

GENERAL ASSEMBLY OF NORTH CAROLINA
SECOND EXTRA SESSION 1996

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HOUSE BILL 53
Senate Appropriations Committee Substitute Adopted 7/16/96

Short Title: Modify 1996-97 Budget.

(Public)

Sponsors:

Referred to: Pensions and Retirement/Insurance/State Personnel.

July 10, 1996

1 A BILL TO BE ENTITLED
2 AN ACT TO MODIFY THE CONTINUATION BUDGET OPERATIONS
3 APPROPRIATIONS ACT OF 1995, AND THE EXPANSION AND CAPITAL
4 IMPROVEMENTS APPROPRIATIONS ACT OF 1995, AND TO MAKE OTHER
5 CHANGES IN THE BUDGET OPERATION OF THE STATE.

6 The General Assembly of North Carolina enacts:

7
8 **PART 1. INTRODUCTION AND TITLE OF ACT**

9
10 **INTRODUCTION**

11 Section 1. The appropriations made in this act are for maximum amounts
12 necessary to provide the services and accomplish the purposes described in the budget.
13 Savings shall be effected where the total amounts appropriated are not required to
14 perform these services and accomplish these purposes and, except as allowed by the
15 Executive Budget Act, or this act, the savings shall revert to the appropriate fund at the
16 end of each fiscal year.

17
18 **TITLE OF ACT**

1 Sec. 1.1. This act shall be known as the Current Operations Appropriations
2 Act of 1996.

3
4 **PART 2. GENERAL FUND APPROPRIATIONS**

5
6 **CURRENT OPERATIONS/GENERAL FUND**

7 Sec. 2. Appropriations from the General Fund of the State for the maintenance
8 of the State departments, institutions, and agencies, and for other purposes as enumerated
9 are made for the biennium ending June 30, 1997, according to the schedule that follows.
10 Amounts set out in brackets are reductions from General Fund appropriations for the
11 1996-97 fiscal year.

13	<u>Current Operations - General Fund</u>			<u>1996-97</u>
14				
15	General Assembly			\$
16	110,000			
17				
18	Judicial			Department
19				6,2
20	41,167			
21				
22	Office of the Governor			
23	01. Office of the Governor (31,388)			
24	02. Office of State Budget			
25	and Management(37,689)			
26	03. Office of State Planning(5,000)			
27	04. Housing Finance Agency 3,500,000			
28				
29	Department	of	Secretary	of
30				State
31	,048			437
32				
33	Department	of	State	Treasurer
34				2,2
35	00,000			
36				
37	Department	of	Public	Education
38				103
39	,121,116			
40				
41	Department		of	Justice
42				930
43	,596			

1				
2	Department	of	Administration	
3			(27	
4	0,049)			
5				
6	Department	of	Agriculture	
7			1,0	
8	28,437			
9				
10	Department	of	Labor	
11			419	
12	,183			
13				
14	Department	of	Insurance	
15			1,8	
16	95,364			
17				
18	Department of Environment, Health, and			
19	Natural		Resources	
20			24,	
21	227,428			
22				
23	Office	of	Administrative	Hearings
24				262
25	,754			
26				
27	Department of Human Resources			
28	01. Office of the Secretary	897,466		
29	02. Division of Aging	5,150,231		
30	03. Division of Child Development	9,804,765		
31	04. Division of Services for the			
32	Deaf and Hard of Hearing	(148,984)		
33	05. Division of Social Services	(5,237,841)		
34	06. Division of Medical Assistance	(13,609,703)		
35	07. Division of Services			
36	for the Blind	(36,419)		
37	08. Division of Mental Health,			
38	Developmental Disabilities, and			
39	Substance Abuse Services	(6,968,927)		
40	09. Division of Facility Services	431,977		
41	10. Division of Vocational			
42	Rehabilitation Services	978,310		
43	11. Division of Youth Services	230,288		

1 Total Department of Human Resources
 2 (8,5
 3 08,837)
 4
 5 Department of Correction
 6 (37,
 7 798,668)
 8
 9 Department of Commerce
 10 01. Commerce 11,503,334
 11 02. MCNC (14,000,000)
 12 03. Rural Economic Development
 13 Center 2,650,000
 14 04. Biotechnology Center 1,000,000
 15
 16 Department of Revenue
 17 1,4
 18 70,587
 19
 20 Department of State Auditor
 21 175
 22 ,000
 23
 24 Department of Cultural Resources
 25 4,4
 26 66,303
 27
 28 Department of Crime Control
 29 and Public Safety
 30 382
 31 ,378
 32
 33 Office of the State Controller
 34 8,9
 35 35,985
 36
 37 University of North Carolina - Board
 38 of Governors
 39 01. General Administration 13,000,000
 40 02. University Institutional
 41 Programs 28,472,013
 42 03. Related Educational Programs 3,880,160
 43 04. University of North Carolina

- 1 at Chapel Hill
- 2 a. Academic Affairs (422,425)
- 3 b. Health Affairs (29,424)
- 4 05. North Carolina State University
- 5 at Raleigh
- 6 a. Academic Affairs (246,316)
- 7 06. University of North Carolina at
- 8 Greensboro (114,556)
- 9 07. University of North Carolina at
- 10 Charlotte (5,000)
- 11 08. University of North Carolina at
- 12 Asheville (4,500)
- 13 09. North Carolina Agricultural and
- 14 Technical State University (438,523)
- 15 10. Western Carolina University (91,286)
- 16 11. Appalachian State University (203,487)
- 17 12. University of North Carolina at Pembroke (3,190)
- 18 13. Winston-Salem State University (500)
- 19 14. Elizabeth City State
- 20 University (125,503)
- 21 15. Fayetteville State University (9,000)
- 22 16. North Carolina Central
- 23 University (67,779)
- 24 17. North Carolina School of the
- 25 Arts (317,543)
- 26 18. North Carolina School of
- 27 Science and Mathematics (28,036)
- 28 19. UNC Hospitals at Chapel Hill (4,300,000)

29 Total University of North
 30 Carolina - Board of Governors
 31 38,
 32 945,105
 33
 34 Department of Community Colleges
 35 19,
 36 576,317
 37
 38 State Board of Elections
 39 175
 40 ,000
 41

1	Contingency		and	Emergency
2				5,0
3	76,466			
4				
5	Salary		Adjustment	Fund
6				5,0
7	00,000			
8				
9	Reserve	for	Compensation	Increase
10				266
11	,732,066			
12				
13	Reserve	for	Military	Affairs
14				200
15	,000			
16				
17	Reserve	for	Moving	Expenses
18				4,0
19	00,000			
20				
21	Reduction		in	Postage
22				(30
23	0,000)			
24				
25	Retirement		Rate	Adjustment
26				(32
27	5,600)			
28				
29	Criminal	Justice	Information	System
30				500
31	,000			
32				
33	Reserve	for	Structured	Sentencing
34				1,4
35	33,800			
36				
37	GRAND TOTAL CURRENT OPERATIONS –			
38	GENERAL			
39				FUND
40				\$45
41	5,318,203			

1	Capital	Improvements	-	General	Fund
2					<u>199</u>
3	<u>6-1997</u>				
4					
5	Department of Administration				
6	Prison Construction				
7	1.	Southern Piedmont Area Unit	\$ 9,000,000		
8	2.	Modular Housing Units	5,000,000		
9	3.	Prison Unit Improvements	1,600,000		
10	4.	Plan and Design Facilities	4,350,000		
11					
12	Department of Environment, Health,				
13	and Natural Resources				
14	1.	Water Resources	8,705,000		
15	2.	Museum of Natural Sciences	500,000		
16					
17	University of North Carolina -				
18	Board		of		Governors
19	9,000,000				
20					
21	Department of Crime Control				
22	and Public Safety				
23	1.	National Guard Armory	87,567		
24					
25	TOTAL	\$ 38,242,567			

PART 3. CURRENT OPERATIONS/HIGHWAY FUND

29 Sec. 3. Appropriations from the Highway Fund of the State for the
30 maintenance and operation of the Department of Transportation, and for other purposes
31 as enumerated, are made for the biennium ending June 30, 1997, according to the
32 following schedule:

34	<u>Current Operations/Highway Fund</u>				<u>1996-97</u>
35					
36	Department of Transportation				
37	01.	Administration	\$ 960,000		
38	02.	Construction and Maintenance	2,206,000		
39	03.	Division of Motor Vehicles	1,894,190		
40	04.	Reserve for Salary Increases	14,150,000		
41					
42	Department of Public Instruction				<u>1,700,000</u>
43					

1 GRAND TOTAL CURRENT OPERATIONS/HIGHWAY FUND \$ 20,910,190

2
3 **CURRENT OPERATIONS/HIGHWAY FUND - NONRECURRING**
4 **APPROPRIATIONS**

5 Sec. 3.1. Appropriations are made from the Highway Fund of the 1996-97
6 fiscal year for use by the Department of Transportation, and for other purposes to provide
7 for one-time expenditures according to the following schedule:

8
9 Current Operations/Highway Fund - Nonrecurring 1996-97

10
11 Department of Transportation

- 12 01. Administration \$ 2,781,145
13 02. Construction and maintenance
14 (a) State Maintenance
15 (01) Contract Resurfacing 8,108,823
16 03. Division of Motor Vehicles 646,716
17 04. Reserve for Capital Projects 1,958,126

18
19 Department of Crime Control and Public Safety 3,288,000

20
21 GRAND TOTAL CURRENT OPERATIONS/HIGHWAY FUND -
22 NONRECURRING \$16,782,810

23
24 **PART 4. HIGHWAY TRUST FUND**

25
26 Sec. 4. In addition to the appropriations made by Section 4 of Chapter 324 of
27 the 1995 Session Laws, appropriations from the Highway Trust Fund are made for the
28 1996-97 fiscal year as follows:

- 29 01. Intrastate System \$ 8,569,105
30 02. Secondary Roads Construction 612,813
31 03. Urban Loops 3,464,990
32 04. State Aid - Municipalities 899,099
33 05. Program Administration 271,993
34 06. Transfer to General Fund _____ -

35
36 GRAND TOTAL/HIGHWAY TRUST FUND \$ 13,818,000

37 **PART 5. GENERAL FUND AVAILABILITY STATEMENTS**

38
39 Requested by: Senators Plyler, Perdue, Odom

40 **BUDGET REFORM STATEMENTS**

41 Sec. 5. The General Fund and availability used in developing the 1996-97
42 budget is as shown below:

- 43 (1) Composition of the 1996-97 beginning availability:

1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
17						
18						
19						
20	(2)	Beginning Unrestricted Fund Balance,				
21		July 1, 1996	\$368.7			
22						
23	(3)	Authorizations by the 1995 General Assembly				
24		for 1996-97:				
25		a. Revenue collections left				
26		unaddressed	242.1			
27		b. 1996-97 capital authorizations	<u>-47.8</u>	194.3		
28						
29	(4)	Projected revenue collections above 1995				
30		Session estimates under existing tax				
31		structure	109.4			
32						
33	(5)	Disproportionate Share Revenue Estimates				
34		lowered	-15.7			
35						
36	(6)	Non-tax Revenue				
37		a. Increase Court Fees	5.0			
38		b. Local Sales Tax—Local				
39		Government Commission	<u>1.2</u>	6.2		
40						
41	(7)	Reserve for Tax Reductions				
42		and Federal Retiree's Refunds	<u>-68.1</u>			
43						

TOTAL AVAILABILITY \$594.8

HIGHWAY FUND AVAILABILITY INCREASE

Sec. 5.1. Section 5.1 of Chapter 324 of the 1995 Session Laws reads as rewritten:

"Sec. 5.1. The Highway Fund appropriations availability used in developing the 1995-97 Highway Fund budget is shown below:

	<u>1995-96</u>	<u>1996-97</u>
Beginning Credit Balance	\$ 19,382,000	\$ 20,829,000
Estimated Revenue	1,023,228,000	1,046,316,000
<u>1,063,180,000</u>		
Reversions:		
Financial System Funds	1,300,000	
Ferry Credit Balance	200,000	
Capital Improvements	4,112,266	
Total Highway Fund Availability	\$1,048,222,226	\$1,046,316,000
<u>\$1,084,009,000</u>		

Requested by: Senator Martin of Guilford

DISPOSITION OF DISPROPORTIONATE SHARE RECEIPTS CLARIFICATION

Sec. 5.2. Section 6.8 of Chapter 324 of the 1995 Session Laws reads as rewritten:

"Sec. 6.8. For the 1995-97 fiscal biennium, as it receives funds associated with Disproportionate Share Payments from the State ~~psychiatric~~ hospitals, the Division of Medical Assistance shall deposit funds appropriated for the Medicaid program in a sum equal to the federal share of the Disproportionate Share Payments as nontax revenue. Any of these funds that are not appropriated by the General Assembly shall be reserved by the State Controller for future appropriation."

Requested by: Senators Perdue, Plyler, Odom

EXPENDITURE OF FUNDS FROM RESERVE FOR REPAIRS AND RENOVATIONS

Sec. 5.3. (a) Of the funds in the Reserve for Repairs and Renovations for the 1996-97 fiscal year, forty-six percent (46%), shall be allocated to the Board of Governors of The University of North Carolina for repairs and renovations pursuant to G.S.143-15.3A, in accordance with guidelines developed in The University of North Carolina Funding Allocation Model for Reserve for Repairs and Renovations, as approved by the Board of Governors of The University of North Carolina; and fifty-four percent (54%)

1 shall be allocated to the Office of State Budget and Management for repairs and
2 renovations pursuant to G.S. 143-15.3A.

3 Notwithstanding G.S. 143-15.3A, the Board of Governors may allocate funds
4 for the repair and renovation of facilities not supported from the General Fund if the
5 Board determines that sufficient funds are not available from other sources and that
6 conditions warrant General Fund assistance. Any such finding shall be included in the
7 Board's submission to the Joint Legislative Commission on Governmental Operations on
8 the proposed allocation of funds.

9 The Board of Governors and the Office of State Budget and Management
10 shall submit to the Joint Legislative Commission on Governmental Operations and to the
11 Fiscal Research Division of the Legislative Services Office, for their review, the
12 proposed allocation of these funds. Subsequent changes in the proposed allocations shall
13 be reported prior to expenditure to the Joint Legislative Commission on Governmental
14 Operations and to the Fiscal Research Division of the Legislative Services Office.

15 (b) Funds earmarked in the 1995-96 fiscal year for the Repairs and
16 Renovations Reserve but not appropriated are hereby appropriated. The Office of State
17 Budget and Management may allocate these funds for land acquisition, matching federal
18 funds, State grants, and grants-in-aid.

19 20 PART 7. GENERAL PROVISIONS

21
22 Requested by: Senators Plyler, Perdue, Odom

23 REPAIRS RESERVE ACCOUNT CHANGES

24 Sec. 7. (a) G.S. 143-15.2 reads as rewritten:

25 "§ 143-15.2. Use of General Fund credit balance.

26 The State Controller shall reserve up to one-fourth of any unreserved credit balance,
27 as determined on a cash basis, remaining in the General Fund at the end of each fiscal
28 year to the Savings Reserve Account as provided in G.S. 143-15.3, unless that would
29 result in the Savings Reserve Account having funds in excess of five percent (5%) of the
30 amount appropriated the preceding year for the General Fund operating budget, including
31 local government tax-sharing funds; in that case, only funds sufficient to reach the five
32 percent (5%) level shall be reserved. The State Controller shall also reserve ~~the greater of~~
33 ~~(i) one-fourth of any from the~~ unreserved credit balance, as determined on a cash basis,
34 remaining in the General Fund ~~and (ii) three percent (3%) of the replacement value of all~~
35 State buildings supported from the General Fund, at the end of each fiscal year to the
36 Repairs and Renovations Reserve Account as provided in G.S. 143-15.3A. The General
37 Assembly may appropriate that part of the anticipated General Fund credit balance not
38 expected to be reserved to the Savings Reserve Account or the Repairs and Renovations
39 Reserve Account only for capital improvements or other one-time expenditures. As used
40 in this section, the term 'unreserved credit balance' means the credit balance amount, as
41 determined on a cash basis, before funds are reserved by the Controller to the Savings
42 Reserve Account or the Repairs and Renovations Reserve Account pursuant to G.S. 143-
43 15.3 and G.S. 143-15.3A."

1 (b) G.S. 143-15.3A(a) reads as rewritten:

2 "(a) There is established a Repairs and Renovations Reserve Account as a restricted
3 reserve in the General Fund. The State Controller shall reserve to the Repairs and
4 Renovations Reserve Account ~~the greater of (i) one-fourth of any unreserved credit~~
5 ~~balance as determined on a cash basis, remaining in the General Fund and (ii) three~~
6 percent (3%) of the replacement value of all State buildings supported from the General
7 Fund, at the end of each fiscal year. As used in this section, the term 'unreserved credit
8 balance' means the credit balance amount, as determined on a cash basis, before funds are
9 reserved by the Controller to the Savings Reserve Account or the Repairs and
10 Renovations Reserve Account pursuant to this section and G.S. 143-15.3."

11
12 Requested by: Senator Odom

13 WESTERN CAROLINA CENTER FUNDS

14 Sec. 7.1. Of the funds allocated in Section 5.3 of this act to the Office of State
15 Budget and Management from the Repairs and Renovations Fund, up to three hundred
16 thirty-nine thousand three hundred fifty-seven dollars (\$339,357) may be used for Phase
17 II Retrofit to install a freestanding boiler at the Western Carolina Center.

18
19 Requested by: Senator Ballance

20 NCCU REPAIRS AND RENOVATIONS FUNDS

21 Sec. 7.2. Of the funds allocated in Section 5.3 of this act to the Board of
22 Governors of The University of North Carolina from the Repairs and Renovations Fund,
23 up to six million five hundred thousand dollars (\$6,500,000) shall be used to correct
24 OSHA violations at North Carolina Central University.

25
26 Requested by: Senator Plyler

27 CHANGES IN THE EXECUTION OF THE BUDGET

28 Sec. 7.3. (a) G.S. 120-76 is amended by adding a new subdivision to read:

29 "(8) The Joint Legislative Commission on Governmental Operations shall be
30 consulted by the Governor before the Governor does any of the
31 following:

- 32 a. Makes allocations from the Contingency and Emergency Fund.
33 b. Overexpends the total requirements of a program as enacted by
34 the General Assembly, except for trust funds as defined in G.S.
35 116-36.1(g).
36 c. Proceeds to reduce programs subsequent to a reduction of ten
37 percent (10%) or more in the federal fund level certified to a
38 department and any subsequent changes in distribution formulas.
39 d. Takes extraordinary measures under Article III, Section 5(3) of
40 the Constitution to effect necessary economies in State
41 expenditures required for balancing the budget due to a revenue
42 shortfall, including, but not limited to, the following: loans
43 among funds, personnel freezes or layoffs, capital project

1 reversions, program eliminations, and use of reserves. However,
2 if the Committee fails to meet within 10 calendar days of a
3 request by the Governor for its consultation, the Governor may
4 proceed to take the actions he feels are appropriate and necessary
5 and shall then report those actions at the next meeting of the
6 Commission.

7 e. Approves a new capital improvement project funded from gifts,
8 grants, receipts, special funds, self-liquidating indebtedness, and
9 other funds or any combination of funds for the project not
10 specifically authorized by the General Assembly. The budget for
11 each capital project must include projected revenues in an
12 amount not less than projected expenditures.

13 Notwithstanding the provisions of this subdivision or any other
14 provision of law requiring prior consultation by the Governor with the
15 Commission, whenever an expenditure is required because of an
16 emergency that poses an imminent threat to public health or public
17 safety, and is either the result of a natural event, such as a hurricane or a
18 flood, or an accident, such as an explosion or a wreck, the Governor
19 may take action under this subsection without consulting the
20 Commission if the action is determined by the Governor to be related to
21 the emergency. The Governor shall report to the Commission on any
22 expenditures made under this paragraph no later than 30 days after
23 making the expenditure and shall identify in the report the emergency,
24 the type of action taken, and how it was related to the emergency."

25 (b) G.S. 143-15.3A is amended by adding a new subsection to read:

26 "(c) The Governor shall consult with the Joint Legislative Commission on
27 Governmental Operations before making allocations from the Repairs and Renovations
28 Reserve Account.

29 Notwithstanding this subsection, whenever an expenditure is required because of an
30 emergency that poses an imminent threat to public health or public safety, and is either
31 the result of a natural event, such as a hurricane or a flood, or an accident, such as an
32 explosion or a wreck, the Governor may take action under this subsection without
33 consulting the Commission if the action is determined by the Governor to be related to
34 the emergency. The Governor shall report to the Commission on any expenditures made
35 under this paragraph no later than 30 days after making the expenditure and shall identify
36 in the report the emergency, the type of action taken, and how it was related to the
37 emergency."

38 (c) G.S. 143-12 reads as rewritten:

39 **"§ 143-12. Bills containing proposed appropriations.**

40 (a) The Director shall cause to be prepared and submitted to the General Assembly
41 the following bills:

42 (1) A bill containing all proposed current operations appropriations of the
43 budget for each year in the ensuing biennium, which shall be known as

1 the 'Current Operations Appropriations Bill', and a bill containing all
2 proposed capital appropriations of the budget for each year in the
3 ensuing biennium, which shall be known as the 'Capital Improvement
4 Appropriations Bill'.

5 (2) If necessary, a bill containing the Director of the Budget's views on
6 revenue for the ensuing biennium, which shall be known as the 'Budget
7 Revenue Bill', and shall provide an amount of revenue for the ensuing
8 biennium sufficient, in the opinion of the Director and the Commission,
9 to meet the appropriations contained in the Current Operations
10 Appropriations Bill and the Capital Improvement Appropriations Bill.

11 (3) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1034, s.
12 153.

13 (b) To the end that all expenses of the State may be brought and kept within the
14 budget, the Current Operations Appropriations Bill shall contain a specific sum as a
15 contingent or emergency appropriation, and shall allocate a specific portion of that sum to
16 a special reserve to be used solely for purposes as outlined in G.S. 143-23(a1)(3), (4), and
17 (5). The G.S. 143-23(a1)(2). Notwithstanding any other provision of law, the manner of
18 the allocation of such contingent or emergency appropriation shall be as follows: Any
19 institution, department, commission, or other agency or activity of the State, or other
20 activity in which the State is interested, desiring an allotment out of such contingent or
21 emergency appropriation, shall upon forms prescribed and furnished by the Director of
22 the Budget, present such request in writing to the Director of the Budget, with such
23 information as he may require, and if the Director of the Budget shall approve such
24 request, in whole or in part, and after consulting with the Joint Legislative Commission
25 on Governmental Operations, he shall forthwith present the same to the Governor and
26 Council of State, and upon their order only shall such allotment be made. If the Director
27 shall disapprove the request of such an allotment out of the emergency or contingent
28 appropriation, he shall transmit his refusal and his reason therefor to the Governor and
29 Council of State, for their information.

30 Funds allocated from the contingent or emergency appropriation may be used only for
31 the purpose for which they were allocated and may not be reallocated for another purpose
32 by the Governor. If the funds are not spent or encumbered for the purpose for which they
33 were allocated by the end of the fiscal biennium and if the Governor and the Council of
34 State do not reallocate them for that same purpose, the funds shall revert to the fund from
35 which the contingent or emergency appropriation was made. Also, if the funds are not
36 needed for the purpose for which they were allocated, the funds shall revert to the fund
37 from which the contingent or emergency appropriation was made.

38 (c) The Director of the Budget may, in preparation of the Appropriations and
39 Revenue Bills, seek the advice of the Advisory Budget Commission. If the Director and
40 the Commission shall not agree as to the Appropriations and Revenue Bills in substantial
41 particulars, the Director shall prepare the same, based on his conclusions and judgment,
42 and the Commission or any of its members retain the right to submit separately to the

1 General Assembly such statement of disagreement and the particulars thereof as they
2 shall find proper to submit as representing their own views."

3 (d) G.S. 143-15.3A(b) reads as rewritten:

4 "(b) The funds in the Repairs and Renovations Reserve Account shall be used only
5 for the repair and renovation of State facilities and related infrastructure that are
6 supported from the General Fund. Funds from the Repairs and Renovations Reserve
7 Account shall be used only for the following types of projects:

- 8 (1) Roof repairs and replacements;
- 9 (2) Structural repairs;
- 10 (3) Repairs and renovations to meet federal and State standards;
- 11 (4) Repairs to electrical, plumbing, and heating, ventilating, and air-
12 conditioning systems;
- 13 (5) Improvements to meet the requirements of the Americans with
14 Disabilities Act, 42 U.S.C. § 12101 et seq., as amended;
- 15 (6) Improvements to meet fire safety needs;
- 16 (7) Improvements to existing facilities for energy efficiency;
- 17 (8) Improvements to remove asbestos, lead paint, and other contaminants,
18 including the removal and replacement of underground storage tanks;
- 19 (9) Improvements and renovations to improve use of existing space;
- 20 (10) Historical restoration;
- 21 (11) Improvements to roads, walks, drives, utilities infrastructure; and
- 22 (12) Drainage and landscape improvements.

23 Funds from the Repairs and Renovations Reserve Account shall not be used for new
24 construction or the expansion of the footprint of an existing facility unless required in
25 order to comply with federal or State codes or standards.

26 The Director of the Budget shall not use funds in the Repairs and Renovations
27 Reserve Account unless the use has been approved by an act of the General ~~Assembly~~
28 Assembly or, if the General Assembly is not in session, the Director of the Budget has
29 first consulted with the Joint Legislative Commission on Governmental Operations under
30 G.S. 143-15.3A(c)."

