed ~~19,324~~
18 20,435."

19 Sec. 14. The Secretary of Correction may advance or delay the effective date
20 of Sections 10 through 13 of this act by not more than 45 days from the dates provided
21 in this act, based on the availability or lack thereof of prison space.

22 Sec. 15. This act is effective upon ratification.