31 (e) G.S. 143-18.1(c) reads as rewritten:

32 "(c) Upon the request of the administration of any State agency or institution, the
33 Director of the Budget may accept funds by gift or grant for the construction of a capital
34 improvement project not specifically provided for or authorized by the General
35 Assembly. These funds shall be placed in a special reserve account to be held by the State
36 Treasurer until the end of the biennium in which the account was established or until the
37 capital improvement project is authorized by the Director of the Budget, whichever
38 occurs first. These funds shall be invested and the interest thereon shall be added to the
39 reserve. If the project is not authorized by the end of that biennium, the State Treasurer
40 shall pay the funds accumulated in the special reserve account to the grantor or donor.
41 Upon the establishment of a special reserve account under this section, the Director of the
42 Budget shall notify the Speaker of the House and President of the Senate of the receipt of
43 the funds and the existence of the reserve account. Upon the request of the administration

1 of any State agency or institution, the Governor ~~may~~ may, under G.S. 120-76(8),
2 authorize the construction of a capital improvement project not specifically authorized by
3 the General Assembly if such project is to be fully funded by gifts, grants, receipts,
4 special funds, self-liquidating indebtedness, other funds, or any combination of funds, but
5 not including funds appropriated from the General Fund. All expenditures under this
6 authorization shall be handled in full compliance with the provisions of the Executive
7 Budget Act.

8 The agency shall support its request for such capital improvement project, or projects,
9 with the following information: the estimated annual operating costs for (i) utilities; (ii)
10 maintenance; (iii) repairs; (iv) additional personnel; (v) any and all other expenses to the
11 State resulting from the addition of this facility to the plant of the institution. Prior to
12 taking any action under this section to authorize a project, the Governor or the Director of
13 the Budget may consult with the Advisory Budget Commission and the Capital Planning
14 Commission."

15 (f) G.S. 143-23 reads as rewritten:

16 **"§ 143-23. All maintenance funds for itemized purposes; transfers between objects**
17 **or line items.**

18 (a) All appropriations now or hereafter made for the maintenance of the various
19 departments, institutions and other spending agencies of the State, are for the (i) purposes
20 or programs and (ii) objects or line items enumerated in the itemized requirements of
21 such departments, institutions and other spending agencies submitted to the General
22 Assembly by the Director of the Budget and the Advisory Budget Commission, as
23 amended by the General Assembly. The function of the Advisory Budget Commission
24 under this subsection applies only if the Director of the Budget consults with the
25 Commission in preparation of the budget.

26 (a1) ~~No transfers may be made between objects or line items in the budget of any~~
27 ~~department, institution, or other spending agency; however, with the approval of the~~
28 ~~Director of the Budget, a department, institution, or other spending agency may spend~~
29 ~~more than was appropriated for an object or line item if the overexpenditure is:~~

- 30 (1) ~~In a purpose or program for which funds were appropriated for that~~
31 ~~fiscal period and the total amount spent for the purpose or program is no~~
32 ~~more than was appropriated for the purpose or program for the fiscal~~
33 ~~period;~~
34 (2) ~~Required to continue a purpose or program because of unforeseen~~
35 ~~events, so long as the scope of the purpose or program is not increased;~~
36 (3) ~~Required by a court, Industrial Commission, or administrative hearing~~
37 ~~officer's order or award or to match unanticipated federal funds;~~
38 (4) ~~Required to respond to an unanticipated disaster such as a fire,~~
39 ~~hurricane, or tornado; or~~
40 (5) ~~Required to call out the National Guard.~~

41 ~~The Director of the Budget shall report on a quarterly basis to the Joint Legislative~~
42 ~~Commission on Governmental Operations, the Fiscal Research Division of the~~
43 ~~Legislative Services Office, and the State Auditor the reason if the amount expended for~~

1 a purpose or program is more than the amount appropriated for it from all sources. If the
2 overexpenditure was authorized under subdivision (2) of this subsection, the Director of
3 the Budget shall identify in the report the unforeseen event that required the
4 overexpenditure.

5 Notwithstanding the provisions of subsection (a) of this section, a department,
6 institution, or other spending agency may, with approval of the Director of the Budget,
7 spend more than was appropriated for:

8 (1) An object or line item within a purpose or program so long as the total
9 amount expended for the purpose or program is no more than was
10 appropriated from all sources for the purpose or program for the fiscal
11 period;

12 (2) A purpose or program, without consultation with the Joint Legislative
13 Commission on Governmental Operations, if the overexpenditure of the
14 purpose or program is:

15 a. Required by a court, Industrial Commission, or administrative
16 hearing officer's order;

17 b. Required to respond to an unanticipated disaster such as a fire,
18 hurricane, or tornado; or

19 c. Required to call out the National Guard.

20 The Director of the Budget shall report on a monthly basis to the Joint
21 Legislative Commission on Governmental Operations on any
22 overexpenditures under this subdivision; or

23 (3) A purpose or program, after consultation with the Joint Legislative
24 Commission on Governmental Operations in accordance with G.S. 120-
25 76(8), and only if: (i) the overexpenditure is required to continue the
26 purpose or programs due to complications or changes in circumstances
27 that could not have been foreseen when the budget for the fiscal period
28 was enacted and (ii) the scope of the purpose or program is not
29 increased. Total overexpenditures of a purpose or program for a fiscal
30 year under this subdivision shall be limited to the lesser of five hundred
31 thousand dollars (\$500,000) or ten percent (10%) of the amount
32 appropriated from all sources for the purpose or program.

33 (a2) Funds appropriated for salaries and wages are also subject to the limitation that
34 they may only be used for:

35 (1) Salaries and wages or for premium pay, overtime pay, longevity,
36 unemployment compensation, workers' compensation, temporary
37 wages, moving expenses of employees, payment of accumulated annual
38 leave, certain awards to employees, tort claims, and employer's social
39 security, retirement, and hospitalization payments;

40 (2) Contracted personal services if (i) the contract is for temporary services
41 or special project services, (ii) the term of the contract does not extend
42 beyond the fiscal year, (iii) the contract does not impose obligations on
43 the State after the end of the fiscal year; and (iv) the total of all

1 overexpenditures for contracted personal services approved in a
2 program for a fiscal year does not exceed the greater of five hundred
3 thousand dollars (\$500,000) or ten percent (10%) of the lapsed salary
4 funds in the program for the fiscal year; and

- 5 (3) Uses for which overexpenditures are permitted by ~~subdivisions (3), (4),~~
6 ~~and (5) subdivision (2)~~ of subsection (a1) of this section but the Director
7 of the Budget shall include such use and the reason for it in his ~~quarterly~~
8 ~~report to the Joint Legislative Commission on Governmental~~
9 ~~Operations, the Fiscal Research Division of the Legislative Services~~
10 ~~Office, and the State Auditor. monthly report to the Joint Legislative~~
11 ~~Commission on Governmental Operations.~~

12 Lapsed salary funds that become available from vacant positions are also subject to
13 the limitation that they may not be used for new permanent employee positions or to raise
14 the salary of existing employees.

15 ~~(a3) The requirements in this section that the Director of the Budget report to the~~
16 ~~Joint Legislative Commission on Governmental Operations and the State Auditor shall~~
17 ~~not apply to expenditures of receipts by entities that are wholly receipt supported, except~~
18 ~~for entities supported by the Wildlife Resources Fund.~~

19 ~~(a4) The State Auditor shall review the report received from the Director of the~~
20 ~~Budget to ensure that the transfer complied with the intent and the provisions of this~~
21 ~~Article and shall report the Auditor's findings to the Joint Legislative Commission on~~
22 ~~Governmental Operations and to the Fiscal Research Division.~~

23 (b) Repealed by Session Laws 1985, c. 290, s. 8.

24 (c) Transfers or changes as between objects or line items in the budget of the
25 Senate may be made by the President Pro Tempore of the Senate.

26 (d) Transfers or changes as between objects or line items in the budget of the
27 House of Representatives may be made by the Speaker of the House of Representatives.

28 (e) Transfers or changes as between objects or line items in the budget of the
29 General Assembly other than of the Senate and House of Representatives may be made
30 jointly by the President Pro Tempore of the Senate and the Speaker of the House of
31 Representatives.

32 (f) As used in this section:

- 33 (1) 'Object or line item' means a budgeted expenditure or receipt in the
34 budget enacted by the General Assembly that is designated by (i) a
35 thirteen-digit code in the 1000-object code series or (ii) an eleven-digit
36 code in all other object code series, in accordance with the Budget Code
37 Structure and the State Accounting System Uniform Chart of Accounts
38 set out in the Administrative Policies and Procedures Manual of the
39 Office of the State Controller.

- 40 (2) 'Purpose or program' means a group of objects or line items for support
41 of a specific activity outlined in the budget adopted by the General
42 Assembly that is designated by a nine-digit fund code in accordance
43 with the Budget Code Structure and the State Accounting System

1 Uniform Chart of Accounts set out in the Administrative Policies and
2 Procedures Manual of the Office of the State Controller."

3 (g) G.S. 143-25 reads as rewritten:

4 **"§ 143-25. Maintenance appropriations dependent upon adequacy of revenues to**
5 **support them.**

6 All maintenance appropriations now or hereafter made are hereby declared to be
7 maximum, conditional and proportionate appropriations, the purpose being to make the
8 appropriations payable in full in the amounts named herein if necessary and then only in
9 the event the aggregate revenues collected and available during each fiscal year of the
10 biennium for which such appropriations are made, are sufficient to pay all of the
11 appropriations in full; otherwise, the said appropriations shall be deemed to be payable in
12 such proportion as the total sum of all appropriations bears to the total amount of revenue
13 available in each of said fiscal years. The Director of the Budget is hereby given full
14 power and authority to examine and survey the progress of the collection of the revenue
15 out of which such appropriations are to be made, and to declare and determine the
16 amounts that can be, during each quarter of each of the fiscal years of the biennium
17 properly allocated to each respective appropriation. In making such examination and
18 survey, he shall receive estimates of the prospective collection of revenues from the
19 Secretary of Revenue and every other revenue collecting agency of the State. The
20 Director of the Budget may reduce all of said appropriations pro rata when necessary to
21 prevent an overdraft or deficit to the fiscal period for which such appropriations are
22 made. The Governor may also reduce all of said appropriations pursuant to Article III,
23 Section 5(3) of the Constitution after consulting with the Joint Legislative Commission
24 on Governmental Operations under G.S. 120-76(8) if prior consultation is required by
25 that section. The purpose and policy of this Article are to provide and insure that there
26 shall be no overdraft or deficit in the general fund of the State at the end of the fiscal
27 period, growing out of appropriations for maintenance and the Director of the Budget is
28 directed and required to so administer this Article as to prevent any such overdraft or
29 deficit. Prior to taking any action under this section to reduce appropriations pro rata, the
30 Governor may consult with the Advisory Budget Commission."

31 (h) G.S. 143-27 reads as rewritten:

32 **"§ 143-27. Appropriations to educational, charitable and correctional institutions**
33 **are in addition to receipts by them.**

34 All appropriations now or hereafter made to the educational institutions, and to the
35 charitable and correctional institutions, and to such other departments and agencies of the
36 State as receive moneys available for expenditure by them are declared to be in addition
37 to such receipts of said institutions, departments or agencies, and are to be available as
38 and to the extent that such receipts are insufficient to meet the costs anticipated in the
39 budget authorized by the General Assembly, of maintenance of such institutions,
40 departments, and agencies; Provided, however, that if the receipts, other than gifts and
41 grants that are unanticipated and are for a specific purpose only, collected in a fiscal year
42 by an institution, department, or agency exceed the receipts certified for it in General
43 Fund Codes or Codes, Highway Fund Codes, or Special Fund Codes, the Director of the

1 Budget shall decrease the amount he allots to that institution, department, or agency from
2 appropriations from that Fund by the amount of the excess, unless the Director of the
3 Budget has consulted with the Joint Legislative Commission on Governmental
4 Operations and unless the Director of the Budget finds that (i) the appropriations from
5 that Fund are necessary to maintain the function that generated the receipts at the level
6 anticipated in the certified Budget Codes for that Fund. Fund and (ii) the funds may be
7 expended in accordance with G.S. 143-23. Notwithstanding the foregoing provisions of
8 this section, receipts within The University of North Carolina realized in excess of
9 budgeted levels shall be available, up to a maximum of ten percent (10%) above
10 budgeted levels, for each Budget Code, in addition to appropriations, to support the
11 operations generating such receipts, as approved by the Director of the Budget.

12 The Office of State Budget and Management shall report to the Joint Legislative
13 Commission on Governmental Operations and to the Fiscal Research Division of the
14 Legislative Services Office within 30 days after the end of each quarter on expenditures
15 of receipts in excess of the amounts certified in General Fund ~~Codes or Codes~~, Highway
16 Fund ~~Codes Codes~~, or Special Fund Codes, that did not result in a corresponding reduced
17 allotment from appropriations from that Fund."

18 (i) G.S. 116-30.2 reads as rewritten:

19 **"§ 116-30.2. Appropriations to special responsibility constituent institutions.**

20 All General Fund appropriations made by the General Assembly for continuing
21 operations of a special responsibility constituent institution of The University of North
22 Carolina shall be made in the form of a single sum to each budget code of the institution
23 for each year of the fiscal period for which the appropriations are being made.
24 Notwithstanding G.S. 143-23(a1), G.S. 143-23(a2), and ~~G.S. 143-23(a3)~~, G.S. 143-23(a3)
25 and G.S. 120-76(8), each special responsibility constituent institution may expend the
26 General Fund monies so appropriated to it in the manner deemed by the Chancellor to be
27 calculated to maintain and advance the programs and services of the institutions,
28 consistent with the directives and policies of the Board of Governors. The preparation,
29 presentation, and review of General Fund budget requests of special responsibility
30 constituent institutions shall be conducted in the same manner as are requests of other
31 constituent institutions. The quarterly allotment procedure established pursuant to G.S.
32 143-17 shall apply to the General Fund appropriations made for the current operations of
33 each special responsibility constituent institution. All General Fund monies so
34 appropriated to each special responsibility constituent institution shall be recorded,
35 reported, and audited in the same manner as are General Fund appropriations to other
36 constituent institutions."

37 (j) G.S. 143-16.3 reads as rewritten:

38 **"§ 143-16.3. No expenditures for purposes for which the General Assembly has**
39 **considered but not enacted an appropriation.**

40 Notwithstanding any other provision of law, no funds from any source, except for
41 gifts, grants, and funds allocated from the Contingency and Emergency Fund ~~by the~~
42 ~~Council of State~~, in accordance with G.S. 143-12(b), may be expended for any purpose,
43 position, or other expenditure for which the General Assembly has considered but not

1 enacted an appropriation of funds for the current fiscal period. For the purpose of this
2 section, the General Assembly has considered a purpose, position, or other expenditure
3 when that purpose is included in a ~~bill~~ bill, amendment, or petition ~~or~~ and when any
4 committee of the Senate or the House of Representatives deliberates on that purpose."

5 (k) G.S. 116-30.1 reads as rewritten:

6 **"§ 116-30.1. Special responsibility constituent institutions.**

7 The Board of Governors of The University of North Carolina, acting on
8 recommendation made by the President of The University of North Carolina after
9 consultation by him with the State Auditor, may designate one or more constituent
10 institutions of The University as special responsibility constituent institutions. That
11 designation shall be based on an express finding by the Board of Governors that each
12 institution to be so designated has the management staff and internal financial controls
13 that will enable it to administer competently and responsibly all additional management
14 authority and discretion to be delegated to it. The Board of Governors, on
15 recommendation of the President, shall adopt rules prescribing management staffing
16 standards and internal financial controls and safeguards, including the lack of any
17 significant exceptions or audit findings in the annual financial audit by the State Auditor's
18 Office, that must be met by a constituent institution before it may be designated a special
19 responsibility constituent institution and must be maintained in order for it to retain that
20 designation. These rules shall not be designed to prohibit participation by a constituent
21 institution because of its size. These rules shall establish procedures for the President and
22 his staff to review the annual financial audit reports or any other special or performance
23 audit reports issued by the State Auditors Office for each special responsibility
24 constituent institution. The President shall take immediate action regarding reported
25 weaknesses in the internal control structure, deficiencies in the accounting records, and
26 noncompliance with rules and regulations. In any instance where such audit exceptions
27 are identified, the President shall notify the Chancellor of the particular special
28 responsibility constituent institution that such exceptions must be resolved to the
29 satisfaction of the State Auditor and the President of The University within a three-month
30 period commencing with the date of receipt of the published financial audit report. If the
31 exceptions are not satisfactorily resolved within a three-month period, the President of
32 The University shall recommend to the Board of Governors at its next meeting that the
33 designation of the particular institution as a special responsibility constituent institution
34 be terminated until such time as the exceptions are resolved to the satisfaction of the State
35 Auditor and the President of The University of North Carolina. However, once the
36 designation as a special responsibility constituent institution has been withdrawn by the
37 Board of Governors, reinstatement may not be effective until the beginning of the
38 following fiscal year at the earliest. Any actions taken by the Board of Governors with
39 respect to withdrawal or reinstatement of an institution's status as a special responsibility
40 constituent institution shall be reported immediately to the Joint Legislative Education
41 Oversight Committee.

42 The rules established under this section shall include review and consultation with the
43 State Auditor, the Director of the Office of State Personnel, and the Director of the

1 Division of State Purchasing and Contracts in ascertaining whether or not a constituent
 2 institution has the management staff and internal financial controls to administer the
 3 additional authorities authorized under G.S. 116-30.2, 116-30.4, and 143-53.1. Such
 4 review and consultation must take place no less frequently than once each biennium."

5
 6 **PART 8. GENERAL ASSEMBLY**

7
 8 Requested by: Senator Warren

9 **LEGISLATIVE SERVICES OFFICER POSITION**

10 Sec. 8. (a)G.S. 20-79.5(a) reads as rewritten:

11 "(a) Plates. – The State government officials listed in this section are eligible for a
 12 special registration plate under G.S. 20-79.4. The plate shall bear the number designated
 13 in the following table for the position held by the official.

Position	Number on Plate	
Governor		1
Lieutenant Governor		2
Speaker of the House of Representatives		3
President Pro Tempore of the Senate		4
Secretary of State		5
State Auditor		6
State Treasurer		7
Superintendent of Public Instruction		8
Attorney General		9
Commissioner of Agriculture		10
Commissioner of Labor		11
Commissioner of Insurance		12
Speaker Pro Tempore of the House		13
Legislative Administrative Officer		14
<u>Legislative Services Officer</u>		
Secretary of Administration		15
Secretary of Environment, Health, and Natural Resources		16
Secretary of Revenue		17
Secretary of Human Resources		18
Secretary of Commerce		19
Secretary of Correction		20
Secretary of Cultural Resources		21
Secretary of Crime Control and Public Safety	22	
Governor's Staff		23-29
State Budget Officer		30
State Personnel Director		31

1	Advisory Budget Commission Nonlegislative	
2	Member 32-41	
3	Chair of the State Board of Education	42
4	President of the U.N.C. System	43
5	Alcoholic Beverage Control Commission	44-46
6	Assistant Commissioners of Agriculture	47-48
7	Deputy Secretary of State	49
8	Deputy State Treasurer	50
9	Assistant State Treasurer	51
10	Deputy Commissioner for the Department of	
11	Labor 52	
12	Chief Deputy for the Department of	
13	Insurance 53	
14	Assistant Commissioner of Insurance	54
15	Deputies and Assistant to the Attorney	
16	General 55-65	
17	Board of Economic Development	
18	Nonlegislative Member	66-88
19	State Ports Authority Nonlegislative	
20	Member 89-96	
21	Utilities Commission Member	97-104
22	<u>Post-Release Supervision and</u>	
23	Parole Commission Member	105-109
24	State Board Member, Commission Member,	
25	or State Employee Not Named in List	110-200".

26 (b) G.S. 120-3.1(a)(3) reads as rewritten:

27 "(3) A subsistence allowance for meals and lodging at a daily rate equal to

28 the maximum per diem rate for federal employees traveling to Raleigh,

29 North Carolina, as set out at 58 Federal Register 67959 (December 22,

30 1993), while the General Assembly is in session and, except as

31 otherwise provided in this subdivision, while the General Assembly is

32 not in session when, with the approval of the Speaker of the House of

33 Representatives in the case of Representatives or the President Pro

34 Tempore of the Senate in case of Senators, the member is:

35 a. Traveling as a representative of the General Assembly or of its

36 committees or commissions, or

37 b. Otherwise in the service of the State.

38 A member who is authorized to travel, whether in or out of session,

39 within the United States outside North Carolina, may elect to receive, in

40 lieu of the amount provided in the preceding paragraph, a subsistence

41 allowance of twenty-six dollars (\$26.00) a day for meals, plus actual

42 expenses for lodging when evidenced by a receipt satisfactory to the

43 ~~Legislative Administrative Officer, Legislative Services Officer, the~~

1 latter not to exceed the maximum per diem rate for federal employees
2 traveling to the same place, as set out at 58 Federal Register 67950-
3 67964 (December 22, 1993) and at 59 Federal Register 23702-23709
4 (May 6, 1994)."

5 (c) G.S. 120-32.1 reads as rewritten:

6 "**§ 120-32.1. Use and maintenance of buildings and grounds.**

7 (a) The Legislative Services Commission shall:

8 (1) Establish policy for the use of the State legislative buildings and
9 grounds;

10 (2) Maintain and care for the State legislative buildings and grounds, but
11 the Commission may delegate the actual work of the maintenance of
12 those buildings and grounds to the Department of Administration, which
13 shall perform the work as delegated;

14 (3) Provide security for the State legislative buildings and grounds;

15 (4) Allocate space within the State legislative buildings and grounds; and

16 (5) Have the exclusive authority to assign parking space in the State
17 legislative buildings and grounds.

18 (b) The ~~Legislative Administrative Officer~~ Legislative Services Officer shall have
19 posted the rules adopted by the Legislative Services Commission under the authority of
20 this section in a conspicuous place in the State Legislative Building and the Legislative
21 Office Building. The ~~Legislative Administrative Officer~~ Legislative Services Officer
22 shall have filed a copy of the rules, certified by the chairman of the Legislative Services
23 Commission, in the office of the Secretary of State and in the office of the Clerk of the
24 Superior Court of Wake County. When so posted and filed, these rules shall constitute
25 notice to all persons of the existence and text of the rules. Any person, whether on his
26 own behalf or for another, or acting as an agent or representative of any person, firm,
27 corporation, partnership or association, who knowingly violates any of the rules adopted,
28 posted and filed under the authority of this section is guilty of a Class 1 misdemeanor.
29 Any person, firm, corporation, partnership or association who combines, confederates,
30 conspires, aids, abets, solicits, urges, instigates, counsels, advises, encourages or procures
31 another or others to knowingly violate any of the rules adopted, posted and filed under
32 the authority of this section is guilty of a Class 1 misdemeanor.

33 (c) The Legislative Services Commission may cause to be removed at the owner's
34 expense any vehicle parked in the State legislative buildings and grounds in violation of
35 the rules of the Legislative Services Commission and may cause to be removed any
36 vehicle parked in any State-owned parking space leased to an employee of the General
37 Assembly where the vehicle is parked without the consent of the employee to whom the
38 space is leased.

39 (d) For the purposes of this section, the term 'State legislative buildings and
40 grounds' means:

41 (1) At all times:

42 a. The State Legislative Building and the area between outer walls
43 of the State Legislative Building and the near curblineline of those

- 1 sections of Jones, Wilmington, Lane, and Salisbury Streets which
2 border land on which the State Legislative Building is situated;
3 b. The Legislative Office Building and the areas between its outer
4 walls and the near curblineline of those sections of Lane and
5 Salisbury Streets that border the land on which it is situated;
6 c. Any State-owned parking lot which is leased to the General
7 Assembly; and
8 d. The bridge between the State Legislative Building and the State
9 Governmental Mall.

10 (2) In addition, the surface area to the far curblineline of those sections of
11 Jones, Wilmington, Lane, and Salisbury Streets which border the land
12 on which the State Legislative Building is situated:

- 13 a. When the General Assembly is in regular or extra session; and
14 b. On other days on which one or more standing committees of
15 either or both houses of the General Assembly are meeting and
16 the ~~Legislative Administrative Officer~~ Legislative Services
17 Officer determines that additional parking is needed for the
18 functioning of the General Assembly and files notice of the
19 committee's or committees' meetings and his finding that
20 additional parking is needed in the office of the Secretary of State
21 and that of Clerk of the Superior Court of Wake County."

22 (d) G.S. 120-36.6 reads as rewritten:

23 "**§ 120-36.6. Legislative Fiscal Research staff participation.**

24 Legislative fiscal research staff members may attend all meetings of the Advisory
25 Budget Commission and all hearings conducted by or for the Commission, and may
26 accompany the Commission to inspect the facilities of the State. The ~~Legislative~~
27 ~~Administrative Officer~~ Legislative Services Officer shall designate a member of the
28 Fiscal Research staff, and a member of the General Research or Bill Drafting staff who
29 may attend all meetings of the Board of Awards and Council of State, unless the Board or
30 Council has voted to exclude them from the specific meeting, provided that no final
31 action may be taken while they are so excluded. The Legislative Services Officer and the
32 Director of Fiscal Research shall be notified of all such meetings, hearings and trips in
33 the same manner and at the same time as notice is given to members of the Board,
34 Commission or Council. The Legislative Services Officer and the Director of Fiscal
35 Research shall be provided with a copy of all reports, memoranda, and other
36 informational material which are distributed to the members of the Board, Commission,
37 or Council; these reports, memoranda and materials shall be delivered to the Legislative
38 Services Officer and the Director of Fiscal Research at the same time that they are
39 distributed to the members of the Board, Commission, or Council."

40 (e) G.S. 120-70.36 reads as rewritten:

41 "**§ 120-70.36. Staffing.**

42 The ~~Legislative Administrative Officer~~ Legislative Services Officer shall assign as
43 staff to the Joint Select Committee professional employees of the General Assembly, as

1 approved by the Legislative Services Commission. Clerical staff shall be assigned to the
2 Joint Select Committee through the offices of the Supervisor of Clerks of the Senate and
3 Supervisor of Clerks of the House of Representatives. The expenses of employment of
4 clerical staff shall be borne by the Joint Select Committee."

5 (f) G.S. 120-70.46 reads as rewritten:

6 **"§ 120-70.46. Staffing.**

7 The ~~Legislative Administrative Officer~~ Legislative Services Officer shall assign as
8 staff to the Environmental Review Commission professional employees of the General
9 Assembly, as approved by the Legislative Services Commission. Clerical staff shall be
10 assigned to the Environmental Review Commission through the offices of the Supervisor
11 of Clerks of the Senate and Supervisor of Clerks of the House of Representatives. The
12 expenses of employment of clerical staff shall be borne by the Environmental Review
13 Commission."

14 (g) G.S. 120-70.52(c) reads as rewritten:

15 "(c) The Committee shall be funded by appropriations made to the Highway Trust
16 Fund and allocated to the Intrastate System projects. Members of the Committee receive
17 subsistence and travel expenses as provided in G.S. 120-3.1. The Committee may
18 contract for consultants or hire employees in accordance with G.S. 120-32.02. The
19 Legislative Services Commission, through the ~~Legislative Administrative Officer,~~
20 Legislative Services Officer, shall assign professional staff to assist the Committee in its
21 work. Upon the direction of the Legislative Services Commission, the Supervisors of
22 Clerks of the Senate and of the House of Representatives shall assign clerical staff to the
23 Committee. The expenses for clerical employees shall be borne by the Committee."

24 (h) G.S. 120-70.65 reads as rewritten:

25 **"§ 120-70.65. Staffing.**

26 The ~~Legislative Administrative Officer~~ Legislative Services Officer shall assign as
27 staff to the Commission professional employees of the General Assembly, as approved
28 by the Legislative Services Commission. Clerical staff shall be assigned to the
29 Commission through the Offices of the Supervisor of Clerks of the Senate and Supervisor
30 of Clerks of the House of Representatives. The expenses of employment of clerical staff
31 shall be borne by the Commission."

32 (i) G.S. 120-70.82(c) reads as rewritten:

33 "(c) Members of the Committee receive subsistence and travel expenses as
34 provided in G.S. 120-3.1. The Committee may contract for consultants or hire employees
35 in accordance with G.S. 120-32.02. The Legislative Services Commission, through the
36 ~~Legislative Administrative Officer,~~ Legislative Services Officer, shall assign professional
37 staff to assist the Committee in its work. Upon the direction of the Legislative Services
38 Commission, the Supervisors of Clerks of the Senate and of the House of Representatives
39 shall assign clerical staff to the Committee. The expenses for clerical employees shall be
40 borne by the Committee."

41 (j) G.S. 120-70.92(c) reads as rewritten:

42 "(c) Members of the Committee receive subsistence and travel expenses as
43 provided in G.S. 120-3.1. The Legislative Services Commission, through the ~~Legislative~~

1 ~~Administrative Officer, Legislative Services Officer,~~ shall assign professional staff to
2 assist the Committee in its work. Upon the direction of the Legislative Services
3 Commission, the Supervisors of Clerks of the Senate and of the House of Representatives
4 shall assign clerical staff to the Committee. The expenses for clerical employees shall be
5 borne by the Committee."

6 (k) G.S. 120-70.95(c) reads as rewritten:

7 "(c) Members of the Committee receive subsistence and travel expenses as
8 provided in G.S. 120-3.1. The Committee may contract for consultants or hire employees
9 in accordance with G.S. 120-32.02. The Legislative Services Commission, through the
10 ~~Legislative Administrative Officer, Legislative Services Officer,~~ shall assign professional
11 staff to assist the Committee in its work. Upon the direction of the Legislative Services
12 Commission, the Supervisors of Clerks of the Senate and of the House of Representatives
13 shall assign clerical staff to the Committee. The expenses for clerical employees shall be
14 borne by the Committee."

15 (l) G.S. 120-70.102(c) reads as rewritten:

16 "(c) Members of the Committee receive subsistence and travel expenses as
17 provided in G.S. 120-3.1. The Committee may contract for consultants or hire employees
18 in accordance with G.S. 120-32.02. The Committee may meet in the Legislative
19 Building or the Legislative Office Building upon the approval of the Legislative Services
20 Commission. The Legislative Services Commission, through the ~~Legislative~~
21 ~~Administrative Officer, Legislative Services Officer,~~ shall assign professional staff to
22 assist the Committee in its work. Upon the direction of the Legislative Services
23 Commission, the Supervisors of Clerks of the Senate and of the House of Representatives
24 shall assign clerical staff to the Committee. The expenses for clerical employees shall be
25 paid by the Committee."

26 (m) G.S. 143-8 reads as rewritten:

27 "**§ 143-8. Reporting of legislative and judicial expenditures and financial needs.**

28 On or before the first day of September, biennially, in the even-numbered years, the
29 ~~Legislative Administrative Officer~~ Legislative Services Officer shall furnish the Director
30 a detailed statement of expenditures of the General Assembly for the current fiscal
31 biennium, and an estimate of its financial needs, itemized in accordance with the budget
32 classification adopted by the Director and approved and certified by the President ~~pro~~
33 ~~tempore~~ Pro Tempore of the Senate and the Speaker of the House of Representatives for
34 each year of the ensuing biennium, beginning with the first day of July thereafter. The
35 Administrative Officer of the Courts shall furnish the Director a detailed statement of
36 expenditures of the judiciary, and for each year of the current fiscal biennium an estimate
37 of its financial needs as provided by law, itemized in accordance with the budget
38 classification adopted by the Director and approved and certified by the Chief Justice for
39 each year of the ensuing biennium, beginning with the first day of July thereafter. The
40 Director shall include these estimates and accompanying explanations in the budget
41 submitted with such recommendations as the Director may desire to make in reference
42 thereto."

43 (n) G.S. 147-64.12(b) reads as rewritten:

1 "(b) The Auditor shall not conduct an audit on a program or activity for which he
2 had management responsibility or in which he has been employed during the preceding
3 two years. The General Assembly shall otherwise provide for the necessary audit of
4 programs and activities within the meaning of this subsection.

5 If the Auditor's hotline receives a report of allegations of improper governmental
6 activities in a program or activity that the Auditor is prohibited by this subsection from
7 auditing, the Hotline Manager shall transmit the report to the ~~Legislative Administrative~~
8 ~~Officer~~ Legislative Services Officer or his designee. The report shall retain the same
9 confidentiality after transmittal to the General Assembly that it had in the possession of
10 the Auditor."

11 (o) All powers, duties, and responsibilities assigned to the Legislative
12 Administrative Officer of the Legislative Services Commission, including the assignment
13 of professional and clerical staff to assist in the work of studies and commissions, shall be
14 transferred to the Legislative Services Officer of the Legislative Services Commission.
15 All rules and policies of the Legislative Services Commission relating to the Legislative
16 Administrative Officer shall apply to the Legislative Services Officer unless otherwise
17 expressly amended or repealed.

18
19 Requested by: Senator Warren

20 **EXTENSION OF TERRITORIAL JURISDICTION OF LEGISLATIVE**
21 **SERVICES COMMISSION TO ALL OF LANE STREET**

22 Sec. 8.1. G.S. 120-32.1(d) reads as rewritten:

23 "(d) For the purposes of this section, the term 'State legislative buildings and
24 grounds' means:

25 (1) At all times:

26 a. ~~The State Legislative Building and the area Building;~~

27 a1. The areas between the outer walls of the State Legislative
28 Building and the near curbline of those sections of Jones,
29 Wilmington, Lane, and Salisbury Streets which border land on
30 which the State Legislative Building it is situated;

31 a2. The area between the outer walls of the State Legislative
32 Building and the far curbline of that section of Lane Street which
33 borders the land on which it is situated;

34 b. The Legislative Office Building and the areas between its outer
35 walls and the near curbline of those sections of Lane and
36 Salisbury Streets that border the land on which it is situated;

37 c. Any State-owned parking lot which is leased to the General
38 Assembly; and

39 d. The bridge between the State Legislative Building and the State
40 Governmental Mall.

41 (2) In addition, the surface area to the far curbline of those sections of
42 Jones, Wilmington, ~~Lane,~~ and Salisbury Streets which border the land
43 on which the State Legislative Building is situated:

- 1 a. When the General Assembly is in regular or extra session; and
2 b. On other days on which one or more standing committees of
3 either or both houses of the General Assembly are meeting and
4 the Legislative Administrative Officer determines that additional
5 parking is needed for the functioning of the General Assembly
6 and files notice of the committee's or committees' meetings and
7 his finding that additional parking is needed in the office of the
8 Secretary of State and that of Clerk of the Superior Court of
9 Wake County."

10
11 Requested by: Senator Warren

12 **ACCESS TO STATE INFORMATION BY LEGISLATIVE SERVICES OFFICE**

13 Sec. 8.2. G.S. 120-32.01 reads as rewritten:

14 **"§ 120-32.01. Information to be supplied.**

15 (a) Every State department, State agency, or State institution shall furnish the
16 Legislative ~~Administrative Services~~ Office and the Research, Fiscal Research, and Bill
17 Drafting Divisions any information or records requested by them. Except when
18 accessibility is prohibited by a federal statute, federal regulation or State statute, every
19 State department, State agency, or State institution shall give the Legislative Services
20 Office and the Fiscal Research Division access to any data base or stored information
21 maintained by computer, telecommunications, or other electronic data processing
22 equipment, whether stored on tape, disk, or otherwise, and regardless of the medium for
23 storage or transmission.

24 (b) Notwithstanding subsection (a) of this section, access to the State Personnel
25 Management Information System ~~by the Legislative Administrative Office and by the~~
26 Research and Bill Drafting Divisions shall only be through the Fiscal Research Division."
27

28 Requested by: Senators Odom, Plyler, Perdue

29 **JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON TECHNOLOGY**
30 **CREATED**

31 Sec. 8.3. Chapter 120 of the General Statutes is amended by adding a new
32 Article to read:

33 **"ARTICLE 12L.**

34 **"JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON TECHNOLOGY.**

35 **"§ 120-70.110. Creation and membership of Joint Legislative Oversight Committee**
36 **on Technology.**

37 (a) The Joint Legislative Oversight Committee on Technology is established. The
38 Committee consists of 16 members as follows:

- 39 (1) Eight members of the Senate appointed by the President Pro Tempore of
40 the Senate, at least two of whom are members of the minority party; and
41 (2) Eight members of the House of Representatives appointed by the
42 Speaker of the House of Representatives, at least three of whom are
43 members of the minority party.

1 (b) Members of the Committee shall serve a term of two years beginning on
2 January 15 of each odd-numbered year. Members may complete a term of service on the
3 Committee even if they do not seek reelection or are not reelected to the General
4 Assembly, but resignation or removal from service in the General Assembly constitutes
5 resignation or removal from service on the Committee. A member continues to serve
6 until the member's successor is appointed. A vacancy shall be filled within 30 days by
7 the officer who made the original appointment.

8 **"§ 120-70.111. Powers and duties of Committee.**

9 (a) The Joint Legislative Oversight Committee on Technology may examine, on a
10 continuing basis, the status of technology in State government and recommend to the
11 General Assembly ways to improve the use of technology and information systems in
12 State government. The Committee may review and examine:

13 (1) The policies and procedures of the State Information Processing
14 Services and other executive agencies governing computer equipment
15 purchase and lease contracts, equipment maintenance contracts,
16 software support and maintenance contracts, contract programming
17 services, and data communications contracts.

18 (2) The current technological infrastructure of State government and
19 information systems use and needs in State government.

20 (3) Current charge structures for information processing in State
21 government, particularly charge structures at the State Information
22 Processing Services.

23 (4) Potential demands for additional information staff, equipment, software,
24 data communications, and consulting services in State government
25 during the next 10 years.

26 (5) Plans, policies, procedures, and rules of the Office of State Controller
27 with regard to the management and use of information technology
28 resources and training programs in the State departments and agencies.

29 (6) The desirability of establishing standards and guidelines for the
30 procurement of computer equipment and software in an economical and
31 cost-effective manner.

32 (7) Any other matters or issues related to technology that the Committee
33 considers necessary.

34 (b) The Committee may consult with the Information Resource Management
35 Commission on statewide technology strategies and initiatives and review all legislative
36 proposals and other recommendations of the Information Resource Management
37 Commission. The Committee also may consult with the Commission on School
38 Technology on the current use of learning and instructional management technologies for
39 the schools, the policies and procedures for the procurement of school technology, and
40 the local school system technology plans of the local school systems.

41 (c) The Committee shall report by March 1 of each year to the Appropriations
42 Committees of the Senate and House of Representatives concerning the Committee's
43 activities and findings and any recommendations for statutory changes.

1 **"§ 120-70.112. Organization of Committee.**

2 (a) The President Pro Tempore of the Senate and the Speaker of the House of
3 Representatives shall each designate a cochair of the Joint Legislative Oversight
4 Committee on Technology. The Committee shall meet at least once a quarter and may
5 meet at other times upon the joint call of the cochairs.

6 (b) A quorum of the Committee is nine members. No action may be taken except
7 by a majority vote at a meeting at which a quorum is present. While in the discharge of
8 its official duties, the Committee has the powers of a joint committee under G.S. 120-19
9 and G.S. 120-19.1 through G.S. 120-19.4.

10 (c) Members of the Committee receive subsistence and travel expenses as
11 provided in G.S. 120-3.1. The Committee may contract for consultants or hire employees
12 in accordance with G.S. 120-32.02. The Legislative Services Commission, through the
13 Legislative Services Officer, shall assign professional staff to assist the Committee in its
14 work. Upon the direction of the Legislative Services Commission, the Supervisors of
15 Clerks of the Senate and of the House of Representatives shall assign clerical staff to the
16 Committee. The expenses for clerical employees shall be paid by the Committee.

17 **"§ 120-70.113. Assistance.**

18 The Joint Legislative Oversight Committee on Technology, in the performance of its
19 duties, may request and shall receive information, cooperation, and assistance from every
20 department, board, bureau, agency, commission, or institution of this State, or from any
21 political subdivision of the State."

22
23 Requested by: Senators Plyler, Perdue, and Odom

24 **METHOD OF APPOINTMENT AND THE TERM OF OFFICE OF THE STATE**
25 **CONTROLLER**

26 Sec. 8.4. (a) Effective for the term beginning July 1, 1997, G.S. 143B-426.37(b)
27 reads as rewritten:

28 "(b) The State Controller shall be a person qualified by education and experience
29 for the office and shall be appointed by the Governor ~~subject to confirmation by the~~
30 ~~General Assembly.~~ The term of office of the State Controller shall be for ~~seven years; the~~
31 ~~first full term shall begin July 1, 1987.~~ four years, beginning July 1, 1997, and
32 quadrennially thereafter.

33 ~~The Governor shall submit the name of the person to be appointed, for confirmation~~
34 ~~by the General Assembly, to the President of the Senate and the Speaker of the House of~~
35 ~~Representatives by May 1 of the year in which the State Controller is to be appointed. If~~
36 ~~the Governor does not submit the name by that date, the President of the Senate and the~~
37 ~~Speaker of the House of Representatives shall submit a name to the General Assembly~~
38 ~~for confirmation.~~

39 In case of death, incapacity, resignation, removal by the Governor ~~for cause,~~ General
40 Assembly or vacancy for any other reason in the Office of State Controller prior to the
41 expiration of the term of office ~~while the General Assembly is in session,~~ the Governor
42 shall submit the name of a successor to the President of the Senate and the Speaker of the
43 House of Representatives ~~within four weeks after the vacancy occurs. If the Governor~~

1 ~~does not do so, the President of the Senate and the Speaker of the House of~~
2 ~~Representatives shall submit a name to the General Assembly for confirmation.~~

3 ~~In case of death, incapacity, resignation, removal by the Governor for cause, or~~
4 ~~vacancy for any other reason in the Office of State Controller prior to the expiration of~~
5 ~~the term of office while the General Assembly is not in session, the office, the General~~
6 ~~Assembly shall fill the vacancy for the remainder of the unexpired term. The Governor~~
7 ~~shall appoint a State Controller to serve on an interim basis pending confirmation~~
8 ~~appointment by the General Assembly. Assembly of a controller for the remainder of the~~
9 ~~unexpired term."~~

10 (b) The term of office of the first Controller appointed by the General Assembly
11 pursuant to G.S. 143B-426.37, as rewritten by subsection (a) of this section, shall
12 commence July 1, 1997.

14 PART 9. OFFICE OF STATE BUDGET AND MANAGEMENT

16 Requested by: Senator Warren

17 RESERVE FOR MOVING EXPENSE/STATE AGENCIES

18 Sec. 9. Funds appropriated in this act to the Reserve for State Agency Moving
19 Expense shall be used to pay for expenses involved in the relocation of State agencies.
20 The Office of State Budget and Management shall solicit requests for allocations from
21 this reserve from all agencies moving into the Old Education Building, the New
22 Education Building, the Old Revenue Building, and any other new building for which
23 construction will be completed during the 1996-97 fiscal year. The Office of State
24 Budget and Management shall first allocate funds needed to pay moving expenses and
25 other costs associated with moving, including telephone lines, data communication lines,
26 and related equipment. No funds may be expended to furnish new conference rooms,
27 reception areas, open space, and to add centralized filing systems until all agencies
28 scheduled to be moved have been relocated.

30 PART 10. DEPARTMENT OF ADMINISTRATION

32 Requested by: Senator Warren

33 DOA TO EVALUATE UTILIZATION OF "STATE-OWNED SPACE"

34 Sec. 10. The Department of Administration shall study and evaluate the
35 utilization of space in the facilities owned by the State. In its study the Department shall
36 consider the following: whether prime State office space is being used for storage
37 purposes rather than offices; which uses of State space do not need to be located in the
38 Capitol complex and could be located at other less expensive sites; and the merit, if any,
39 of consolidating agency offices currently sited in various locations into either a single
40 location or locations that are closer to each other in proximity. The Department shall
41 also develop a priority list that indicates which uses it is most important to locate in State-
42 owned space. Cost-effectiveness shall be a major criteria in establishing the priorities.

1 The Department of Administration shall develop a long-term plan to reduce the
2 State's dependency on leased office space and shall report to the General Assembly no
3 later than January 1, 1997, regarding the Department's findings, recommendations, and
4 the proposed long-term plan. The report shall also include the priority list developed by
5 the Department in accordance with this section.
6

7 Requested by: Senator Warren

8 **DIRECTOR OF THE BUDGET AND STATE CONSTRUCTION MAY TIME**
9 **SELECTION OF DESIGNERS AND RELEASE OF DESIGN AND**
10 **CONSTRUCTION FUNDS TO AVOID INFLATION DUE TO MARKET PRICES**
11 **BEING INCREASED BY THE NUMBER OF CONTRACTS**

12 Sec. 10.1. G.S. 143-135.26(1) reads as rewritten:

13 "(1) To adopt rules establishing standard procedures and criteria to assure
14 that the designer selected for each State capital improvement project and
15 the consultant selected for planning and studies of an architectural and
16 engineering nature associated with a capital improvement project or a
17 future capital improvement project has the qualifications and experience
18 necessary for that capital improvement project or the proposed planning
19 or study project. The rules shall provide that the State Building
20 Commission, after consulting with the funded agency, is responsible
21 and accountable for the final selection of the designer and the final
22 selection of the consultant except when the General Assembly or The
23 University of North Carolina is the funded agency. When the General
24 Assembly is the funded agency, the Legislative Services Commission is
25 responsible and accountable for the final selection of the designer and
26 the final selection of the consultant, and when the University is the
27 funded agency, it shall be subject to the rules adopted hereunder, except
28 it is responsible and accountable for the final selection of the designer
29 and the final selection of the consultant. All designers and consultants
30 shall be selected within 60 days of the date funds are appropriated for a
31 project by the General Assembly or the date of project authorization by
32 the Director of the Budget; provided, however, the State Building
33 Commission may grant an exception to this requirement upon written
34 request of the funded agency if (i) no site was selected for the project
35 before the funds were appropriated or (ii) funds were appropriated for
36 advance planning ~~only~~ only; provided, further, the Director of the
37 Budget, after consultation with the State Construction Office, may
38 waive the 60-day requirement for the purpose of minimizing project
39 costs through increased competition and improvements in the market
40 availability of qualified contractors to bid on State capital improvement
41 projects. The Director of the Budget also may, after consultation with
42 the State Construction Office, schedule the availability of design and
43 construction funds for capital improvement projects for the purpose of

1 minimizing project costs through increased competition and
2 improvements in the market availability of qualified contractors to bid
3 on State capital improvement projects.

4 The State Building Commission shall submit a written report to the
5 Joint Legislative Commission on Governmental Operations on the
6 Commission's selection of a designer for a project within 30 days of
7 selecting the designer."
8

9 Requested by: Senator Warren

10 **MOTOR FLEET MANAGEMENT MODIFICATIONS**

11 Sec. 10.3. G.S. 143-341(8)7a.vii is repealed.
12

13 Requested by: Senator Warren

14 **PROCEEDS OF TIMBER SALES MAY BE USED FOR VETERANS HOMES**

15 Sec. 10.4. Notwithstanding any other provision of law, the net proceeds
16 derived from the sale of timber from land owned by or under the supervision and control
17 of the Department of Administration, Division of Veterans Affairs, shall be deposited in
18 the North Carolina Veterans Home Trust Fund and shall be used for the purposes set out
19 in G.S. 165-48.
20

21 **PART 11. DEPARTMENT OF CULTURAL RESOURCES**

22

23 Requested by: Senator Warren

24 **RESERVE FUNDS MAY BE USED FOR MUSEUM OF THE ALBEMARLE OR** 25 **OTHER ALBEMARLE AREA HISTORIC SITES**

26 Sec. 11. Of the funds appropriated in Section 2 of Chapter 324 of the 1995
27 Session Laws to the Department of Cultural Resources, the sum of forty-seven thousand
28 eight hundred eighty-seven dollars (\$47,887) which is in reserve in the budget of the
29 Department of Cultural Resources for the 1996-97 fiscal year may be used either for the
30 Museum of the Albemarle or for other Albemarle area historic sites.
31

32 Requested by: Senator Warren

33 **ROANOKE ISLAND HISTORICAL ASSOCIATION**

34 Sec. 11.1. G.S. 143-200 reads as rewritten:

35 **"§ 143-200. Members of board of directors; terms; appointment.**

36 The governing body of said Association shall be a board of directors consisting of the
37 Governor of the State, the Attorney General and the Secretary of Cultural Resources as
38 ex officio members, and the following 21 members: J. Spencer Love, Greensboro; Miles
39 Clark, Elizabeth City; Mrs. Richard J. Reynolds, Winston-Salem; D. Hiden Ramsey,
40 Asheville; Mrs. Charles A. Cannon, Concord; Dr. Fred Hanes, Durham; Mrs. Frank P.
41 Graham, Chapel Hill; Bishop Thomas C. Darst, Wilmington; W. Dorsey Pruden,
42 Edenton; John A. Buchanan, Durham; William B. Rodman, Jr., Washington; J. Melville
43 Broughton, Raleigh; Melvin R. Daniels, Manteo; Paul Green, Chapel Hill; Samuel

1 Selden, Chapel Hill; R. Bruce Etheridge, Manteo; Theodore S. Meekins, Manteo; Roy L.
2 Davis, Manteo; M. K. Fearing, Manteo; A. R. Newsome, Chapel Hill. The members of
3 said board of directors herein named other than the ex officio members, shall serve for a
4 term of two years and until their successors are appointed. Appointments thereafter shall
5 be made by the membership of the Association in regular annual meeting or special
6 meeting called for such ~~purpose, and in purpose.~~ In the event the Association through its
7 membership should fail to make such appointments, then the appointments shall be made
8 by the Governor of the State. If a vacancy occurs between annual meetings, the board of
9 directors may fill the vacancy until the next annual meeting. All vacancies ~~Vacancies~~
10 occurring on the board of directors not filled by the board of directors within 30 days of
11 the vacancy shall be filled by the Governor of the State."
12

13 Requested by: Senator Warren

14 **DEPARTMENT OF CULTURAL RESOURCES TO REVIEW ADMISSION**
15 **RATES FOR HISTORIC SITES**

16 Sec. 11.2. The Department of Cultural Resources shall review the admission
17 fees and concession prices charged at each historic site. The Department shall evaluate
18 on a site-by-site basis whether those charges are competitive with the admission fees and
19 concession prices charged at other historic sites and how an increase in prices would
20 impact visitation of each site. The Department of Cultural Resources shall report its
21 findings and recommendations to the 1997 General Assembly.
22

23 Requested by: Senator Warren

24 **DEPARTMENT OF CULTURAL RESOURCES RETAIN HISTORICAL**
25 **PUBLICATIONS RECEIPTS**

26 Sec. 11.3. The Historical Publications Section, Division of Archives and
27 History, Department of Cultural Resources, may retain the receipts, including over-
28 realized receipts, from the sale of its publications. The receipts from the sale of those
29 publications retained by the Historical Publications Section, Division of Archives and
30 History, Department of Cultural Resources, shall not revert, but shall be used to reprint
31 the publications.
32

33 Requested by: Senator Warren

34 **DEPARTMENT OF CULTURAL RESOURCES TO STUDY THE HISTORIC**
35 **SIGNIFICANCE OF THE PRINCEVILLE CEMETERY AND OF SOUTH**
36 **GRANVILLE MEMORIAL GARDENS**

37 Sec. 11.4 The Department of Cultural Resources shall study the historical
38 significance of the cemetery located in Princeville, the oldest African-American
39 community in North America and shall also study the historical significance of the
40 cemetery in Butner, known as South Granville Memorial Gardens. The Department shall
41 consider what efforts should be taken to preserve and maintain the cemeteries, and shall
42 also consider whether the cemetery in Princeville should be nominated to the National

1 Register of Historic Places. The Department shall report its findings and
2 recommendations to the 1997 General Assembly.

3 4 **PART 11A. DEPARTMENT OF INSURANCE**

5
6 Requested by: Senator Warren

7 **CONSTRUCTION CODE RECEIPTS**

8 Sec. 11A. Section 13 of Chapter 324 of the 1995 Session Laws reads as
9 rewritten:

10 "Sec. 13. Departmental receipts realized by the Department of Insurance in excess of
11 amounts approved for expenditure by the General Assembly, as adjusted by the Office of
12 State Budget and Management to reflect the distribution of statewide reserves, shall
13 revert to the General Fund at the end of each fiscal year. This section shall not apply to
14 receipts realized by the Department from the sale of copies of the State construction code
15 if the receipts are used for the purchase of copies of the code for sale to the public, except
16 that unspent construction code receipts shall revert to the General Fund at the end of each
17 fiscal year."

18 19 **PART 13. DEPARTMENT OF SECRETARY OF STATE**

20
21 Requested by: Senator Warren

22 **INVESTOR PROTECTION AND EDUCATION TRUST FUND**

23 Sec. 13. Article 4 of Chapter 147 of the General Statutes is amended by
24 adding a new section to read:

25 **"§ 147-54.5. Investor Protection and Education Trust Fund; administration;**
26 **limitations on use of the Fund.**

27 (a) The Investor Protection and Education Trust Fund created in the Department of
28 the Secretary of State as an expendable trust account to be used by the Secretary of State
29 only for the purposes set forth in this section.

30 (b) The proceeds of the Investor Protection and Education Trust Fund shall be
31 used by the Secretary of State to provide investor protection and education to the general
32 public and to potential securities investors in the State through:

33 (1) The use of the media, including television and radio public service
34 announcements and printed materials; and

35 (2) The sponsorship of educational seminars, whether live, recorded, or
36 through other electronic means.

37 (c) The proceeds of the Investor Protection and Education Trust Fund shall not be
38 used for:

39 (1) Travel expenses of the Secretary of State or staff of the Department of
40 the Secretary of State, unless those expenses are directly related to
41 specific investor protection and education activities performed in
42 accordance with this section.

1 (2) General operating expenses of the Department of the Secretary of State,
2 or to supplement General Fund appropriations to the Department of the
3 Secretary of State for other than investor education and protection
4 activities.

5 (3) Promoting the Secretary of State or the Department of the Secretary of
6 State.

7 (d) Expenditures from the Investor Protection and Education Trust Fund shall be
8 made in compliance with State purchasing and contracting requirements for competitive
9 bidding in accordance with the provisions of Article 3 of Chapter 143 of the General
10 Statutes.

11 (e) Revenues derived from consent orders resulting from negotiated settlements of
12 securities investigations by the Secretary of State shall be credited to the Fund. The State
13 Treasurer shall invest the assets of the Fund according to law. Any interest or other
14 investment income earned by the Investor Protection and Education Trust Fund shall
15 remain in the Fund. The balance of the Investor Protection and Education Trust Fund at
16 the end of each fiscal year shall not revert to the General Fund.

17 (f) Beginning January 1, 1997, the Department of the Secretary of State shall
18 report annually to the General Assembly's Fiscal Research Division and to the Joint
19 Legislative Commission on Governmental Operations on the expenditures from the
20 Investor Protection and Education Trust Fund and on the effectiveness of investor
21 awareness education efforts of the Department of the Secretary of State."

22 23 **PART 14. OFFICE OF STATE CONTROLLER**

24
25 Requested by: Senator Warren

26 **NORTH CAROLINA INFORMATION HIGHWAY**

27 Sec. 14. (a) The funds appropriated in this act to the Office of the State
28 Controller for the operation of the North Carolina Information Highway shall be used
29 only for costs incurred by the Office of the State Controller related to the operations and
30 support of the North Carolina Information Highway. No funds appropriated in this act
31 shall be expended to pay Minimum Monthly usage charges for North Carolina
32 Information Highway Services.

33 (b) Of the funds appropriated to the Office of the State Controller for the North
34 Carolina Information Highway (NCIH), an amount not to exceed five hundred thousand
35 dollars (\$500,000) shall be used to expand the long distance capacity and provide for the
36 establishment of regional hubs in each of the seven LATAS in North Carolina. The
37 remaining funds shall be used to help defray the costs of existing NCIH sites except those
38 located at university sites other than East Carolina University academic affairs campus.
39 Any savings accrued shall be placed in reserve in the Office of the State Controller for
40 consideration by the 1997 General Assembly.

41 (c) Beginning October 1, 1996, the State Controller shall report quarterly to the
42 Joint Legislative Commission on Governmental Operations regarding the costs incurred
43 by the Office of the State Controller related to the operations and support of the North

1 Carolina Information Highway and the savings placed in reserve in the Office of the State
2 Controller.

3
4 Requested by: Senators Warren, Little

5 **RESERVE FOR THE YEAR 2000 CONVERSION OF THE STATE'S**
6 **COMPUTER SYSTEM**

7 Sec. 14.1. (a) The Office of the State Controller shall include in its charges for
8 data processing services costs of converting computer applications to operate properly at
9 the turn of the century. The Office of the State Controller shall develop procedures for
10 managing the year 2000 conversion.

11 (b) The Office of the State Controller shall not reduce State Information
12 Processing Services (SIPS) charges for data processing services below budgeted levels
13 for the 1996-97 fiscal year.

14 (c) The State Controller shall use any excess receipts from the 1996-97 charges
15 for data processing services to fund one-time capital and equipment start-up requirements
16 at community colleges remaining unconnected to the North Carolina Information
17 Highway. The balance of these receipts shall be held in reserve by the Office of the State
18 Controller to be expended only for costs associated directly with the conversion of the
19 State's computing systems to the year 2000. Nothing in this section shall obligate the
20 General Assembly to pay monthly usage charges for any connections to the North
21 Carolina Information Highway added under this subsection.

22 (d) Beginning October 1, 1996, the Office of the State Controller shall report
23 quarterly to the Joint Legislative Commission on Governmental Operations on the use of
24 the receipts and the calculations related to the allocation of State Information Processing
25 Services (SIPS) charges used for the conversion. The report shall also include the
26 progress made toward accomplishing the conversion goals established for the fiscal year.

27
28 **PART 15. DEPARTMENT OF REVENUE**

29
30 Requested by: Senator Kerr

31 **REDUCE STATE SALES TAX ON FOOD, REDUCE CORPORATE INCOME**
32 **TAX RATE, AND REDUCE EXCISE TAX ON SOFT DRINKS**

33 Sec. 15.1. G.S. 105-164.4(a) is amended by adding a new subdivision to read:

34 "(5) The rate of three percent (3%) applies to the sales price of food that is
35 not otherwise exempt pursuant to G.S. 105-164.13 but would be exempt
36 pursuant to G.S. 105-164.13 if it were purchased with coupons issued
37 under the Food Stamp Program, 7 U.S.C. § 51."

38 Sec. 15.2. G.S. 105-465 reads as rewritten:

39 **"§ 105-465. County election as to adoption of local sales and use tax.**

40 The board of elections of any county, upon the written request of the board of county
41 commissioners thereof, or upon receipt of a petition signed by qualified voters of the
42 county equal in number to at least fifteen percent (15%) of the total number of votes cast
43 in the county, at the last preceding election for the office of Governor, shall call a special

1 election for the purpose of submitting to the voters of the county the question of whether
2 a one percent (1%) sales and use tax as hereinafter provided will be levied.

3 The special election shall be held under the same rules and regulations applicable to
4 the election of members of the General Assembly. No new registration of voters shall be
5 required. All qualified voters in the county who are properly registered not later than 21
6 days (excluding Saturdays and Sundays) prior to the election shall be entitled to vote at
7 said election. The county board of elections shall give at least 20 days' public notice prior
8 to the closing of the registration books for the special election.

9 The county board of election shall prepare ballots for the special ~~election which shall~~
10 ~~contain the words, election.~~ The question presented on the ballot shall be 'FOR the one
11 percent (1%) local sales and use tax only on those items presently covered by the four
12 percent (4%) sales and use tax,' and the words, on items subject to State sales and use tax
13 at the general State rate and on food' or 'AGAINST the one percent (1%) local sales and
14 use tax only on those items presently covered by the four percent (4%) sales and use tax,
15 with appropriate squares so that each voter may designate his vote by his cross (X) mark.
16 on items subject to State sales and use tax at the general State rate and on food'.

17 The county board of elections shall fix the date of the special election; provided,
18 however, that the special election shall not be held on the date of any biennial election for
19 county officers, nor within 60 days thereof, nor within one year from the date of the last
20 preceding special election under this section."

21 Sec. 15.3. G.S. 105-467 reads as rewritten:

22 "**§ 105-467. Scope of sales tax.**

23 The sales tax ~~which that~~ may be imposed under this Article is limited to a tax at the
24 rate of one percent (1%) ~~of:~~ of the following:

- 25 (1) The sales price of ~~those articles of~~ tangible personal property ~~now~~
26 subject to the general rate of sales tax imposed by the State under G.S.
27 105-164.4(a)(1) and ~~(4b);~~ (a)(4b).
- 28 (2) The gross receipts derived from the lease or rental of tangible personal
29 property when the lease or rental of the property is subject to the general
30 rate of sales tax imposed by the State under G.S. ~~105-164.4(a)(2);~~ 105-
31 164.4(a)(2).
- 32 (3) The gross receipts derived from the rental of any room or ~~lodging~~
33 ~~furnished by any hotel, motel, inn, tourist camp or other similar~~
34 accommodations ~~now~~ subject to the general rate of sales tax imposed by
35 the State under G.S. ~~105-164.4(a)(3);~~ and 105-164.4(a)(3).
- 36 (4) The gross receipts derived from services rendered by laundries, dry
37 cleaners, and other businesses ~~now~~ subject to the general rate of sales
38 tax imposed by the State under G.S. 105-164.4(a)(4).
- 39 (5) The sales price of food subject to three percent (3%) sales tax imposed
40 by the State under G.S. 105-164.4(a)(5).

41 The sales tax authorized by this Article does not apply to sales that are taxable by the
42 State under G.S. 105-164.4 but are not specifically included in subdivisions (1) through
43 ~~(4)-(5)~~ of this section.

1 The State exemptions and exclusions contained in G.S. 105-164.13 and the State
2 refund provisions contained in G.S. 105-164.14 ~~shall apply with equal force and in like~~
3 ~~manner to the local sales and use tax authorized to be levied and imposed under this~~
4 ~~Article. A taxing county shall have no authority, with respect to the local sales and use~~
5 ~~tax imposed under this Article to change, alter, add to or delete any refund provisions~~
6 ~~contained in G.S. 105-164.14, or any exemptions or exclusions contained in G.S. 105-~~
7 ~~164.13 or which are elsewhere provided for. may not allow an exemption, exclusion, or~~
8 ~~refund that is not allowed under the State sales and use tax.~~

9 The local sales tax authorized to be imposed and levied under ~~the provisions of this~~
10 ~~Article shall apply to such retail sales, leases, rentals, the rendering of services,~~
11 ~~furnishing of rooms, lodgings or accommodations and other applies to taxable~~
12 ~~transactions which are made, furnished or rendered by retailers whose place of business is~~
13 ~~located within the taxing county. The tax imposed shall apply to the furnishing of rooms,~~
14 ~~lodging or other accommodations within the county which are rented to transients. For~~
15 ~~the purpose of this Article, the situs of a transaction is the location of the retailer's place~~
16 ~~of business."~~

17 Sec. 15.4. G.S. 105-468 reads as rewritten:

18 "**§ 105-468. Scope of use tax.**

19 The use tax ~~which may be imposed under~~ authorized by this Article shall be is a tax at
20 the rate of one percent (1%) of the cost price of each item or article of tangible personal
21 property when it that is not sold in the taxing county but is used, ~~consumed~~ consumed, or
22 stored for use or consumption in the taxing county, except that no tax shall be imposed
23 upon tangible personal property when the property would be taxed by the State at a rate
24 other than the general rate of tax set in G.S. 105-164.4 if it were taxable under G.S. 105-
25 164.6. ~~county.~~ The tax applies to the same items that are subject to tax under G.S. 105-
26 467.

27 Every retailer who is engaged in business in this State and in the taxing county and is
28 required to collect the use tax levied by G.S. 105-164.6 shall also collect the one percent
29 (1%) use tax when such the property is to be used, ~~consumed~~ consumed, or stored in the
30 taxing county, one percent (1%) use tax to be collected concurrently with the State's use
31 tax; but no retailer not required to collect the use tax levied by G.S. 105-164.6 shall be
32 required to collect the one percent (1%) use tax. ~~county.~~ The use tax contemplated by this
33 section shall be levied against the purchaser, and the purchaser's liability for the use tax
34 shall be extinguished only upon payment of the use tax to the retailer, where the retailer
35 is required to collect the tax, or to the ~~Secretary of Revenue, or to the taxing county,~~ as
36 appropriate, ~~Secretary,~~ where the retailer is not required to collect the tax.

37 Where a local sales or use tax has been paid with respect to tangible personal property
38 by the purchaser, either in another taxing county within the State, or in a taxing
39 jurisdiction outside the State where the purpose of the tax is similar in purpose and intent
40 to the tax which may be imposed pursuant to this Article, the tax paid may be credited
41 against the tax imposed under this section by a taxing county upon the same property. If
42 the amount of sales or use tax so paid is less than the amount of the use tax due the taxing
43 county under this section, the purchaser shall pay to the Secretary ~~of Revenue or to the~~

1 ~~taxing county, as appropriate,~~ an amount equal to the difference between the amount so
2 paid in the other taxing county or jurisdiction and the amount due in the taxing county.
3 ~~The Secretary of Revenue or the taxing county, as appropriate,~~ may require such proof of
4 payment in another taxing county or jurisdiction as is deemed to be necessary. The use
5 tax levied under this Article is not subject to credit for payment of any State sales or use
6 tax not imposed for the benefit and use of counties and municipalities. No credit shall be
7 given under this section for sales or use taxes paid in a taxing jurisdiction outside this
8 State if that taxing jurisdiction does not grant similar credit for sales taxes paid under this
9 Article."

10 Sec. 15.5. The first paragraph of Section 4 of Chapter 1096 of the 1967
11 Session Laws, as amended, is amended as follows:

12 (1) By deleting the word "and" before subdivision (4).

13 (2) By changing the period at the end of subdivision (4) to a semicolon and
14 adding the word "and".

15 (3) By adding a new subdivision to read:

16 "(5) The sales price of food subject to three percent (3%) sales tax imposed
17 by the State under G.S. 105-164.4(a)(5)."

18 Sec. 15.6. The first sentence of Section 5 of Chapter 1096 of the 1967 Session
19 Laws is amended by deleting the first sentence of that section and substituting the
20 following sentences to read:

21 "The use tax that Mecklenburg County may impose under this division is a tax at the
22 rate of one percent (1%) of the cost price of each item or article of tangible personal
23 property that is not sold but is used, consumed, or stored for use or consumption in
24 Mecklenburg County. The tax applies to the same items that are subject to tax under
25 Section 4 of this act."

26 Sec. 15.7. Approval under Article 39, 40, or 42 of Chapter 105 of the General
27 Statutes, or under the Mecklenburg County Sales and Use Tax Act, Chapter 1096 of the
28 1967 Session Laws, as amended, of local sales and use taxes on items subject to State
29 sales and use tax at the general State rate constitutes approval of local sales and use taxes
30 on food.

31 Sec. 15.8. G.S. 105-130.3 reads as rewritten:

32 **"§ 105-130.3. Corporations.**

33 A tax is imposed on the State net income of every C Corporation doing business in
34 this State at ~~seven and seventy-five one-hundredths percent (7.75%)~~ seven and one-half
35 percent (7.5%) of the corporation's State net income. An S Corporation is not subject to
36 the tax levied in this section."

37 Sec. 15.9. G.S. 115C-546.1(b) reads as rewritten:

38 "(b) Each calendar quarter, the Secretary of Revenue shall remit to the State
39 Treasurer for credit to the Public School Building Capital Fund an amount equal to ~~two~~
40 ~~thirty-firsts (2/31)~~ one-fifteenth (1/15) of the net collections received during the previous
41 quarter by the Department of Revenue under G.S. 105-130.3 minus two million five
42 hundred thousand dollars (\$2,500,000). All funds deposited in the Public School
43 Building Capital Fund shall be invested as provided in G.S. 147-69.2 and G.S. 147-69.3."

1 Sec. 15.10. Effective July 1, 1997, G.S. 105-113.45 reads as rewritten:

2 **"§ 105-113.45. Excise taxes on soft drinks and base products.**

3 (a) Bottled Soft Drinks. – An excise tax of ~~three-fourths cent (3/4¢)~~ one-half cent
4 (1/2¢) is levied on each bottled soft drink.

5 (b) Repealed by Session Laws 1991, c. 689, s. 276.

6 (c) Liquid Base Products. – An excise tax at the rate of ~~seventy-five cents (75¢)~~
7 fifty cents (50¢) a gallon is levied on each individual container of a liquid base product.
8 The tax applies regardless whether the liquid base product is diverted to and used for a
9 purpose other than making a soft drink.

10 (d) Dry Base Products. – An excise tax is levied on each individual container of a
11 dry base product at the rate:

12 (1) Of ~~three-fourths cent (3/4¢)~~ one-half cent (1/2¢) an ounce if the dry base
13 product is not converted into a syrup or other liquid base product before
14 it is used to make a soft drink.

15 (2) That would apply under subsection (c) to the resulting liquid base
16 product if the dry base product is converted into a liquid base product
17 before it is used to make a soft drink.

18 (e) Repealed by Session Laws 1991, c. 689, s. 276."

19 Sec. 15.11. Sections 15.1 through 15.7 of this act become effective January 1,
20 1997, and apply to sales made on or after that date. Section 15.8 of this act is effective
21 for taxable years beginning on or after January 1, 1997. Section 15.9 of this act becomes
22 effective October 1, 1997, and applies to remittances made on or after that date. Section
23 15.10 of this act becomes effective July 1, 1997.

24
25 Requested by: Senator Rand

26 **REFUND FEDERAL RETIREES**

27 Sec. 15.12. G.S. 105-151.20 reads as rewritten:

28 **"§ 105-151.20. Credit or partial refund for tax paid on certain government-federal**
29 **retirement benefits.**

30 (a) Purpose; Definitions. – The purpose of this section is to benefit certain retired
31 federal government workers on account of their public service. The following definitions
32 apply in this section:

33 (1) Federal retirement benefits. – Retirement benefits received from one or
34 more federal government retirement plans.

35 (2) Net pension tax. – The amount of tax a taxpayer paid under this
36 Division for the 1985, 1986, 1987, and 1988 tax years on federal
37 retirement benefits, without interest, less any part of the tax for which
38 the taxpayer received a credit under this section before 1998 and any
39 part of the tax refunded to the taxpayer before 1998.

40 (3) Tax year. – The taxpayer's taxable year beginning on a day in the
41 applicable calendar year.

42 (b) Credit. – A taxpayer who received ~~government-federal~~ retirement benefits
43 during the 1985, 1986, 1987, or 1988 tax year may claim a credit against the tax imposed

1 by this Division equal to the net pension tax on those benefits. The amount by which the
2 tax under this Division paid by the taxpayer for the 1988 tax year would have been
3 reduced if none of the taxpayer's government retirement benefits had been included in the
4 taxpayer's taxable income. If a taxpayer received a refund of any tax paid under this
5 Division on government retirement benefits for the 1988 tax year, the amount of the
6 refund reduces the amount of the credit allowed under this section.

7 As used in this section, the term "government retirement benefits" means retirement
8 benefits received from one or more state, local, or federal government retirement plans.
9 As used in this section, the term "1988 tax year" means the taxpayer's taxable year
10 beginning on a day in 1988.

11 The
12 credit allowed under this section shall be taken in equal installments over the taxpayer's
13 first three taxable years beginning on or after January 1, 1990-1996. The credit allowed
14 under this section may not exceed the amount of tax imposed by this Division reduced by
15 the sum of all credits allowed against the tax, except payments of tax made by or on
16 behalf of the taxpayer.

17 (c) Partial Refund Alternative. – If the amount of tax imposed by this Division on
18 the taxpayer for the taxpayer's 1996 tax year, reduced by the sum of all credits allowed
19 against the tax except payments of tax made by or on behalf of the taxpayer, is less than
20 five percent (5%) of the taxpayer's net pension tax for which credit is allowed, the
21 taxpayer is eligible to elect a partial refund under this subsection in lieu of claiming the
22 credit. The partial refund allowed under this subsection is equal to the lesser of eighty-
23 five percent (85%) of the taxpayer's net pension tax or the reduced amount determined by
24 the Secretary as provided in this subsection. To elect the partial refund, an eligible
25 taxpayer must file with the Secretary on or before April 15, 1997, a written request for a
26 partial refund of the taxpayer's net pension. The Secretary shall calculate from these
27 requests eighty-five percent (85%) of the total amount of net pension tax for which partial
28 refunds have been claimed and, if this sum exceeds the amount in the Federal Retiree
29 Refund Account created in this section, shall allocate the amount in the Account among
30 the eligible taxpayers claiming partial refunds by reducing each taxpayer's claimed refund
31 in proportion to the size of the claimed refund. The Secretary shall remit these partial
32 refunds before January 1, 1998.

33 (d) Substantiation; Deceased Taxpayers. – In order to claim a refund or credit
34 under this section, a taxpayer must provide any information required by the Secretary to
35 establish the taxpayer's eligibility for tax benefit and the amount of the tax benefit. In the
36 case of a taxpayer who is deceased, the representative of the taxpayer's estate may claim
37 the refund or credit in the name of the deceased taxpayer.

38 (e) Federal Retiree Accounts. – There are created in the Department of Revenue
39 two special accounts to be known as the Federal Retiree Refund Account and the Federal
40 Retiree Administration Account. Funds in the Federal Retiree Refund Account shall be
41 spent only for partial refunds pursuant to subsection (c) of this section. The Department
42 of Revenue may use funds in the Federal Retiree Administration Account only for the
43 costs of administering this section. Funds in the Federal Retiree Refund Account and the

1 Federal Retiree Administration Account shall not revert to the General Fund until the
2 Director of the Budget certifies that the Department of Revenue has completed all duties
3 necessary to implement this section, including processing the escheat of refund checks
4 that have not been cashed."

5 Sec. 15.13. Effective January 1, 2003, G.S. 105-151.20 is repealed.

6 Sec. 15.14. (a) The State Controller shall reserve from the unreserved credit
7 balance as determined on a cash basis remaining in the General Fund at the end of the
8 1995-96 fiscal year the sum of twenty-five million dollars (\$25,000,000) to the credit of
9 the Federal Retiree Refund Account created in this Part. These funds shall be used to
10 make refunds to federal retirees as provided in Section 15.12 of this Part.

11 (b) The State Controller shall reserve from the unreserved credit balance as
12 determined on a cash basis remaining in the General Fund at the end of the 1995-96 fiscal
13 year the sum of one million two hundred thousand dollars (\$1,200,000) to the credit of
14 the Federal Retiree Administration Account created in this Part. These funds shall be
15 used to administer the credits and refunds to federal retirees as provided in Section 15.12
16 of this Part.

17 (c) The earmarking contained in this section comes from the excess of General
18 Fund revenues collected for the 1995-96 fiscal year over prior estimates used in the
19 calculation of General Fund budget availability for the purpose of adopting changes to
20 the 1996-97 General Fund budget. These funds were not included in earlier budget
21 reform statements for proposals to adjust the 1996-97 General Fund budget.

22 (d) This section is effective June 30, 1996.

23
24 Requested by: Senators Perdue, Warren, Kerr

25 **FEDERAL PENSION WITHHOLDING**

26 Sec. 15.17. Of the funds appropriated to the Department of Revenue for the
27 1996-97 fiscal year the sum of one hundred nineteen thousand three hundred eighty-two
28 dollars (\$119,382) shall be used for start-up costs for participation in the United States
29 Office of Personnel Management's voluntary program for withholding State income tax
30 from civil service pension benefits.

31
32 Requested by: Senator Plyler

33 **MODIFY STATE PORTS TAX INCENTIVE**

34 Sec. 15.18. (a) G.S. 105-130.41(a) reads as rewritten:

35 "(a) Credit. – A taxpayer whose waterborne cargo is loaded onto or unloaded from
36 an ocean carrier calling at the State-owned port terminal at Wilmington or Morehead
37 City, without consideration of the terms under which the cargo is moved, is allowed a
38 credit against the tax imposed by this Division. The amount of credit allowed is equal to
39 the excess of the wharfage, handling (in or out), and throughput charges assessed on the
40 cargo for the current taxable year over an amount equal to the average of the charges for
41 the current taxable year and the two preceding taxable years. The credit applies to forest
42 products, break-bulk cargo and container cargo, including less-than-container-load cargo,
43 that is loaded onto or unloaded from an ocean carrier calling at either the Wilmington or

1 Morehead City port terminal and to bulk cargo that is loaded onto or unloaded from an
2 ocean carrier calling at the Morehead City port terminal. To obtain the credit, taxpayers
3 must provide to the Secretary a statement from the State Ports Authority certifying the
4 amount of charges for which a credit is claimed and any other information required by
5 the Secretary."

6 (b) G.S. 105-151.22(a) reads as rewritten:

7 "(a) Credit. – A taxpayer whose waterborne cargo is loaded onto or unloaded from
8 an ocean carrier calling at the State-owned port terminal at Wilmington or Morehead
9 City, without consideration of the terms under which the cargo is moved, is allowed a
10 credit against the tax imposed by this Division. The amount of credit allowed is equal to
11 the excess of the wharfage, handling (in or out), and throughput charges assessed on the
12 cargo for the current taxable year over an amount equal to the average of the charges for
13 the current taxable year and the two preceding taxable years. The credit applies to forest
14 products, break-bulk cargo and container cargo, including less-than-container-load cargo,
15 that is loaded onto or unloaded from an ocean carrier calling at either the Wilmington or
16 Morehead City port terminal and to bulk cargo that is loaded onto or unloaded from an
17 ocean carrier calling at the Morehead City port terminal. To obtain the credit, taxpayers
18 must provide to the Secretary a statement from the State Ports Authority certifying the
19 amount of charges for which a credit is claimed and any other information required by
20 the Secretary."

21 (c) This section is effective for taxable years beginning on or after January 1,
22 1996.

23
24 Requested by: Senator Perdue

25 **SOFT DRINK TAX ON MILK DRINKS**

26 Sec. 15.19. (a) G.S. 105-113.46 reads as rewritten:

27 **"§ 105-113.46. Exemptions.**

28 The taxes imposed by this Article do not apply to an item that is listed in this section
29 and, if the item is a bottled soft drink or a juice concentrate included in subdivision ~~(2)~~,
30 ~~(3)~~, (3) or (3a), is registered with the Secretary in accordance with G.S. 105-113.47:

31 ~~(1) A natural liquid milk drink produced by a farmer or a dairy.~~

32 (2) A bottled soft drink that contains ~~at least thirty five percent (35%)~~
33 ~~natural milk measured by volume and is not exempt under subdivision~~
34 ~~(1) milk.~~

35 (3) Natural juice.

36 (3a) Juice that would be natural if it did not contain sugar.

37 (4) Natural water.

38 (5) A base product used to make a bottled soft drink subject to tax under
39 this Article.

40 (6) Coffee or tea in any form.

41 (7) A bottled soft drink or base product sold outside the State.

42 (8) A bottled soft drink or base product sold to the federal government.

- 1 (9) A base product for domestic use that either contains milk or, according
2 to directions on the base product's container, requires milk to be added
3 to make a soft drink."
- 4 (b) G.S. 105-113.47(a) reads as rewritten:
5 "(a) Requirement. – To be exempt from the tax imposed by this Article, the
6 following items must be registered with the Secretary as an exempt item:
- 7 (1) ~~A bottled soft drink that contains at least thirty five percent (35%)~~
8 ~~natural milk measured by volume and is not exempt under G.S. 105-~~
9 ~~113.46(1).~~
- 10 (2) A natural juice bottled soft drink.
11 (3) A natural juice concentrate.
12 (4) A juice concentrate or juice bottled soft drink that would be natural if it
13 did not contain sugar."
- 14 (c) This section is effective retroactively as of October 1, 1991. A taxpayer who
15 paid an excise tax on a product that is exempt under this section may apply for a refund
16 of the tax by submitting an application for refund to the Department of Revenue by
17 January 1, 1997. A taxpayer who submits a timely application may receive a refund in an
18 amount equal to the amount of taxes paid on the item since October 1, 1991, along with
19 interest at the rate provided in G.S. 105-266 for refunds of overpaid taxes. If any
20 penalties have been assessed for failure to pay this tax, these penalties shall be waived
21 and, if the penalties have been paid, they shall be refunded to the taxpayer. The
22 application must be in the form and contain the information required by the Secretary of
23 Revenue.

24
25 Requested by: Senator Warren

26 **DATA PROCESSING FUNDS**

27 Sec. 15.20. (a) Of the funds appropriated to the Department of Revenue for
28 the 1995-96 fiscal year, the sum of two million dollars (\$2,000,000) shall not revert at the
29 end of the fiscal year but shall remain available for expenditure to cover a deficit for the
30 1995-96 fiscal year of up to two million dollars (\$2,000,000) in the funds available to pay
31 the State Information Processing System for data processing costs.

32 (b) This section becomes effective June 30, 1996.
33

34 Requested by: Senator Warren

35 **ASSESS REVENUE STAFF REQUIREMENTS**

36 Sec. 15.22. The State Auditor and the State Budget Office, Management and
37 Productivity Unit, shall work with the Department of Revenue to assess the Department's
38 staff requirements. Specifically, they shall determine the variety of unit costs related to
39 workload as influenced by existing laws and resulting policies and procedures adopted by
40 the Department of Revenue.

41 The State Auditor, the State Budget Officer, and the Secretary of Revenue shall
42 make a joint final report to the House and Senate Appropriations Subcommittees on
43 General Government by February 1, 1998, on the results of this assessment.

1
2 **PART 16. COLLEGES AND UNIVERSITIES**

3
4 Requested by: Senators Plexico, Winner

5 **AID TO STUDENTS ATTENDING PRIVATE COLLEGES**

6 Sec. 16. Section 15 of Chapter 324 of the 1995 Session Laws reads as
7 rewritten:

8 "Sec. 15. (a) Funds appropriated in this act to the Board of Governors of The
9 University of North Carolina for aid to private colleges shall be disbursed in accordance
10 with the provisions of G.S. 116-19, 116-21, and 116-22. These funds shall provide up to
11 ~~five hundred fifty dollars (\$550.00)~~ six hundred dollars (\$600.00) per full-time equivalent
12 North Carolina undergraduate student enrolled at a private institution as of October 1
13 each year.

14 These funds shall be placed in a separate, identifiable account in each eligible
15 institution's budget or chart of accounts. All funds in this account shall be provided as
16 scholarship funds for needy North Carolina students during the fiscal year. Each student
17 awarded a scholarship from this account shall be notified of the source of the funds and
18 of the amount of the award. Funds not utilized under G.S. 116-19 shall be for the tuition
19 grant program as defined in subsection (b) of this section.

20 (b) In addition to any funds appropriated pursuant to G.S. 116-19 and in addition
21 to all other financial assistance made available to private educational institutions located
22 within the State, or to students attending these institutions, there is granted to each full-
23 time North Carolina undergraduate student attending an approved institution as defined in
24 G.S. 116-22, a sum, not to exceed ~~one thousand two hundred fifty dollars (\$1,250)~~ one
25 thousand three hundred dollars (\$1,300) per academic year, which shall be distributed to
26 the student as hereinafter provided.

27 The tuition grants provided for in this section shall be administered by the State
28 Education Assistance Authority pursuant to rules adopted by the State Education
29 Assistance Authority not inconsistent with this section. The State Education Assistance
30 Authority shall not approve any grant until it receives proper certification from an
31 approved institution that the student applying for the grant is an eligible student. Upon
32 receipt of the certification, the State Education Assistance Authority shall remit at such
33 times as it shall prescribe the grant to the approved institution on behalf, and to the credit,
34 of the student.

35 In the event a student on whose behalf a grant has been paid is not enrolled and
36 carrying a minimum academic load as of the tenth classroom day following the beginning
37 of the school term for which the grant was paid, the institution shall refund the full
38 amount of the grant to the State Education Assistance Authority. Each approved
39 institution shall be subject to examination by the State Auditor for the purpose of
40 determining whether the institution has properly certified eligibility and enrollment of
41 students and credited grants paid on the behalf of the students.

42 In the event there are not sufficient funds to provide each eligible student with a full
43 grant:

1 (1) The Board of Governors of The University of North Carolina, with the
2 approval of the Office of State Budget and Management, may transfer
3 available funds to meet the needs of the programs provided by
4 subsections (a) and (b) of this section; and

5 (2) Each eligible student shall receive a pro rata share of funds then
6 available for the remainder of the academic year within the fiscal period
7 covered by the current appropriation.

8 Any remaining funds shall revert to the General Fund.

9 (c) Expenditures made pursuant to this section may be used only for secular
10 educational purposes at nonprofit institutions of higher learning.

11 (d) The State Education Assistance Authority shall document the number of full-
12 time equivalent North Carolina undergraduate students that are enrolled in off-campus
13 programs and the State funds collected by each institution pursuant to G.S. 116-19 for
14 those students. The State Education Assistance Authority shall also document the
15 number of scholarships and the amount of the scholarships that are awarded under G.S.
16 116-19 to students enrolled in off-campus programs. An 'off-campus program' is any
17 program offered for degree credit away from the institution's main permanent campus.

18 The State Education Assistance Authority shall report to the Joint Legislative
19 Commission on Governmental Operations by March 1, 1997, regarding its findings."

20
21 Requested by: Senators Plexico, Winner

22 **DISTANCE LEARNING INITIATIVES**

23 Sec. 16.1. Of the funds appropriated by this act to The University of North
24 Carolina Board of Governors, the sum of one million two hundred thousand dollars
25 (\$1,200,000) in nonrecurring funds and the sum of five hundred thousand dollars
26 (\$500,000) in recurring funds shall be allocated to North Carolina State University to
27 furnish the Engineering Graduate Research Center and to operate distance learning
28 programs. Engineering programs offered through this funding shall be a cooperative
29 effort among North Carolina State University, North Carolina Agricultural and Technical
30 State University, and the University of North Carolina at Charlotte.

31 An additional amount of two million two hundred fifty-five thousand dollars
32 (\$2,255,000) appropriated by this act to the Board of Governors shall be allocated and
33 used for distance learning and capacity enhancing alternatives, including expansion of the
34 "2 + 2" engineering programs offered through North Carolina State University, incentives
35 for summer school enrollments, and other initiatives planned by the Board of Governors.

36
37 Requested by: Senators Plexico, Winner

38 **UNC EQUITY OF FUNDING**

39 Sec. 16.2. (a) Notwithstanding G.S. 116-30.3, the five constituent institutions
40 (Appalachian State University, East Carolina University, University of North Carolina at
41 Charlotte, University of North Carolina at Greensboro, and University of North Carolina
42 at Wilmington) cited in the study of equity of funding among the constituent institutions
43 of The University of North Carolina as receiving lower than average per pupil funding in

1 several comparisons, shall not be required to revert two percent (2%) of their General
2 Fund appropriations for the 1996-97 fiscal year. These funds shall be used to improve
3 areas of need that can be addressed with nonrecurring funds.

4 (b) Of the funds appropriated to the Board of Governors of The University of
5 North Carolina for the 1996-97 fiscal year, the sum of two million two hundred twenty-
6 six thousand dollars (\$2,226,000) in nonrecurring funds shall be used to assure that the
7 total funds retained pursuant to subsection (a) of this section and the additional funds
8 from this allocation shall provide a minimum of thirty-seven and one-half percent
9 (37.5%) of the funding needs identified for each of the campuses cited as having funding
10 below an equitable level in the Board of Governors' Phase I final report on "An Analysis
11 of Funding Equity in The University of North Carolina."

12
13 Requested by: Senators Plexico, Winner

14 **CENTER FOR THE PREVENTION OF SCHOOL VIOLENCE**

15 Sec. 16.3 The General Assembly recommends that the Governor continue
16 funding the Center for Prevention of School Violence from the current source of grant
17 monies through the 1996-97 fiscal year.

18
19 Requested by: Senators Plexico, Winner

20 **EVALUATE UNIVERSITY RESIDENCES FOR FIRE SAFETY AND REPORT**
21 **ON ESTIMATED COST TO INSTALL ANY NEEDED FIRE DETECTION AND**
22 **SAFETY EQUIPMENT**

23 Sec. 16.5. (a) The Board of Governors of The University of North Carolina shall
24 survey each constituent institution and the North Carolina School of Science and
25 Mathematics regarding its campus residential facilities, potential fire hazards at those
26 facilities, and the fire detection and safety equipment currently installed in those
27 facilities. Each constituent institution shall indicate whether each residential facility on
28 its campus has an adequate fire alarm system including smoke detectors and fire
29 sprinklers, and, if not, the estimated cost to install adequate fire detection and safety
30 equipment. The Board of Governors shall report as soon as possible to the General
31 Assembly regarding the findings of the survey.

32 (b) The Board of Governors of The University of North Carolina shall begin to
33 address fire safety needs in campus residential facilities including the North Carolina
34 School of Science and Mathematics during the 1996-97 fiscal year. The Board of
35 Governors shall give top priority to those fire safety needs that are determined to be the
36 most egregious and shall address those needs first. The Board of Governors shall use
37 available reserves in institutional housing trust funds, as well as funds allocated to the
38 Board from the Reserve for Repairs and Renovations to comply with this section. Should
39 the Board of Governors allocate funds from the Reserve for Repairs and Renovations for
40 fire safety improvements in campus residential facilities not supported from the General
41 Fund, it shall first find that sufficient funds are not available from other sources. Any
42 such finding shall be included in the Board's submission to the Joint Legislative
43 Commission on Governmental Operations on the proposed allocation of funds.

1 (c) The Board of Governors of The University of North Carolina shall include
2 in its budget requests for the 1997-99 biennium the estimated amount needed to address
3 any remaining fire safety needs of the residential facilities located on its campuses
4 including the North Carolina School of Science and Mathematics.

5
6 Requested by: Senators Plexico, Winner

7 **FACILITATE FINANCING OF FIRE WARNING AND SUPPLEMENTAL FIRE**
8 **PROTECTION SYSTEMS IN STUDENT HOUSING**

9 Sec. 16.6. (a) Article 1 of Chapter 116 of the General Statutes is amended by
10 adding a new Part to read:

11 **"PART 7. FIRE SAFETY.**

12 **"§ 116-44.6. Definitions.**

13 Unless the context clearly requires another meaning, the following definitions apply
14 in this Part:

- 15 (1) Fraternity or sorority. – A social, professional, or educational
16 incorporated organization that, by official recognition, is affiliated or
17 identified with a public or nonpublic institution of higher education in
18 this State and which maintains a living facility that provides
19 accommodations for five or more students enrolled at the recognition-
20 granting institution of higher education.
- 21 (2) Fund. – The Fire Safety Loan Fund authorized by this Part.
- 22 (3) Living facility. – A sleeping facility capable of overnight
23 accommodation and other capabilities which support continuous
24 occupancy.
- 25 (4) Residence hall. – A living facility maintained by a public or nonpublic
26 institution of higher education in North Carolina or by the North
27 Carolina School of Science and Mathematics for use by enrolled
28 students.
- 29 (5) Supplemental fire safety protection system. – A water system capability
30 which is sized to accommodate the added water supply pressure and
31 volume required for building fire protection.
- 32 (6) Water system. –
33 a. A city, county, or sanitary district; or
34 b. A water and sewer authority, a metropolitan water district, or
35 county water and sewer district, established pursuant to Chapter
36 162A of the General Statutes.

37 **"§ 116-44.7. Exemption from certain fees and charges.**

38 No water system serving a residence hall or fraternity or sorority housing shall levy or
39 collect any water-meter fee, water-hydrant fee, tap fee, or similar service fee on a
40 residence hall or fraternity or sorority house with respect to supporting a supplemental
41 fire safety protection system.

42 **"§ 116-44.8. Fire Safety Loan Fund.**

1 (a) There is established the Fire Safety Loan Fund. The Fund shall be a revolving
2 loan fund for installing fire safety equipment and systems in fraternity and sorority
3 housing.

4 (b) The Fund shall be administered by the Office of the State Treasurer, and that
5 office may establish the policies and procedures that it deems appropriate for the
6 operation of the Fund. The Office of the State Treasurer may enlist the assistance of
7 other State departments or entities which have expertise that would be useful in
8 administering the Fund, and those State departments or entities shall provide the
9 assistance requested.

10 (c) The Fund shall be operated on a revolving basis with proceeds from the
11 repayment of prior loans being made available for subsequent loans.

12 (d) Loans from the Fund shall be secured by a first or second mortgage or other
13 pledge. Loans shall be made for a period not to exceed 10 years. Interest shall not be
14 charged on loans from the Fund."

15 (b) Of the funds allocated by this act to the Board of Governors of The University
16 of North Carolina from the Reserve for Repairs and Renovations, the sum of one million
17 two hundred sixty-three thousand eight hundred three dollars (\$1,263,803) for the 1996-
18 97 fiscal year shall be used to add central fire alarm and warning systems to residence
19 halls at the constituent institutions of The University and at the North Carolina School of
20 Science and Mathematics that are not currently so equipped. The central alarm and
21 warning systems to be installed shall be interconnected with a supervisory campuswide
22 system of reporting into a station that is continuously monitored.

23 (c) Of the funds appropriated to the Office of the State Treasurer, the sum of one
24 million dollars (\$1,000,000) for the 1996-97 fiscal year shall be used for the purpose of
25 establishing the Fire Safety Loan Fund for installing fire safety equipment and systems in
26 fraternity and sorority housing at public and nonpublic institutions of higher education
27 located in North Carolina as authorized by G.S. 116-44.8.

28
29 Requested by: Senator Perdue

30 **REPORT ON SERVICES PROVIDED BY FACULTY AND STUDENT**
31 **ADVISORS**

32 Sec. 16.7. The Board of Governors of The University of North Carolina shall
33 report to the Joint Legislative Education Oversight Committee prior to January 2, 1997,
34 on the implementation by each constituent institution of the recommendations included in
35 the report on "Academic Advising in the University of North Carolina." The report shall
36 include the following information collected from each constituent institution: (i) the
37 progress of the institution's initiative to improve advising, (ii) the results of the senior
38 survey referenced in the report on "Academic Advising in the University of North
39 Carolina", and (iii) the plans of each constituent institution to address specifically any
40 item of student dissatisfaction on the senior survey that had a score of dissatisfaction
41 above thirty-three percent (33%).

42
43 Requested by: Senators Plexico, Winner

PARENTAL SAVINGS TRUST FUND

Sec. 16.8. Article 23 of Chapter 116 of the General Statutes is amended by adding a new section to read:

"§ 116-209.25. Parental Savings Trust Fund.

(a) Policy. – The General Assembly of North Carolina hereby finds and declares that encouraging parents and other interested parties to save for the postsecondary education expenses of eligible students is fully consistent with and furthers the long-established policy of the State to encourage, promote, and assist education as more fully set forth in G.S. 116-201(a).

(b) Parental Savings Trust Fund. – There is established a parental savings trust fund to be administered by the State Education Assistance Authority to enable qualified parents to save funds to meet the costs of the postsecondary education expenses of eligible students.

(c) Contributions to the Trust Fund. – The Authority is authorized to accept, hold, and disburse contributions, and interest earned on such contributions, from qualified parents and other interested parties in the parental savings trust fund. The contributions to the parental savings trust fund shall be held by the Authority in a separate institutional trust fund and, as such, contributions to the trust fund shall be invested by the State Treasurer as authorized in G.S. 147-69.2(b)(1) through (6) and the applicable provisions of G.S. 147-69.3. The contributions to the parental savings trust fund shall not be considered State moneys, assets of the State, or State revenue for any purpose.

(d) Administration of the Trust Fund. – The Authority is authorized to develop and perform all functions necessary and desirable to administer the parental savings trust fund and to provide such other services as the Authority shall deem necessary to facilitate participation in the parental savings trust fund.

(e) Loan Program. – The Authority is authorized to develop and administer a loan program in conjunction with the parental savings trust fund to provide loan assistance to qualified parents and interested parties in order to facilitate the postsecondary education of eligible students. All funds appropriated to, or otherwise received by the Authority for loans under this section, all funds received as repayment of such loans and all interest earned on these funds shall be placed in an institutional trust fund. This institutional trust fund may be used only for loans made to qualified parents and interested parties of funds advanced under this loan program."

Requested by: Senators Plexico, Winner

SUPERCOMPUTER AND THE RESEARCH AND EDUCATION NETWORK/BOARD OF GOVERNORS TO MAINTAIN FUNDS

Sec. 16.9. The Board of Governors of The University of North Carolina shall maintain the funds transferred by this act for the purchase of the Supercomputer and the Research and Education Network in a central identifiable budget purpose.

Requested by: Senators Plyler, Plexico, Winner

AGRICULTURE RESEARCH FUNDS

1 Sec. 16.10. Of the funds appropriated to the Board of Governors of The
2 University of North Carolina for the 1996-97 fiscal year the following sums shall be
3 allocated as follows:

- 4 (1) The sum of \$1,000,000 in nonrecurring funds shall be allocated for
5 research efforts focused upon eradicating diseases in the State's turkey
6 population. Any of these funds remaining at the end of the 1996-97
7 fiscal year shall not revert but shall remain available for use pursuant to
8 this section.
- 9 (2) The sum of \$90,000 in nonrecurring funds shall be allocated to enhance
10 fish hatcheries research and production.
- 11 (3) The sum of \$250,000 in nonrecurring funds shall be allocated for
12 turfgrass research.

13
14 Requested by: Senators Plexico, Winner

15 **UNC FUNDING FOR NEW ENROLLMENT POLICY CHANGE**

16 Sec. 16.11. In requesting funds for additional students, the Board of Governors
17 of The University of North Carolina shall revise its methodology to ensure sufficient
18 funding for support services needed due to enrollment growth. The policy change shall
19 be implemented for the 1996-97 fiscal year and each fiscal year thereafter. Funds are
20 provided in this act to implement this policy change for the 1996-97 fiscal year.

21
22 Requested by: Senators Plexico, Winner

23 **ACADEMIC ENHANCEMENT FUNDS**

24 Sec. 16.13. Of the funds appropriated to The University of North Carolina
25 Board of Governors, the sum of seventeen million eight hundred thousand dollars
26 (\$17,800,000) shall be allocated to constituent institutions classified as Research
27 University I campuses in direct proportion to the funds to be raised on each campus for
28 the 1996-97 fiscal year from the tuition increases authorized under Section 15.15 of
29 Chapter 507 of the 1995 Session Laws.

30
31 Requested by: Senator Plexico

32 **INCENTIVE FUNDING FOR PRIVATE COLLEGES**

33 Sec. 16.14. The Joint Education Oversight Committee with the assistance of
34 the North Carolina Association of Independent Colleges and Universities, shall study
35 various methods to provide additional incentives for North Carolina residents to attend
36 private colleges in North Carolina in an effort to plan for projected increases in college
37 enrollments over the next 10 years. The Committee shall take into account the capacity
38 of the physical facilities of the private colleges and universities. The Committee shall
39 complete its study by November 15, 1996, when the Education Cabinet is scheduled to
40 present its comprehensive plan to meet projected increases in higher education
41 enrollments, and the Committee shall consider the results of its study along with the plan
42 as it makes recommendations to the 1997 General Assembly.

1 Requested by: Senators Plexico, Winner

2 **HEALTH INSURANCE FOR GRADUATE ASSISTANTS**

3 Sec. 16.15. Notwithstanding any other provision of law, a special
4 responsibility constituent institution of The University of North Carolina may use the
5 funding flexibility granted to it to provide health insurance for graduate assistants from
6 funds carried forward to the next fiscal year pursuant to G.S. 116-30.3.

7
8 **PART 17. COMMUNITY COLLEGES**

9
10 Requested by: Senators Plexico, Winner

11 **COMPUTATION OF FTE FOR COURSES TAUGHT IN PRISONS**

12 Sec. 17. Community colleges shall compute full-time equivalent (FTE) student
13 hours on the bases of both contact hours and student membership hours for curriculum
14 education programs that are taught in prison facilities and that are offered in compliance
15 with the State Board of Community College's correctional course offering matrix. The
16 State Board of Community Colleges shall report both counts to the General Assembly by
17 January 15, 1997.

18 The 1997 General Assembly shall consider the question of whether to compute
19 FTE for these courses on the basis of contact hours or on the basis of student membership
20 hours.

21
22 Requested by: Senators Plexico, Winner

23 **IN-STATE TUITION FOR FAMILIES TRANSFERRED INTO STATE**

24 Sec. 17.1. (a) G.S. 115D-39 reads as rewritten:

25 **"§ 115D-39. Student tuition and fees.**

26 The State Board of Community Colleges shall fix and regulate all tuition and fees
27 charged to students for applying to or attending any institution pursuant to this Chapter.

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

31 The legal resident limitation with respect to tuition, set forth in G.S. 116-143.1 and
32 G.S. 116-143.3, shall apply to students attending institutions operating pursuant to this
33 Chapter; provided, however, that when an employer other than the armed services, as that
34 term is defined in G.S. 116-143.3, pays tuition for an employee to attend an institution
35 operating pursuant to this Chapter and when the employee works at a North Carolina
36 business location, the employer shall be charged the in-State tuition ~~rate~~ rate; provided
37 further, however, a community college may charge in-State tuition to up to one percent
38 (1%) of its out-of-state students, rounded up to the next whole number, to accommodate
39 the families transferred by business, industry, or the military, consistent with the
40 provisions of G.S. 116-143.3, into the State. Notwithstanding these requirements, a
41 refugee who lawfully entered the United States and who is living in this State shall be
42 deemed to qualify as a domiciliary of this State under G.S. 116-143.1(a)(1) and as a State
43 resident for community college tuition purposes as defined in G.S. 116-143.1(a)(2)."

1 (b) The State Board of Community Colleges shall adopt rules to implement this
2 section, effective for the fall 1996 quarter.

3
4 Requested by: Senators Plexico, Winner

5 **ELIMINATION OF BARRIERS AMONG PUBLIC SCHOOLS, COMMUNITY**
6 **COLLEGES, AND UNIVERSITIES/STUDY**

7 Sec. 17.2. (a) The Education Cabinet shall study ways to eliminate barriers to
8 cooperation among public schools, community colleges, and universities in the area of
9 distance learning. The Education Cabinet shall develop a plan for sharing registration,
10 credit hours, funding for full-time equivalent students (FTE), counseling and financial aid
11 services, tuition receipts, and administrative responsibilities, and shall report to the
12 General Assembly prior to January 31, 1997, on the plan it develops. The report shall
13 include a list of any statutory or rule changes that are necessary prior to implementation
14 of the plan and an explanation of why each change is necessary and appropriate.

15 (b) The State Board of Community Colleges shall examine ways to encourage
16 pilot projects for higher education two plus two programs while continuing to recognize
17 the community college system's statutory role as primary lead agency for providing
18 vocational and technical job training programs.

19
20 Requested by: Senators Plexico, Winner

21 **COMMUNITY COLLEGES FUNDING FORMULAS/STUDY**

22 Sec. 17.3. The State Board of Community Colleges shall undertake a
23 comprehensive study of the funding formula used to distribute funds to local community
24 colleges and shall make any recommendations for changes to the General Assembly by
25 January 31, 1997. The study shall include, but not be limited to, the development of a
26 plan to increase the level of funding for occupational extension courses to the funding
27 level for curriculum courses and the cost of such a plan. In developing the plan, the State
28 Board shall consider whether one or more colleges receive a disproportionate share of the
29 occupational extension formula funds, the appropriateness of such a distribution, and any
30 recommendations for changes in that distribution. The State Board of Community
31 Colleges shall use Board Reserve funds to hire an outside, independent consultant to
32 study the funding formula.

33
34 Requested by: Senators Plexico, Winner

35 **EXPENDITURE FOR NEW AND EXPANDING INDUSTRY/REPORT**

36 Sec. 17.4. G.S. 115D-5 is amended by adding a new subsection to read:

37 "(i) The State Board of Community Colleges shall report to the Joint Legislative
38 Education Oversight Committee on March 1 and September 1 of each year on
39 expenditures for the New and Expanding Industry Program each fiscal year. The report
40 shall include, for each company or individual that receives funds for New and Expanding
41 Industry:

42 (1) The total amount of funds received by the company or individual;

43 (2) The amount of funds per trainee received by the company or individual;

1 (3) The amount of funds received per trainee by the community college
2 training the trainee;
3 (4) The number of trainees trained, by company and by community college;
4 and
5 (5) The number of years the companies or individuals have been funded.
6 The September 1, 1996, report shall include this information for the prior three fiscal
7 years."

8
9 Requested by: Senators Winner, Plexico, Odom

10 **UNIFORM MEDICAL HISTORY FORM/POSTSECONDARY INSTITUTIONS**

11 Sec. 17.5. The State Board of Community Colleges and the Board of
12 Governors of The University of North Carolina shall adopt a uniform student medical
13 history form for use by all institutions in the North Carolina Community College System
14 and by all of the constituent institutions of The University of North Carolina. This form
15 shall be used for all new students enrolling after July 1, 1997, who are required to submit
16 health forms.

17 The State Board of Community Colleges and the Board of Governors of The
18 University of North Carolina shall report to the Joint Legislative Education Oversight
19 Committee by December 15, 1996, on their progress in implementing the provisions of
20 this section.

21
22 Requested by: Senators Plexico, Winner

23 **DEPARTMENT OF COMMUNITY COLLEGES/BUDGET REALIGNMENT**

24 Sec. 17.6. (a) The Department of Community Colleges may realign its budget in
25 accordance with the departmental reorganization plan adopted by the State Board of
26 Community Colleges, which is in place June 1, 1996.

27 (b) The Department of Community Colleges shall prepare a response to the State
28 Auditor's Performance Audit Report of April 1996, on the concern raised about the
29 creation of the new Division of System Affairs and on what steps it has taken to address
30 the issue raised with regard to this Division. The Department shall present its response to
31 the Senate and House Appropriations Subcommittees on Education prior to February 15,
32 1997.

33
34 Requested by: Senators Plexico, Winner, Little

35 **INFORMATION HIGHWAY SITES/COMMUNITY ACCESS**

36 Sec. 17.8. It is the policy of the State to make all North Carolina Information
37 Highway sites available to all public agencies for public use. The Education Cabinet
38 shall adopt guidelines for ensuring public access to the university, community colleges,
39 and public school information highway sites, and shall report these guidelines to the Joint
40 Legislative Education Oversight Committee by January 2, 1997.

41 42 **PART 18. PUBLIC SCHOOLS**

1 Requested by: Senators Winner, Plexico

2 **EXCEPTIONAL CHILDREN FUNDS**

3 Sec. 18.1. The funds appropriated for exceptional children in this act shall be
4 allocated as follows:

5 (1) Each local school administrative unit shall receive for academically
6 gifted children the sum of \$686.38 per child for four percent (4.0%) of
7 the 1995-96 actual average daily membership in the local school
8 administrative unit, regardless of the number of children identified as
9 academically gifted in the local school administrative unit. The total
10 number of children for which funds shall be allocated pursuant to this
11 subdivision is 47,038 for the 1996-97 school year.

12 (2) Each local school administrative unit shall receive for exceptional
13 children other than academically gifted children the sum of \$2,059.14
14 per child for the lesser of (i) all children who are identified as
15 exceptional children other than academically gifted children or (ii)
16 twelve and five-tenths percent (12.5%) of the 1995-96 actual average
17 daily membership in the local school administrative unit. The maximum
18 number of children for which funds shall be allocated pursuant to this
19 subdivision is 137,449 for the 1996-97 school year.

20 The dollar amounts allocated under this subsection for exceptional children shall also
21 increase in accordance with legislative salary increments for personnel who serve
22 exceptional children.

23
24 Requested by: Senators Winner, Little, Plexico

25 **SUPPLEMENTAL FUNDING IN LOW-WEALTH COUNTIES/SMALL SCHOOL**
26 **SYSTEM SUPPLEMENTAL FUNDING**

27 Sec. 18.2. (a) Supplemental funds for low-wealth counties.— The funds in the
28 continuation budget for the 1996-97 fiscal year to provide supplemental funds in low-
29 wealth counties shall be allocated and administered as provided in Section 17.1 of
30 Chapter 507 of the 1995 Session Laws. The funds in the expansion budget for the 1996-
31 97 fiscal year to provide supplemental funds in low-wealth counties shall be allocated
32 and administered as provided in Section 17.1 of Chapter 507 of the 1995 Session Laws
33 except that these funds shall be allocated only to the 25 counties with lowest ability to
34 pay rank under the formula contained in that section.

35 (b) Funds for small school systems. — The State Board of Education shall allocate
36 and administer funds appropriated for small school system supplemental funding as
37 provided in Section 17.2 of Chapter 507 of the 1995 Session Laws.

38 (c) Reports. — The State Board of Education shall report to the Appropriations
39 Committees of the Senate and the House of Representatives prior to May 1, 1997, on
40 whether counties supplanted local funds with the funds received pursuant to this section.

41
42 Requested by: Senators Winner, Plexico

43 **FUNDS TO REDUCE CLASS SIZE IN GRADE 2**

1 Sec. 18.3. The funds appropriated in this act to reduce class size in second
2 grade shall be allocated by the State Board of Education to local school administrative
3 units on the basis of one teacher for every 23 students in second grade. Local school
4 administrative units shall use these funds (i) to reduce class size in second grade to 23 or
5 fewer students or (ii) to hire reading teachers within kindergarten through third grade or
6 otherwise reduce the student-teacher ratio within kindergarten through third grade.

7 For the purpose of calculating the maximum allowable class size for second
8 grade, the ratio of teachers to students shall be 1 to 26.

9
10 Requested by: Senators Perdue, Plexico, Winner

11 **SUBSTITUTE PAY FOR TEACHER ASSISTANTS**

12 Sec. 18.3A. G.S. 115C-12(8) reads as rewritten:

13 "(8) Power to Make Provisions for Sick Leave and for Substitute Teachers. –
14 The Board shall provide for sick leave with pay for all public school
15 employees in accordance with the provisions of this Chapter and shall
16 promulgate rules and regulations providing for necessary substitutes on
17 account of sick leave and other teacher absences.

18 The pay for a substitute shall be fixed by the Board. If a teacher
19 assistant ~~assigned to a classroom in kindergarten through third grade~~
20 ~~acts as a substitute teacher for that classroom, teacher,~~ the salary of the
21 teacher assistant for the day shall be the same as the daily salary of an
22 entry-level teacher with an "A" certificate.

23 The Board may provide to each local school administrative unit not
24 exceeding one percent (1%) of the cost of instructional services for the
25 purpose of providing substitute teachers for those on sick leave as
26 authorized by law or by regulations of the Board, but not exceeding the
27 provisions made for other State employees."

28
29 Requested by: Senators Winner, Plexico

30 **EXEMPTIONS FROM THE COMPUTER SKILLS TEST**

31 Sec. 18.4. The State Board of Education may exempt a school from the
32 implementation of the computer skills test if the school does not have adequate computer
33 resources to instruct students in computer skills or to administer the test.

34
35 Requested by: Senators Winner, Plexico

36 **MINIMUM VACATION LEAVE FOR BUS DRIVERS**

37 Sec. 18.6. Notwithstanding any other provision of law, all school bus drivers,
38 who have been employed for at least one academic year and who are not entitled to more
39 than one day of paid vacation leave, are entitled to one day of paid vacation leave in each
40 subsequent school year.

41
42 Requested by: Senators Winner, Plexico

1 **ALTERNATIVE LEARNING PROGRAM/GUIDELINES, TECHNICAL**
2 **ASSISTANCE, EVALUATION**

3 Sec. 18.7. (a) G.S. 115C-12 is amended by adding a new subdivision to read:

4 "(24) Duty to Develop Guidelines for Alternative Learning Programs,
5 Provide Technical Assistance on Implementation of Programs, and
6 Evaluate Programs. – The State Board of Education shall adopt
7 guidelines for assigning students to alternative learning programs.
8 These guidelines shall include (i) a description of the programs and
9 services that are recommended to be provided in alternative learning
10 programs and (ii) a process for ensuring that an assignment is
11 appropriate for the student and that the student's parents are involved
12 in the decision.

13 The State Board of Education shall provide technical support to local
14 school administrative units to assist them in developing and
15 implementing plans for alternative learning programs.

16 The State Board shall evaluate the effectiveness of alternative
17 learning programs and, in its discretion, of any other programs funded
18 from the Alternative Schools/At-Risk Student allotment. Local school
19 administrative units shall report to the State Board of Education on how
20 funds in the Alternative Schools/At-Risk Student allotment are spent
21 and shall otherwise cooperate with the State Board of Education in
22 evaluating the alternative learning programs."

23 (b) The first priority for the use of the expansion budget funds appropriated in this
24 act to the Alternative Schools/At-Risk Student allotment shall be to enable every high
25 school in North Carolina to have a uniformed school resources officer. If a local board of
26 education determines after conferring with parents, teachers, and students at a high school
27 that the school does not need a uniformed school resources officer, the local board may
28 use these funds for other purposes. Local boards of education may use any remaining
29 funds for other programs to ensure school safety, prevent violence, and provide
30 alternative learning programs.

31 Local boards of education may use funds from the Alternative Schools/At-Risk
32 Student allotment to form partnerships with the Cities In Schools Program or to contract
33 with the Cities In Schools Program for services.

34 (c) State funds in the Alternative Schools/At-Risk Student allotment are intended
35 to be in addition to local funds and local boards of education shall not use these State
36 funds to supplant local funds.

37 (d) The State Board of Education may use up to two hundred thousand dollars
38 (\$200,000) of the funds in the Alternative Schools/At-Risk Student Allotment to
39 implement G.S. 115C-12(24), as enacted by subsection (a) of this section.

40
41 Requested by: Senators Winner, Plexico

42 **SCHOOL PAY DATE FLEXIBILITY PILOT PROGRAM**

1 Sec. 18.9. The State Board of Education may establish a pilot program to grant
2 no more than four local boards of education additional flexibility in setting the pay dates
3 for their 10-month employees. Notwithstanding the provisions of G.S. 115C-302(a) and
4 G.S. 115C-316(a), local school administrative units participating in the pilot may pay 10-
5 month employees for a full month of employment when days employed are less than a
6 full month at the beginning or the end of the teachers' contract. No local school
7 administrative unit shall be required to participate in the pilot. A local board
8 participating in the pilot shall bear all of the cost of recouping funds prepaid for work
9 never done and the cost of these funds that cannot be recouped.

10 The State Board of Education shall report to the Joint Legislative Education
11 Oversight Committee on the pilot program prior to September 1, 1998.

12
13 Requested by: Senators Winner, Plexico

14 **FUNDS FOR NATIONAL BOARD FOR PROFESSIONAL TEACHING**
15 **STANDARDS**

16 Sec. 18.10. Sec. 17.11 of Chapter 507 of the 1995 Session Laws reads as
17 rewritten:

18 "Sec. 17.11. The National Board for Professional Teaching Standards (NBPTS)
19 was established in 1987 as an independent, nonprofit organization to establish
20 high standards for teachers' knowledge and performance and for development and
21 operation of a national voluntary system to assess and certify teachers who meet those
22 standards. In order to apply for the NBPTS certification process, teachers must have
23 three years or more of teaching experience, be currently teaching, have graduated from an
24 accredited college or university, and hold a valid State teaching license. Upon successful
25 completion of a year-long process of developing a portfolio of student work and
26 videotapes of teaching/learning activities for NBPTS review and then participating in
27 NBPTS assessment center simulation exercises, including performance-based activities
28 and a content knowledge examination, teachers may become NBPTS-certified.

29 Of the funds appropriated to the Department of Public Instruction in this act, the sum
30 of:

- 31 (1) Two hundred thirty thousand seven hundred seventy-six dollars
32 (\$230,776) for the 1995-96 fiscal year and nine hundred thirty-six
33 five hundred seven thousand dollars (\$936,507) for the 1996-97
34 fiscal year shall be used to pay for the National Board for
35 Professional Teaching Standards (NBPTS) participation fee and for
36 up to three days of approved paid leave for teachers participating in
37 the NBPTS program during the 1995-96 school year and the 1996-
38 97 fiscal year for State-paid teachers who (i) have completed three
39 years of teaching in North Carolina schools operated by local boards
40 of education, the Department of Human Resources, the Department
41 of Correction, or The University of North Carolina, or affiliated with
42 The University of North Carolina, prior to application for NBPTS
43 certification, and (ii) who have not previously received State funds

1 for participating in any certification area in the NBPTS program.
2 Teachers participating in the program shall take paid leave only with
3 the approval of their supervisors.

4 A teacher for whom the State pays the participation fee (i) who does
5 not complete the process or (ii) who completes the process but does not
6 teach in a North Carolina public school for at least one year after
7 completing the process, shall repay the certification fee to the State.
8 Repayment is not required if the process is not completed or the teacher
9 fails to teach for one year due to the death or disability of the teacher or
10 other extenuating circumstances as may be recognized by the State
11 Board.

- 12 (2) Two hundred forty-five thousand five hundred eighty-two dollars
13 (\$245,582) for the 1995-96 fiscal year and two hundred forty-three
14 thousand eighty-seven dollars (\$243,087) for the 1996-97 fiscal year
15 shall be used for an annual bonus of four percent (4%) of the
16 teacher's State-paid salary for the 10-month school year for State-
17 paid teachers who (i) completed three years of teaching in North
18 Carolina schools operated by local boards of education, the
19 Department of Human Resources, the Department of Correction, or
20 The University of North Carolina prior to application for NBPTS
21 certification and (ii) received NBPTS certification. The bonus for
22 each fiscal year shall be paid at the end of each full school year that
23 the teacher teaches full time in a North Carolina school operated by
24 local boards of education, the Department of Human Resources, the
25 Department of Correction, or The University of North Carolina.
26 Teachers shall continue this bonus only as long as they retain
27 NBPTS certification."
28

29 Requested by: Senators Winner, Plexico

30 **ADDITIONAL EDUCATIONAL AND CAREER OPPORTUNITIES FOR**
31 **TEACHER ASSISTANTS**

32 Sec. 18.11. G.S. 115C-468 reads as rewritten:

33 **"§ 115C-468. Establishment of fund.**

34 (a) There is established a revolving fund known as the 'Scholarship Loan Fund for
35 Prospective Teachers'.

36 (b) Criteria for awarding scholarship loans from the fund shall include
37 measures of academic performance including grade point averages, scores on
38 standardized tests, class rank, and recommendations of guidance counselors and
39 principals. To the extent practical, an equal number of scholarships shall be awarded in
40 each of the State's Congressional Districts.

41 (c) The Superintendent of Public Instruction may earmark up to twenty percent
42 (20%) of the funds available for scholarship loans each year for awards to applicants who
43 have been employed for at least one year as teacher assistants and who are currently

1 employed as teacher assistants. Preference for these scholarship loans from funds
2 earmarked for teacher assistants shall be given first to applicants who worked as teacher
3 assistants for at least five years and whose positions as teacher assistants were abolished
4 and then to applicants who already hold a baccalaureate degree or who have already been
5 formally admitted to an approved teacher education program in North Carolina. The
6 criteria for awarding scholarship loans to applicants who worked as teacher assistants for
7 at least five years and whose positions as teacher assistants were abolished shall include
8 whether the teacher assistant has been admitted to an approved teacher education
9 program in North Carolina.

10 The Superintendent of Public Instruction may further earmark a portion of these funds
11 each year for two-year awards to applicants who have been employed for at least one
12 year as teacher assistants to attend community colleges to get other skills of use in public
13 schools or to get an early childhood associate degree. The provisions of this Article shall
14 apply to these scholarship loans except that a recipient of one of these scholarship loans
15 may receive credit upon the amount due by reason of the loan as provided in G.S. 115C-
16 471(5) or by working in a nonteaching position in the North Carolina public schools
17 or by working in a licensed day care center in North Carolina."

18
19 Requested by: Senators Lucas, Winner, Plexico

20 PROFESSIONAL TEACHING STANDARDS COMMISSION

21 Sec. 18.12. (a) G.S. 115C-295.1 reads as rewritten:

22 "§ 115C-295.1. North Carolina Professional Teaching Standards Commission.

23 (a) There is created the North Carolina Professional Teaching Standards
24 Commission (the 'Commission'). The Commission shall be located administratively
25 ~~within the Department of Public Instruction under the State Board of Education~~ but shall
26 exercise its powers and duties independently of the ~~Department of Public Instruction. The~~
27 ~~Department of Public Instruction shall provide staff, offices, office equipment, and~~
28 ~~meeting space to the Commission.~~ State Board of Education.

29 (b) The purpose of the Commission is to establish high standards for North
30 Carolina teachers and the teaching profession.

31 (c) ~~The Beginning September 1, 1996, the~~ Commission shall consist of the
32 following ~~18~~ members:

- 33 (1) ~~The State Superintendent of Public Instruction who shall serve as~~
34 ~~chair of the Commission.~~
- 35 (2) ~~A representative of the North Carolina Association of Educators~~
36 ~~appointed by the Governor.~~
- 37 (3) ~~A representative of the North Carolina Federation of Teachers~~
38 ~~appointed by the Governor.~~
- 39 (4) ~~Three teachers, at least one of whom teaches in elementary school~~
40 ~~and one of whom teaches special education, appointed by the~~
41 ~~Governor.~~
- 42 (5) ~~Two teachers, at least one of whom teaches in middle or junior high~~
43 ~~school, appointed by the President Pro Tempore of the Senate.~~

- 1 (6) Two teachers, at least one of whom teaches in high school,
2 appointed by the Speaker of the House of Representatives.
3 (7) One school administrator, either a principal or a superintendent,
4 appointed by the Governor.
5 (8) Two representatives of teacher education institutions, one of whom
6 shall be a representative of a University of North Carolina institution
7 and one of whom shall be a representative of a private teacher
8 education institution, appointed by the Governor.
9 (9) One State Board member appointed by the chair of the State Board
10 of Education.
11 (10) Two at-large members appointed by the Governor.
12 (11) Two at-large members, one of these members shall be appointed by
13 the President Pro Tempore of the Senate, and one of these members
14 shall be appointed by the Speaker of the House of Representatives.

15 15 members:

- 16 (1) The Governor shall appoint four teachers who are certified by the
17 National Board for Professional Teaching Standards; one principal
18 or superintendent; and two representatives of schools of education,
19 one of which is in a constituent institution of The University of
20 North Carolina and one of which is in a private college or university.
21 (2) The President Pro Tempore of the Senate shall appoint three teachers
22 who have different areas of expertise or who teach at different grade
23 levels; and one at-large member.
24 (3) The Speaker of the House of Representatives shall appoint three
25 teachers who have different areas of expertise or who teach at
26 different grade levels; and one at-large member.

27 In making appointments, the appointing authorities are encouraged to select
28 qualified citizens who are committed to improving the teaching profession and student
29 achievement and who represent the racial, geographic, and gender diversity of the State.
30 Before their appointment to this Commission, with the exception of the at-large members,
31 the members must have been actively engaged in the profession of teaching, in the
32 education of students in teacher education programs, or in the practice of public school
33 administration for at least three years, at least two of which occurred in this State. The
34 members shall serve for two-year terms. Initial terms shall begin September 1, 1994.
35 Vacancies in the membership shall be filled by the original appointing authority using the
36 same criteria as provided in this subsection.

37 (d) The Commission shall elect a ~~vice-chair~~ chair, a vice-chair, and a secretary-
38 treasurer from among its membership. In the absence of the chair, the vice-chair shall
39 preside over the Commission's meetings. All members are voting members, and a
40 majority of the Commission constitutes a quorum. The Commission shall adopt rules to
41 govern its proceedings.

42 (e) Meetings of the Commission shall be held upon the call of the chair or the
43 vice-chair with the approval of the chair.

1 (f) ~~Members of the Commission who are State or public school employees shall~~
2 ~~receive travel expenses as set forth in G.S. 138-6. All other Commission members shall~~
3 ~~receive per diem and travel expenses as set forth in G.S. 138-5. shall receive~~
4 compensation for their services and reimbursement for expenses incurred in the
5 performance of their duties required by this Article, at the rate prescribed in G.S. 90B-5.

6 (g) The Commission may employ, subject to Chapter 126 of the General Statutes,
7 the necessary personnel for the performance of its functions, and fix compensation within
8 the limits of funds available to the Commission."

9 (b) Article 20 of Chapter 115C of the General Statutes is amended by adding the
10 following new sections to read:

11 "**§ 115C-295.2. Powers and duties of the Commission.**

12 (a) The North Carolina Teaching Standards Commission shall:

13 (1) Develop and recommend to the State Board of Education
14 professional standards or revisions to professional standards for
15 North Carolina teachers.

16 (2) Review the areas of teacher certification and recommend to the State
17 Board of Education those areas that should be consolidated,
18 redesigned, eliminated, or enhanced.

19 (3) Consider current methods to assess teachers and teaching candidates,
20 including the National Teacher Exam, the assessments of the
21 National Board for Professional Teaching Standards, and alternative
22 methods of assessment and recommend to the State Board of
23 Education the implementation of rigorous and appropriate
24 assessments for initial and continuing certification that are valid and
25 reliable measures of professional practice.

26 (4) Evaluate, develop, and recommend to the State Board a procedure
27 for the assessment and recommendation of candidates for initial and
28 continuing teacher certification.

29 In addition, the Commission may review all current programs related to the areas of
30 teacher certification and may recommend to the State Board of Education those programs
31 that should be eliminated or changed.

32 For purposes of this subsection, the areas of teacher certification include initial
33 certification, continuing certification, and certification renewal, and do not include
34 teacher education programs.

35 (b) The Commission shall submit its recommendations under subsection (a) of this
36 section to the State Board. The State Board shall adopt or reject the recommendations.
37 The State Board shall not make any substantive changes to any recommendation that it
38 adopts. If the State Board rejects the recommendation, it shall state with specificity its
39 reasons for rejection; the Commission then may amend that recommendation and
40 resubmit it to the State Board. The Board shall adopt or reject the amended
41 recommendation. If the State Board fails to adopt the Commission's original and
42 amended recommendation concerning the implementation of assessments for certification

1 and the procedure for the assessment and recommendation of candidates for teacher
2 certification, the State Board may develop and adopt its own plan.

3 Notwithstanding G.S. 115C-284(c), 115C-296, and 115C-315(d), the General
4 Assembly urges the State Board to follow the Commission's recommendations to the
5 maximum extent they are consistent with the State Board's policies.

6 (c) The Commission shall submit an annual report by December 1 of each year to
7 the Joint Legislative Education Oversight Committee of its activities during the preceding
8 year, together with any recommendations and findings regarding improvement of the
9 teaching profession. The State Board shall submit a report by April 15, 1998, to the Joint
10 Legislative Education Oversight Committee on the current status of assessments for
11 certification and any changes to the procedures for assessment and recommendation of
12 candidates for teacher certification.

13 **"§ 115C-295.3. Professional Practices Board.**

14 The State Board of Education shall establish a Professional Practices Board composed
15 of teachers, school administrators, and representatives of the general public. The
16 Professional Practices Board shall:

- 17 (1) Develop a code of ethics for the teaching profession and develop
18 procedures to investigate violations of the code.
19 (2) Investigate complaints concerning violations of the code of ethics.
20 (3) Make recommendations to the State Board of Education concerning
21 the revocation and suspension of teacher certificates as the result of
22 an ethics violation.

23 The Professional Practices Board shall recommend the code of ethics and the
24 investigation procedures that it develops to the State Board of Education for its approval.
25 The State Board of Education is the final authority in all decisions under this section,
26 except as provided in the procedures concerning the due process rights of any person
27 subject to an investigation under this section. The State Board of Education shall adopt
28 rules necessary to implement this section."

29
30 Requested by: Senator Winner

31 **ALLOCATION OF FUNDS FOR SCHOOL TECHNOLOGY**

32 Sec. 18.13. Funds appropriated in this act to the State School Technology
33 Fund shall be allocated to local school administrative units on the basis of average daily
34 membership.

35
36 Requested by: Senators Winner, Plexico

37 **TEACHER VACATION LEAVE FOR ADOPTIVE PARENTS**

38 Sec. 18.14. G.S. 115C-302(f) reads as rewritten:

39 "(f) A teacher may use annual leave, personal leave, or leave without pay to care
40 for a newborn child or for a child placed with the teacher for adoption or foster care. The
41 leave may be for consecutive workdays during the first 12 months after the date of birth
42 or placement of the child, unless the the teacher and local board of education agree
43 otherwise.

1 ~~The total of all such leave time shall be no more than 12 weeks."~~

2
3 Requested by: Senators Winner, Plexico

4 **COMPONENTS OF THE TESTING PROGRAM**

5 Sec. 18.15. G.S. 115C-174.11(b) reads as rewritten:

6 "(b) Competency Testing Program.

7 (1) The State Board of Education shall adopt tests or other measurement
8 devices which may be used to assure that graduates of the public
9 high schools and graduates of nonpublic schools supervised by the
10 State Board of Education pursuant to the provisions of Part 1 of
11 Article 39 of this Chapter possess the skills and knowledge
12 necessary to function independently and successfully in assuming
13 the responsibilities of citizenship.

14 (2) The tests shall be administered annually to all tenth grade students in
15 the public schools. Students who fail to attain the required minimum
16 standard for graduation in the tenth grade shall be given remedial
17 instruction and additional opportunities to take the test up to and
18 including the last month of the twelfth grade. Students who fail to
19 pass parts of the test shall be retested on only those parts they fail.
20 Students in the tenth grade who are enrolled in special education
21 programs or who have been officially designated as eligible for
22 participation in such programs may be excluded from the testing
23 programs.

24 (3) The State Board of Education may develop and validate alternate
25 means and standards for demonstrating minimum competence.
26 These standards, which must be more difficult than the tests adopted
27 pursuant to subdivision (1) of this subsection, may be passed by
28 students in lieu of the testing requirement of subdivision (2) of this
29 subsection.

30 ~~(4) Funds appropriated for the purpose of remediation support for
31 students who fail the high school competency test shall be
32 distributed in accordance with rules promulgated by the State Board
33 of Education. The State Board of Education shall allocate
34 remediation funds to institutions administered by the Department of
35 Human Resources on the same basis as funds allocated to other local
36 education agencies."~~

37
38 Requested by: Senators Plexico, Winner

39 **GLOBAL CURRICULUM PROGRAM**

40 Sec. 18.16. The funds appropriated in this act for the Global Curriculum
41 Program shall be used to improve the knowledge and understanding of middle and high
42 school students in the areas of international and cultural studies, by identifying and
43 training master teachers and providing orientations and materials for school

1 administrators. The State Board of Education may enter into contracts to implement the
2 Program.

3
4 Requested by: Senators Winner, Plexico

5 **REWARDS FOR TEACHER EXCELLENCE**

6 Sec. 18.17. The State Board of Education shall study ways to reward excellent
7 teachers and other school personnel by linking some portion of future salary increases to
8 the performance of students. In the course of the study, the State Board shall take into
9 account the differences in schools, school resources, and student populations, that
10 different teachers and other school personnel encounter. The State Board shall also
11 consider the types of pay plans used in other states.

12 The State Board shall report on the study to the Joint Legislative Education
13 Oversight Committee prior to January 15, 1997.

14
15 Requested by: Senators Hobbs, Winner, Plexico

16 **SCHOOL FACILITIES GUIDELINES**

17 Sec. 18.18. (a) G.S. 115C-81(b) reads as rewritten:

18 "(b) The Basic Education Program shall include course requirements and
19 descriptions similar in format to materials previously contained in the standard course of
20 study and it shall provide:

- 21 (1) A core curriculum for all students that takes into account the special
22 needs of children and includes appropriate modifications for the
23 learning disabled, the academically gifted, and the students with
24 discipline and emotional problems;
- 25 (2) A set of competencies, by grade level, for each curriculum area;
- 26 (3) A list of textbooks for use in providing the curriculum;
- 27 (4) Standards for student performance and promotion based on the
28 mastery of competencies, including standards for graduation, that
29 take into account children with special needs and, in particular,
30 include appropriate modifications;
- 31 (5) A program of remedial education;
- 32 (6) Required support programs;
- 33 (7) A definition of the instructional day;
- 34 (8) Class size recommendations and requirements;
- 35 (9) Prescribed staffing allotment ratios;
- 36 (10) Material and equipment allotment ratios;
- 37 (11) Facilities standards;—guidelines that reflect educational program
38 appropriateness, long-term cost efficiency, and safety
39 considerations; and
- 40 (12) Any other information the Board considers appropriate and
41 necessary.

42 The State Board shall not adopt or enforce any rule that requires Algebra I as a
43 graduation standard or as a requirement for a high school diploma for any student whose

1 individualized education program (i) identifies the student as learning disabled in the
2 area of mathematics and (ii) states that this learning disability will prevent the student
3 from mastering Algebra I."

4 (b) G.S. 115C-489.3(c) is repealed.

5 (c) G.S. 115C-521(c) reads as rewritten:

6 "(c) The building of all new school buildings and the repairing of all old school
7 buildings shall be under the control and direction of, and by contract with, the board of
8 education for which the building and repairing is done. If a board of education is
9 considering building a new school building to replace an existing school building, the
10 board shall not invest any construction money in the new building unless it submits to the
11 State Superintendent and the State Superintendent submits to the North Carolina
12 Historical Commission an analysis that compares the costs and feasibility of building the
13 new building and of renovating the existing building and that clearly indicates the
14 desirability of building the new building. ~~Boards of education shall also not invest any~~
15 ~~money in any new building that is not built in accordance with plans approved by the~~
16 ~~State Superintendent to structural and functional soundness, safety and sanitation, nor~~ No
17 board of education shall invest any money in any new building until it has (i) developed
18 plans based upon a consideration of the State Board's facilities guidelines, (ii) submitted
19 these plans to the State Board for its review and comments, and (iii) reviewed the plans
20 based upon a consideration of the comments it receives from the State Board. No local
21 board of education shall contract for more money than is made available for its erection.
22 the erection of a new building. However, this subsection shall not be construed so as to
23 prevent boards of education from investing any money in buildings that are being
24 constructed pursuant to a continuing contract of construction as provided for in G.S.
25 115C-441(c1). All contracts for buildings shall be in writing and all buildings shall be
26 inspected, received, and approved by the local superintendent and the architect before full
27 payment is made ~~therefor. Provided, that this subsection shall not therefor.~~ Nothing in
28 this subsection shall prohibit boards of education from repairing and altering buildings
29 with the help of janitors and other regular employees of the board.

30 In the design and construction of new school buildings and in the renovation of
31 existing school buildings that are required to be designed by an architect or engineer
32 under G.S. 133-1.1, the local board of education shall participate in the planning and
33 review process of the Energy Guidelines for School Design and Construction that are
34 developed and maintained by the Department of Public Instruction and shall adopt local
35 energy-use goals for building design and operation that take into account local conditions
36 in an effort to reduce the impact of operation costs on local and State budgets. In the
37 design and construction of new school facilities and in the repair and renovation of
38 existing school facilities, the local board of education shall consider the placement and
39 design of windows to use the climate of North Carolina for both light and ventilation in
40 case of power shortages. A local board shall also consider the installation of solar energy
41 systems in the school facilities whenever practicable.

42 In the case of any school buildings erected, repaired, or equipped with any money
43 loaned or granted by the State to any local school administrative unit, the State Board of

1 Education, under any rules as it may deem advisable, may retain any amount not to
2 exceed fifteen percent (15%) of the loan or grant, until the completed buildings, erected
3 or repaired, in whole or in part, from the loan or grant funds, shall have been approved by
4 a designated agent of the State Board of Education. Upon approval by the State Board of
5 Education, the State Treasurer may pay the balance of the loan or grant to the treasurer of
6 the local school administrative unit for which the loan or grant was made."

7 (d) G.S. 115C-521 is amended by adding a new subsection to read:

8 "(e) The State Board of Education shall establish within the Department of Public
9 Instruction a central clearinghouse for access by local boards of education that may want
10 to use a prototype design in the construction of school facilities. The State Board shall
11 compile necessary publications and a computer database to distribute information on
12 prototype designs to local school administrative units. All architects and engineers
13 registered in North Carolina may submit plans for inclusion in the computer database and
14 these plans may be accessed by any person. The original architect of record or engineer
15 of record shall retain ownership and liability for a prototype design. The State Board
16 may adopt rules it considers necessary to implement this subsection."

17 (e) School facilities guidelines and standards adopted by the State Board of
18 Education before the effective date of this section shall remain in effect as guidelines
19 only.

20 (f) This section is effective upon ratification.

21 Sec. 18.19. The School Facilities Task Force.

22 (a) There is created the School Facilities Task Force under the State Board of
23 Education. The Task Force shall consist of the following members appointed by the
24 State Board:

- 25 (1) One member of the State Board.
- 26 (2) One architect.
- 27 (3) One representative from a school of architecture within a constituent
28 institution of The University of North Carolina.
- 29 (4) Two local school administrative unit employees with expertise in
30 school facilities.
- 31 (5) One representative of the North Carolina Association of County
32 Commissioners.
- 33 (6) One representative of the North Carolina School Boards Association.
- 34 (7) One engineer.
- 35 (8) Any other members the State Board considers necessary.

36 All members shall be voting members. The Task Force shall select a member
37 of the Task Force to serve as its chair.

38 Members of the Task Force shall receive travel and subsistence expenses in
39 accordance with G.S. 138-5 and G.S. 138-6.

40 The Department of Public Instruction shall, with the approval of the State
41 Board of Education, provide staff, office equipment, supplies, and meeting space to the
42 Task Force.

43 (b) The Task Force shall:

- 1 (1) Review the State Board's facilities guidelines for the construction,
2 acquisition, renovation, and replacement of facilities, furniture,
3 equipment, apparatus, and spaces for public schools to ensure they
4 reflect both educational program appropriateness and long-term cost-
5 efficiency.
- 6 (2) Make recommendations to the State Board as to (i) which guidelines
7 should be maintained, revised, or eliminated, and (ii) any new
8 guidelines that it considers appropriate.
- 9 (3) Develop and recommend to the State Board a procedure for the
10 Board to follow when facilities plans are submitted by local school
11 administrative units for the Board's review and comments.
- 12 (4) Develop and recommend to the State Board a proposal in accordance
13 with G.S. 115C-521(e) for the establishment of a central
14 clearinghouse for prototype designs.
- 15 (5) Submit its recommendations under this subsection to the State Board
16 no later than December 1, 1996.

17 (c) Based upon a consideration of the recommendations of the Task Force, the
18 State Board shall adopt (i) revised facilities guidelines to assist local school
19 administrative units in the construction, acquisition, renovation, and replacement of
20 facilities, furniture, equipment, apparatus, and spaces for public schools, (ii) the
21 procedure for local school administrative units to follow when they submit school
22 facilities plans for the State Board's review and comments, and (iii) a plan to establish
23 within the Department of Public Instruction a central clearinghouse for prototype designs.
24 The State Board shall submit a report by April 15, 1997, to the General Assembly that
25 includes the revised facilities guidelines, the facilities review procedure, and the plan to
26 establish a central clearinghouse for prototype designs. Upon submission of this report to
27 the General Assembly, the Task Force shall terminate.

28
29 Requested by: Senators Winner, Plexico

30 **FUNDS TO IMPLEMENT THE ABC'S OF PUBLIC EDUCATION PROGRAM**

31 Sec. 18.20. Of the funds appropriated to State Aid to Local School
32 Administrative Units, the State Board of Education may use up to twenty-four million
33 five hundred thousand dollars (\$24,500,000) for the 1996-97 fiscal year to provide
34 incentive funding for schools with higher than projected levels of improvement in student
35 performance, in accordance with the ABC's of Public Education Program, if enacted by
36 the General Assembly. The State Board of Education may allocate up to twenty-one
37 million dollars (\$21,000,000) of these funds on a per-teacher basis for each eligible
38 school and up to three million five hundred thousand dollars (\$3,500,000) on a per-
39 teacher assistant basis for each eligible school.

40 It is the intent of the General Assembly to fully fund this program for the 1997-
41 98 and subsequent fiscal years.

42
43 Requested by: Senators Plyler, Perdue, Odom

1 CERTIFIED PUBLIC SCHOOL PERSONNEL COMPENSATION STUDY

2 Sec. 18.21. (a) The Joint Legislative Commission on Governmental
3 Operations shall contract with a qualified employee benefits consulting practice or
4 research organization to conduct a comparative analysis of certified public school
5 personnel compensation in North Carolina school systems. As part of the analysis,
6 teachers base pay, the statewide salary schedule, incentives (i.e., local supplements,
7 benefits, etc., if any), and benefits packages in other Southeastern States (in the Southern
8 Regional Education Board region) shall be compared with North Carolina's certified
9 public school personnel salary schedule and benefits packages.

10 The scope of this comparative analysis shall be to determine, in those states
11 who are regional neighbors as defined by Southern Legislative Conference and Southern
12 Regional Education Board, how North Carolina certified public school personnel salaries
13 and benefits rank within the states in the region, and the recurring cost to offer and
14 maintain them at current levels. Median as well as average salary levels shall be
15 determined for each state.

16 In addition, this comparative analysis shall identify 5 to 10 other states in the
17 country most like North Carolina in terms of public school demographics (both students
18 and certified personnel), public school funding policy and governing structure, entry,
19 certification, and career requirements for teaching personnel, and other factors or
20 conditions that most affect teachers salary and benefits, and compare and rank those
21 salaries and benefits packages of these states to North Carolina certified public school
22 personnel compensation packages.

23 Applying survey research methods considered to be reliable and valid
24 statistically, the contractor shall determine the relative "economic value" of these benefits
25 to the employees.

26 Finally, the contractor shall produce a "regional compensation survey model"
27 as a product of this study of certified public school personnel that could then be made
28 available for other studies of state employees in the executive and judicial branches of
29 North Carolina state government. As part of the contractors work, training in conducting
30 these other studies would be provided to legislative staff.

31 (b) In order to determine which organizations may be most qualified to conduct
32 such an analysis, the Commission may appoint a subcommittee that shall be responsible
33 for issuing a Request for Qualifications (RFQ). All firms responding to the RFQ shall be
34 evaluated in accordance with procedures established by the Subcommittee. Up to five
35 firms may be invited to submit separate technical and cost proposals, in response to the
36 standard Request for Proposals (RFP).

37 A contract shall be awarded no later than September 13, 1996. The study shall
38 begin no later than October 1, 1996. A progress report shall be issued to the
39 subcommittee for review and approval no later than December 31, 1996, and a final
40 report no later than April 1, 1997.

41 The Legislative Services Office shall provide such coordinating staff to the
42 Joint Legislative Commission on Governmental Operations and its subcommittee as
43 necessary.

1
2 Requested by: Senators Dannelly, Winner, Plexico

3 **NORTH CAROLINA STANDARDS BOARD FOR PUBLIC SCHOOL**
4 **ADMINISTRATORS**

5 Sec. 18.22. (a) G.S. 115C-290.5 reads as rewritten:

6 **"§ 115C-290.5. Powers and duties of the Board; development of the North Carolina**
7 **Public School Administrator Exam.**

8 (a) The Standards Board shall administer this Article. In fulfilling this duty, the
9 Standards Board shall:

- 10 (1) ~~Develop~~In accordance with subsection (c) of this section, develop
11 and implement a North Carolina Public School Administrator Exam,
12 based on the professional standards established by the Standards
13 Board.
- 14 (2) Establish and collect an application fee not to exceed fifty dollars
15 (\$50.00), and an exam fee not to exceed one hundred fifty dollars
16 (\$150.00). Fees collected under this Article shall be credited to the
17 General Fund as nontax revenue.
- 18 (3) Review the educational achievements of an applicant to take the
19 exam to determine whether the achievements meet the requirements
20 set by G.S. 115C-290.7.
- 21 (4) Notify the State Board of Education of the names and addresses of
22 the persons who passed the exam and are thereby recommended to
23 be certified as public school administrators by the State Board of
24 Education.
- 25 (5) Maintain accounts and records in accordance with the Executive
26 Budget Act, Article 1 of Chapter 143 of the General Statutes.
- 27 (6) Adopt rules in accordance with Chapter 150B of the General
28 Statutes to implement this Article.
- 29 (7) Submit an annual report by December 1 of each year to the Joint
30 Legislative Education Oversight Committee of its activities during
31 the preceding year, together with any recommendations and findings
32 regarding improvement of the profession of public school
33 administration.

34 (b) The Board may adopt a seal and affix it to any documents issued by the Board.

35 (c) The Standards Board shall submit its proposed exam to the State Board. The
36 State Board shall adopt or reject the proposal. The State Board shall not make any
37 substantive changes to any exam that it adopts. If the State Board rejects the proposal, it
38 shall state with specificity its reasons for rejection; the Standards Board then may prepare
39 another proposed exam and submit it to the State Board. If the State Board rejects the
40 proposed exam on its second submission, the State Board may develop and adopt an
41 exam by December 1, 1997. The General Assembly urges the State Board to utilize the
42 Standards Board's proposed exam to the maximum extent that it is consistent with the
43 State Board's policies if the State Board develops and adopts an exam. After an exam has

1 been adopted, the Standards Board may submit suggested changes to the State Board for
2 its approval."

3 (b) G.S. 115C-290.7(a) reads as rewritten:

4 "(a) The Standards Board shall recommend for certification by the State Board an
5 individual who submits a complete application to the Standards Board and satisfies all of
6 the following requirements:

7 (1) Pays the application fee established by the Standards Board.

8 (2) Pays the exam fee established by the Standards Board.

9 (3) Has a bachelors degree from an accredited college or accredited
10 university and (i) has a graduate degree from a public school
11 administration program that meets the public school administrator
12 program approval standards set by the State Board of Education.
13 Education, or (ii) has a masters degree from an accredited college or
14 accredited university and has completed by December 31, 1999, a
15 public school administration program that meets the public school
16 administration approval standards set by the State Board of
17 Education.

18 (4) Passes the exam."

19 (c) G.S. 115C-290.8 reads as rewritten:

20 "**§ 115C-290.8. Exemptions from requirements.**

21 The requirements of this Article do not apply to a person who, at any time during the
22 five years preceding January 1, 1998, (i) completed an administrative internship as part
23 of an approved graduate program in school administration and obtained an active State
24 administrator/supervisor certificate, or (ii) was engaged in public-school administration at
25 either a public school in North Carolina or a school in North Carolina operated by the
26 United States government while in possession of an active State administrator/supervisor
27 certificate. A person who is exempt from the requirements of this Article but applies to
28 the Standards Board under this Article shall be subject to the Article."

29 (d) Subsections (b) and (c) of this section become effective January 1, 1998.
30 The remainder of this section is effective upon ratification.

31
32 Requested by: Senators Winner, Plexico

33 SCHOOL LAW REVISION COMMISSION

34 Sec. 18.23. (a) The Legislative Public School Law Revision Commission is
35 established. The Commission consists of the following 18 members:

36 (1) Six members, four of whom shall be members of the Senate,
37 appointed by the President Pro Tempore of the Senate.

38 (2) Six members, four of whom shall be members of the House of
39 Representatives, appointed by the Speaker of the House of
40 Representatives.

41 (3) Six members, two of whom shall be members of the State Board of
42 Education, appointed by the State Board of Education.

1 Members appointed to the Commission shall serve until the Commission
2 makes its final report. Vacancies on the Commission shall be filled by the person who
3 made the initial appointment.

4 (b) The Commission shall:

5 (1) Conduct a comprehensive review of the public school laws.

6 (2) Identify laws that are outdated, vague, unnecessary, or otherwise in
7 need of revision.

8 (3) Revise the public laws so they are consistent with the North Carolina
9 Constitution and with the goals of the General Assembly and the
10 State Board of Education in order to improve student performance,
11 increase local flexibility and control, and promote economy and
12 efficiency.

13 (c) The Speaker of the House of Representatives shall designate a member of
14 the House of Representatives as cochair of the Commission, and the President Pro
15 Tempore of the Senate shall designate a member of the Senate as cochair of the
16 Commission. The Commission shall meet upon the call of the cochairs. A quorum of the
17 Commission is 10 members.

18 Members of the Commission shall receive per diem, subsistence, and travel
19 allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate.

20 The Legislative Administrative Officer shall assign as staff to the Commission
21 professional employees of the General Assembly. Clerical staff shall be assigned to the
22 Commission through the Offices of the Supervisor of Clerks of the Senate and Supervisor
23 of Clerks of the House of Representatives. The Commission may meet in the Legislative
24 Building or the Legislative Office Building with the approval of the Legislative Services
25 Commission.

26 (d) All State departments and agencies and local governments and their
27 subdivisions shall furnish the Commission with any information that is requested of them
28 by the Commission.

29 (e) The Commission shall submit a progress report to the Joint Legislative
30 Education Oversight Committee by January 15, 1997, and shall submit a final report to
31 the Joint Legislative Education Oversight Committee by April 15, 1998. The
32 Commission shall terminate upon filing its final report.

33 (f) From funds appropriated to the General Assembly, the Legislative Services
34 Commission may allocate funds for the expenses of the Commission under this section.

35
36 Requested by: Senators Winner, Plexico

37 **EDUCATION OF GIFTED STUDENTS**

38 Sec. 18.24. (a) G.S. 115C-81(b)(1) reads as rewritten:

39 "(1) A core curriculum for all students that takes into account the special
40 needs of children and includes appropriate modifications for the
41 learning disabled, the academically ~~gifted~~, or intellectually gifted
42 students, and the students with discipline and emotional problems;"

43 (b) G.S. 115C-109 reads as rewritten:

1 **"§ 115C-109. Definition of children with special needs.**

2 The term 'children with special needs' includes, without limitation, all children from
3 age five through age 20 who because of permanent or temporary mental, physical or
4 emotional handicaps need special education, are unable to have all their needs met in a
5 regular class without special education or related services, or are unable to be adequately
6 educated in the public schools. It includes those who are mentally retarded, epileptic,
7 learning disabled, cerebral palsied, seriously emotionally disturbed, orthopedically
8 impaired, autistic, multiply handicapped, pregnant, hearing-impaired, speech-impaired,
9 blind or visually impaired, and other health impaired, and academically gifted. impaired."

10 (c) G.S. 115C-110(d) reads as rewritten:

11 "(d) The Board shall adopt rules or regulations covering:

12 (1) The qualifications of and standards for certification of teachers,
13 teacher assistants, speech clinicians, school psychologists, and others
14 involved in the education and training of children with special needs;

15 (2) Minimum standards for the individualized educational program for
16 all children with special needs other than for ~~the academically gifted~~
17 ~~and the pregnant children, and for the group educational program for~~
18 ~~the academically gifted children and the educational program for the~~
19 pregnant children, who receive special education and related
20 services; and

21 (3) Such other rules or regulations as may be necessary or appropriate
22 for carrying out the purposes of this Article. Representatives from
23 the Departments of Human Resources and Correction shall be
24 involved in the development of the standards outlined under this
25 subsection."

26 (d) G.S. 115C-110(k) reads as rewritten:

27 "(k) The Department shall monitor the effectiveness of individualized education
28 programs in meeting the educational needs of all children with special needs other than
29 ~~the academically gifted and pregnant children, and of group educational programs in~~
30 ~~meeting the educational needs of the academically gifted children, and of educational~~
31 programs in meeting the educational needs of the pregnant children."

32 (e) G.S. 115C-113 reads as rewritten:

33 **"§ 115C-113. Diagnosis and evaluation; individualized education program.**

34 (a) Before taking any action described in subsection (b), below, each local
35 educational agency shall cause a multi-disciplinary diagnosis and evaluation to be made
36 of the child. The State Board of Education shall establish special, simplified procedures
37 for the diagnosis and evaluation of the pregnant child, which procedures shall focus on
38 the particular needs of the pregnant child and shall exclude those procedures which are
39 not pertinent to the pregnant. The local educational agency shall use the diagnosis and
40 evaluation to determine if the child has special needs, diagnose and evaluate those needs,
41 propose special education programs to meet those needs, and provide or arrange to
42 provide such programs. A multi-disciplinary diagnosis and evaluation is one which
43 includes, without limitation, medical (if necessary), psychological (if necessary) and

1 educational assessments and recommendations; such an evaluation may include any other
2 assessments as the Board may, by rule or regulation, require.

3 All testing and evaluation materials and procedures utilized for the purposes of
4 evaluation and placement of children with special needs will be selected and administered
5 so as not to be racially or culturally discriminatory. Such materials or procedures shall be
6 provided and administered in the child's native language or mode of communication,
7 unless it clearly is not feasible to do so, and no single procedure shall be the sole criterion
8 for determining an appropriate educational program for a child.

9 (b) An initial multi-disciplinary diagnosis and evaluation based on rules developed
10 by the Board shall be made before any such child is placed in a special education
11 program, removed from such a program and placed in a regular school program,
12 transferred from one type of special education program to another, removed from a
13 school program for placement in a nonschool program, or otherwise tracked, classified,
14 or treated as a child with special needs.

15 (c) Referral of any child shall be in writing, signed by the person requesting
16 diagnosis and evaluation, setting forth the reasons for the request; it shall be sent or
17 delivered to one of the following: the child's teacher, the principal of the school to which
18 the child is, has been or will be assigned, or the superintendent of the affected local
19 educational agency or his designee. The local educational agency shall send a written
20 notice to the parent or guardian describing the evaluation procedure to be followed and
21 requesting consent for the evaluation. If the parents or guardian consent, the diagnosis
22 and evaluation may be undertaken; if they do not, the local educational agency may
23 obtain a due process hearing pursuant to G.S. 115C-116 on the failure of the parent or
24 guardian to consent.

25 The local educational agency shall provide or cause to be provided, as soon as
26 possible after receiving consent for evaluation, a diagnosis and evaluation appropriate to
27 the needs of the child unless the parents or guardian have objected to such evaluation. If
28 at the conclusion of the evaluation, the child is determined to be a child with special
29 needs, the local educational agency shall within 30 calendar days convene an
30 individualized education program committee. The purpose of the meeting shall be to
31 propose the special education and related services for the child. An interpretation of the
32 multi-disciplinary diagnosis and evaluation will be made to the parent or guardian during
33 the meeting. The proposal shall set forth the specific benefits expected from such a
34 program, a method for monitoring the benefits, and a statement regarding conditions
35 which will be considered indicative of the child's readiness for participation in regular
36 classes.

37 After an initial referral is made, the provision of special education and related services
38 shall be implemented within 90 calendar days to eligible students, unless the parents or
39 guardian refuse to consent to evaluation or placement or the parent or local educational
40 agency requests a due process hearing.

41 Within 12 months after placement in a special education program, and at least
42 annually thereafter, those people responsible for developing the child's individualized
43 education program, ~~group educational program for the academically gifted, or~~

1 educational program for the pregnant, shall review the child's progress and, on the basis
2 of previously stated expected benefits, decide whether to continue or discontinue the
3 placement or program. If the review indicates that the placement or program does not
4 benefit the child, the appropriate reassignment or change in the prescribed program shall
5 be recommended to the parents or guardian.

6 The local educational agency shall keep a complete written record of all diagnostic
7 and evaluation procedures attempted, their results, the conclusions reached, and the
8 proposals made.

9 (d) The local educational agency shall furnish the results, findings, and proposals,
10 as described in the individualized education program ~~or group educational program~~
11 based on the diagnosis and evaluation to the parents or guardian in writing in the parents'
12 or guardian's native language or by their dominant mode of communication, prior to the
13 parent or guardian giving consent for initial placement in special education and related
14 services. Prior notice will be given to the parents or guardian by the local educational
15 agency before any change in placement.

16 A reevaluation must be completed at least every three years to determine the
17 appropriateness of the child's continuing to receive special education and related ~~services:~~
18 ~~Provided, that a reevaluation for an academically gifted child shall be completed within~~
19 ~~three years of initial evaluation for a child who has been identified as academically gifted~~
20 ~~prior to the second semester of the third grade. For a child who is identified as~~
21 ~~academically gifted during the second semester of the third grade or thereafter, no~~
22 ~~reevaluation is required.~~ services.

23 (e) Each local educational agency shall make and keep current a list of all children
24 evaluated and diagnosed pursuant to this section who are found to have special needs and
25 of all children who are receiving home, hospital, institutional or other special education
26 services, including those being educated within the regular classroom setting or in other
27 special education programs.

28 (f) Each local educational agency shall prepare individualized educational
29 programs for all children found to be children with special needs other than the
30 ~~academically gifted and pregnant children, and group educational programs prescribed in~~
31 ~~subsection (g) of this section for the academically gifted children, and educational~~
32 programs prescribed in subsection (h) of this section for the pregnant children. The
33 individualized educational program shall be developed in conformity with Public Law
34 94-142 and the implementing regulations issued by the United States Department of
35 Education and shall be implemented in conformity with timeliness set by that
36 Department. The term 'individualized educational program' means a written statement
37 for each such child developed in any meeting by a representative of the local educational
38 agency who shall be qualified to provide, or supervise the provision of, specially
39 designed instruction to meet the unique needs of such children, the teacher, the parents or
40 guardian of such child, and, whenever appropriate, such child, which statement shall be
41 based on rules developed by the Board. Each local educational agency shall establish, or
42 revise, whichever is appropriate, the individualized educational program of each child
43 with special needs each school year and will then review and, if appropriate revise, its

1 provisions periodically, but not less than annually. In the facilities and programs of the
2 Department of Human Resources, the individualized educational program shall be
3 planned in collaboration with those other individuals responsible for the design of the
4 total treatment or habilitation plan or both; the resulting educational, treatment, and
5 habilitation plans shall be coordinated, integrated, and internally consistent.

6 ~~(g) Each local educational agency shall prepare group educational programs for
7 the academically gifted children. The State Board of Education shall promulgate rules
8 and regulations specifically to address the preparation of these group educational
9 programs, which rules and regulations shall include specific grouping standards and
10 specific program standards, and shall also include standards for ensuring that the
11 individual educational needs of each child within the group are addressed.~~

12 (h) Each local educational agency shall prepare educational programs for the
13 pregnant children. The State Board of Education shall promulgate rules and regulations
14 specifically to address the preparation of these educational programs, which rules and
15 regulations shall include specific standards for ensuring that the individual educational
16 needs of each child are addressed."

17 (f) Chapter 115C of the General Statutes is amended by adding a new Article
18 9B to read:

19 **"ARTICLE 9B.**

20 **"ACADEMICALLY OR INTELLECTUALLY GIFTED STUDENTS.**

21 **"§ 115C-150.5. Academically or intellectually gifted students.**

22 The General Assembly believes the public schools should challenge all students to
23 aim for academic excellence and that academically or intellectually gifted students
24 perform or show the potential to perform at substantially high levels of accomplishment
25 when compared with others of their age, experience, or environment. Academically or
26 intellectually gifted students exhibit high performance capability in intellectual areas,
27 specific academic fields, or in both intellectual areas and specific academic fields.
28 Academically or intellectually gifted students require differentiated educational services
29 beyond those ordinarily provided by the regular educational program. Outstanding
30 abilities are present in students from all cultural groups, across all economic strata, and in
31 all areas of human endeavor.

32 **"§ 115C-150.6. State Board of Education responsibilities.**

33 In order to implement this Article, the State Board of Education shall:

34 (1) Develop and disseminate guidelines for developing local plans under
35 G.S. 115C-150.7(a). These guidelines should address identification
36 procedures, differentiated curriculum, integrated services, staff
37 development, program evaluation methods, and any other
38 information the State Board considers necessary or appropriate.

39 (2) Provide ongoing technical assistance to the local school
40 administrative units in the development, implementation, and
41 evaluation of their local plans under G.S. 115C-150.7.

42 **"§ 115C-150.7. Local plans.**

1 (a) Each local board of education shall develop a local plan designed to identify
2 and establish a procedure for providing appropriate educational services to each
3 academically or intellectually gifted student. The board shall include parents, the school
4 community, representatives of the community, and others in the development of this plan.
5 The plan may be developed by or in conjunction with other committees.

6 (b) Each plan shall include the following components:

7 (1) Screening, identification, and placement procedures that allow for
8 the identification of specific educational needs and for the
9 assignment of academically or intellectually gifted students to
10 appropriate services.

11 (2) A clear statement of the program to be offered that includes different
12 types of services provided in a variety of settings to meet the
13 diversity of identified academically or intellectually gifted students.

14 (3) Measurable objectives for the various services that align with core
15 curriculum and a method to evaluate the plan and the services
16 offered. The evaluation shall focus on improved student
17 performance.

18 (4) Professional development clearly matched to the goals and
19 objectives of the plan, the needs of the staff providing services to
20 academically or intellectually gifted students, the services offered,
21 and the curricular modifications.

22 (5) A plan to involve the school community, parents, and representatives
23 of the local community in the ongoing implementation of the local
24 plan, monitoring of the local plan, and integration of educational
25 services for academically or intellectually gifted students into the
26 total school program. This should include a public information
27 component.

28 (6) The name and role description of the person responsible for
29 implementation of the plan.

30 (7) A procedure to resolve disagreements between parents and the
31 school when a child is not identified as an academically or
32 intellectually gifted student or concerning the appropriateness of
33 services offered to the academically or intellectually gifted student.

34 (8) Any other information the local board considers necessary or
35 appropriate to implement this Article or to improve the educational
36 performance of academically or intellectually gifted students.

37 (c) Upon its approval of the plan developed under this section, the local board
38 shall submit the plan to the State Board of Education for its review and comments. The
39 local board shall consider the comments it receives from the State Board before it
40 implements the plan.

41 (d) A plan shall remain in effect for no more than three years; however, the local
42 board may amend the plan as often as it considers necessary or appropriate. Any changes
43 to a plan shall be submitted to the State Board of Education for its review and comments.

1 The local board shall consider the State Board's comments before it implements the
2 changes."

3 (g) Effective July 1, 1996, funding allotments in the Public School Fund shall
4 be allocated as follows:

5 **Existing Funding Allotment**

6 Exceptional Children.

5 **New Funding Allotments**

(1) Children With Special
7 Needs.

8 (2) Academically or Intellectually
9 Gifted Students.

10 (h) G.S. 115C-105.21A(b) is amended by adding a new subdivision to read:

11 "(8) Funds allocated for academically or intellectually gifted students may be
12 used only (i) for academically or intellectually gifted students; (ii) to
13 implement the plan developed under G.S. 115C-150.7; or (iii) in
14 accordance with an accepted school improvement plan, for any purpose
15 so long as that school demonstrates it is providing appropriate services
16 to academically or intellectually gifted students assigned to that school
17 in accordance with the local plan developed under G.S. 115C-150.7."

18 (i) G.S. 115C-238.3(b1) reads as rewritten:

19 "(b1) Development by each school of strategies for attaining local school and student
20 performance goals. – The principal of each school, representatives of the assistant
21 principals, instructional personnel, instructional support personnel, and teacher assistants
22 assigned to the school building, and parents of children enrolled in the school shall
23 constitute a school improvement team to develop a building-level plan to address school
24 and student performance goals appropriate to that school from those established by the
25 local board of education. Parents serving on school improvement teams shall reflect the
26 racial and socioeconomic composition of the students enrolled in that school and shall not
27 be members of the building-level staff. Parental involvement is a critical component of
28 school success and positive student outcomes; therefore, it is the intent of the General
29 Assembly that parents, along with teachers, have a substantial role in developing school
30 and student performance goals at the building level. To this end, school improvement
31 team meetings shall be held at a convenient time to assure substantial parent
32 participation. The strategies for attaining local school and student performance goals shall
33 include a plan for the use of staff development funds that may be made available to the
34 school by the local board of education to implement the building-level plan. The
35 strategies may include a decision to use State funds allocated for teacher assistants to
36 reduce class size or the student-teacher ratio in kindergarten through the third grade in
37 accordance with G.S. 115C-238.2(b)(5a) or to use State funds in accordance with ~~G.S.~~
38 ~~115C-238.2(b)(5b)~~ G.S. 115C-238.2(b)(5b) or G.S. 115C-238.2(b)(5c). The strategies
39 may also include requests for waivers of State laws, regulations, or policies for that
40 school. A request for a waiver shall (i) identify the State laws, regulations, or policies that
41 inhibit the local unit's ability to reach its local accountability goals, (ii) set out with
42 specificity the circumstances under which the waiver may be used, and (iii) explain how

1 a waiver of those laws, regulations, or policies will permit the local unit to reach its local
2 goals.

3 Support among affected staff members is essential to successful implementation of a
4 building-level plan to address school and student performance goals appropriate to a
5 school; therefore, the principal of the school shall present the proposed building-level
6 plan to all of the principals, assistant principals, instructional personnel, instructional
7 support personnel, and teacher assistants assigned to the school building for their review
8 and vote. The vote shall be by secret ballot. The principal may submit the building-level
9 plan to the local board of education for inclusion in the systemwide plan only if the
10 proposed building-level plan has the approval of a majority of the staff who voted on the
11 plan.

12 The local board of education shall accept or reject the building-level plan. The local
13 board shall not make any substantive changes in any building-level plan that it accepts;
14 the local board shall set out any building-level plan that it accepts in the systemwide plan.
15 If the local board rejects a building-level plan, the local board shall state with specificity
16 its reasons for rejecting the plan; the school improvement team may then prepare another
17 plan, present it to the principals, assistant principals, instructional personnel, instructional
18 support personnel, and teacher assistants assigned to the school building for a vote, and
19 submit it to the local board for inclusion in the systemwide plan. If no building-level plan
20 is accepted for a school before March 15 of the fiscal year preceding the fiscal year in
21 which participation is sought, the local board may develop a plan for the school for
22 inclusion in the systemwide plan; the General Assembly urges the local board to utilize
23 the proposed building-level plan to the maximum extent possible when developing such a
24 plan."

25 (j) The State Board of Education shall establish deadlines for local school
26 administrative units to implement the local plans developed under G.S. 115C-150.7. All
27 local school administrative units shall begin implementation of their local plans by the
28 beginning of the 1998-99 school year.

29 (k) The State Board of Education shall report to the Joint Legislative
30 Education Oversight Committee by December 15, 1996, and by March 15, 1998, on the
31 implementation of this section.

32 (l) This section is effective upon ratification.

33

34 Requested by: Senators Winner, Plexico

35 SCHOOL BOND ACT TECHNICAL CORRECTIONS

36 Sec. 18.25 (a) Section 4 of Chapter 631 of the 1995 Session Laws reads as
37 rewritten:

38 "Sec. 4. Authorization of Bonds and Notes. – Subject to a favorable vote of a
39 majority of the qualified voters of the State who vote on the question of issuing Public
40 School Building Bonds in the election held as provided in this act, the State Treasurer is
41 authorized, by and with the consent of the Council of State, to issue and sell, at one time
42 or from time to time, general obligation bonds of the State to be designated 'State of
43 North Carolina Public School Building Bonds', with any additional designations as may

1 be determined to indicate the issuance of bonds from time to time, or notes of the State as
2 provided in this act, in the aggregate principal amount not exceeding one billion eight
3 hundred million dollars (\$1,800,000,000) for the purposes authorized in this act. The
4 principal amounts of bonds or notes issued in any 12-month period shall not exceed four
5 hundred fifty million dollars (\$450,000,000). In determining whether this limit has been
6 reached, the issuance of a note or bond to pay an outstanding note or bond is not
7 considered an issuance."

8 (b) Section 6(d) of Chapter 631 of the 1995 Session Laws reads as rewritten:

9 "(d) Match. – A county is not required to match bond proceeds allocated under
10 subsection (b) of this section. A county is not required to match the Low-Wealth
11 Allocation of bond proceeds under subsection (c) of this section. A county must match
12 both the ADM Allocation and the Growth Allocation of bond proceeds under subsection
13 (c) of this section. These two allocations must be matched at the rate of matching funds
14 equal to three cents (3¢) times the county's ability to pay rank for every one dollar (\$1.00)
15 of allocated bond proceeds. A county's ability to pay rank is its rank in the ranking of
16 counties from lowest to highest county wealth as a percentage of State average wealth
17 made by the State Board of Education for the 1995-96 fiscal year pursuant to Section
18 17.1 of Chapter 507 of the 1995 Session Laws. The match requirement may be satisfied
19 by non-State expenditures for public school facilities made on or after January 1, 1992.
20 ~~A non-State expenditure has been made for the purpose of the match if funds, including~~
21 ~~funds expended for debt service, have been budgeted, earmarked, or committed for the~~
22 ~~general purpose of public school facilities. If a debt has been authorized or incurred since~~
23 ~~January 1, 1992, for the general purpose of public school facilities, then the face amount~~
24 ~~of the debt shall be considered as a non-State expenditure for public school facilities for~~
25 ~~the purpose of the match. Non-state expenditures are defined as follows:~~

26 (1) With respect to debt incurred for public school facilities before January
27 1, 1992, non-State expenditures include amounts expended on or after
28 January 1, 1992, for debt service for the debt.

29 (2) With respect to debt authorized or incurred for public school facilities
30 on or after January 1, 1992, non-State expenditures include only the face
31 amount of the debt.

32 (3) With respect to expenditures other than for debt service, non-State
33 expenditures include funds budgeted, earmarked, or committed on or
34 after January 1, 1992, for the purpose of public school facilities.

35 As counties satisfy the match requirements of this section, they shall document the
36 extent to which they have done so in periodic reports to the State Board of Education.
37 These reports shall include any information and documentation required by the State
38 Board of Education. The State Board of Education shall certify to the State Treasurer
39 from time to time the extent to which the match requirements of this section have been
40 met with respect to each county; this certification shall be binding and conclusive. Bond
41 proceeds shall be distributed for expenditure only as, and to the extent, the matching
42 requirements of this section are satisfied, as certified by the State Board of Education.
43 The State Board of Education shall also require counties to report annually on the impact

1 of funds provided under this act on the property tax rate for that year. These reports shall
2 be public documents and shall be furnished to any citizen upon request."

3 (c) This section is effective upon ratification.

4
5 Requested by: Senators Winner, Plexico, Davis

6 **REPEAL LOCAL SCHOOL PAY DATES**

7 Sec. 18.26. (a) Section 2 of Chapter 106 of the 1991 Session Laws is repealed.

8 (b) Chapter 90 of the 1995 Session Laws is repealed.

9 (c) Section 144 of Chapter 321 of the 1993 Session Laws is repealed.

10 (d) Chapter 120 of the 1995 Session Laws is repealed.

11 (e) Chapter 770 of the 1991 Session Laws is repealed.

12 (f) Section 19.22 of Chapter 769 of the 1993 Session Laws, as amended by
13 Chapter 12 of the 1995 Session Laws, is repealed.

14 (g) Sections 19.18 and 19.21 of Chapter 769 of the 1993 Session Laws are
15 repealed.

16 (h) Chapter 399 of the 1989 Session Laws, as amended by Chapter 820 of the
17 1989 Session Laws, is repealed.

18 (i) Chapter 995 of the 1991 Session Laws is repealed.

19 (j) Section 53 of Chapter 561 of the 1993 Session Laws is repealed.

20 (k) Section 8 of Chapter 246 of the 1991 Session Laws is repealed.

21 (l) Chapter 835 of the 1991 Session Laws is repealed.

22 (m) Section 143.1 of Chapter 321 of the 1993 Session Laws, as amended by
23 Section 19.19 of Chapter 769 of the 1993 Session Laws is repealed.

24 (n) The pay dates for all employees of the Kings Mountain Local School
25 Administrative Unit and the pay date for all employees of the local boards of education of
26 Alleghany County, Brunswick County, Caldwell County, Charlotte-Mecklenburg
27 County, Cherokee County, Dare County, Haywood County, Henderson County, New
28 Hanover County, Pitt County, Scotland County, and Watauga County shall be established
29 in accordance with the provisions of Chapter 115C of the General Statutes.

30
31 Requested by: Senators Winner, Plexico

32 **SCHOOL BUDGETS AND SCHOOL IMPROVEMENT PLANS MADE** 33 **AVAILABLE**

34 Sec. 18.27. G.S. 115C-288 is amended by adding the following new
35 subsection to read:

36 "(h) To Make Available School Budgets and School Improvement Plans. – The
37 principal of a school shall allow parents of students in the school and other interested
38 persons to review and obtain copies of the school's current budget and school
39 improvement plan, including any amendments to the plan, in accordance with Chapter
40 132 of the General Statutes."

41 42 **PART 19. DEPARTMENT OF TRANSPORTATION** 43

1 Requested by: Senator Hoyle

2 **USE OF FUNDS RESULTING FROM THE ELIMINATION OF POSITIONS IN**
3 **DIVISION OF MOTOR VEHICLES**

4 Sec. 19. Funds in the amount of one hundred thirty-five thousand three
5 hundred eighty-nine dollars (\$135,389) realized from the elimination of 11 positions in
6 the Division of Motor Vehicles during the 1996-97 fiscal year shall be placed in a reserve
7 and shall be used only to support the implementation of the State Titling and Registration
8 System. Funds remaining in the reserve at the end of the 1996-97 fiscal year shall revert
9 to the Highway Fund.

10
11 Requested by: Senator Hoyle

12 **DEPARTMENT OF TRANSPORTATION REPORT ON REORGANIZATION OF**
13 **DIVISION OF MOTOR VEHICLES**

14 Sec. 19.1. The Department of Transportation shall report to the Joint
15 Legislative Transportation Oversight Committee by December 15, 1996, concerning how
16 it will implement the recommendations for the restructuring of the Division of Motor
17 Vehicles through the elimination of positions, consolidation of offices and functions, and
18 the transfer of functions within and from the Division, which were contained in the
19 performance audit of the Division of Motor Vehicles presented to the Joint Legislative
20 Commission on Governmental Operations in May 1996. This report shall discuss both
21 short-term and long-term managerial actions necessary to implement the
22 recommendations and contain detailed budgetary analyses of the short-term and long-
23 term effects of these actions. This report shall also describe how the various proposals fit
24 in a long-range plan for the modernization of the Division of Motor Vehicles and the
25 functions it performs.

26
27 Requested by: Senator Hoyle

28 **DEPARTMENT OF TRANSPORTATION REPORTS TO THE JOINT**
29 **LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE**

30 Sec. 19.2. The Department of Transportation shall make the following reports
31 to the Joint Legislative Transportation Oversight Committee by the dates specified:

- 32 (1) By November 1, 1996, the Department shall report on any changes
33 needed to be made to the vehicle salvage laws to minimize the number
34 of salvage inspections without compromising the integrity of the
35 salvage process. This report shall address how reductions in dedicated
36 salvage inspection positions shall be made under the proposed system.
- 37 (2) By October 1, 1996, the Department shall provide plans for the study of
38 the following issues, including a schedule for completion of the studies:
- 39 a. How the process by which licenses are modified, revoked, and
40 suspended can be simplified.
- 41 b. How touch-tone technology and credit cards can be used in the
42 motor vehicle registration process.

- 1 c. How credit cards can be used to increase customer payment
2 options.
- 3 d. How collision reports can be entered directly into an automated
4 system database by law enforcement officers.
- 5 (3) By December 1, 1996, the Department shall report how computer
6 software used to register motor carriers under the International
7 Registration Plan can be reconfigured so that it can be used more
8 efficiently by staff and customers.
- 9 (4) By November 1, 1996, the Department shall:
- 10 a. Develop a formula to determine the number, location, and
11 staffing of drivers license field offices within the State.
- 12 b. Use this formula to develop a five-year plan for changes in the
13 number and sizes of drivers license field offices that recognizes
14 the need for the development of larger, multi-functional drivers
15 license offices that provide a wider range of services at
16 centralized locations and to provide a plan for the renovation of
17 existing drivers license field offices that will be retained.
- 18 (5) By December 1, 1996, the Department shall report on how it will
19 maintain technical support for the vehicle registration and drivers
20 license data systems for the 1997-99 biennium. This report shall
21 estimate staffing needs for technical support in each year, address
22 whether and how contract personnel will be used, and determine the
23 feasibility of using more permanent personnel instead of contractors.
- 24

25 Requested by: Senator Hoyle

26 **DIVISION OF MOTOR VEHICLES ENFORCEMENT DUTIES**

27 Sec. 19.3. G.S. 20-4 reads as rewritten:

28 "~~§ 20-4. Clarification of conflicts as to transfer of functions.~~ Enforcement duties of
29 the Division.

30 ~~In the event that there shall arise any conflict as to the transfer of any functions from~~
31 ~~the Department of Revenue to the Division of Motor Vehicles, the Governor of the State~~
32 ~~is hereby authorized to issue an executive order clarifying and making certain the issue~~
33 ~~thus arising.~~

34 (a) Primary Duty. – The primary enforcement duty of the Division is the
35 enforcement of the vehicle weight restrictions set forth in G.S. 20-118. In performing
36 this duty, the Division shall make maximum effective use of permanent weigh stations
37 and portable scales.

38 (b) Secondary Duties. – The secondary enforcement duties of the Division are as
39 follows and are listed in the order of importance:

- 40 (1) Enforcement of the motor carrier safety regulations.
41 (2) Enforcement of the emissions inspection program.
42 (3) Inspection of salvage vehicles.
43 (4) Provide security at rest areas.

1 (5) Other duties set out in this Chapter.

2 (c) Restriction. – The Division shall not undertake an enforcement duty that is not
3 listed in this section unless a law specifically authorizes the Division to do so or the duty
4 is undertaken as a condition of receiving federal funds."

5
6 Requested by: Senator Hoyle

7 **DEPARTMENT OF TRANSPORTATION–CASH FLOW CONTRACT FUNDING**

8 Sec. 19.4. (a) G.S. 136-176(d) reads as rewritten:

9 "(d) A contract may be let for projects funded from the Trust Fund in anticipation
10 of revenues pursuant to the cash-flow provisions of G.S. 143-28.1 only for the ~~biennium~~
11 two bienniums following the year in which the contract is let."

12 (b) G.S. 143-28.1 reads as rewritten:

13 **"§ 143-28.1. Highway Fund appropriation.**

14 Notwithstanding any other provisions of this Article, the appropriations made from
15 the Highway Fund for highway construction and maintenance are subject to the following
16 provisions.

17 (1) Cash Flow Funding for Highway Construction and Maintenance. –
18 Highway maintenance and construction funds shall be budgeted,
19 expended and accounted for on a 'cash flow' basis. Pursuant to this end,
20 highway maintenance and construction contracts shall be planned and
21 limited so payments due at any time will not exceed the cash available
22 to pay them.

23 (2) Appropriations are for Payments and Contract Commitments to be
24 Made in the Appropriation Fiscal Year. – The appropriations provided
25 for by the Appropriations Act for highway maintenance and
26 construction are for maximum payments estimated to be made during
27 the appropriation fiscal year and for maximum contracting authority for
28 future years. Highway maintenance and construction contracts shall be
29 scheduled so that the total contract payments and other expenditures
30 charged to projects in the fiscal year for each highway maintenance and
31 construction appropriation item will not exceed the current
32 appropriations provided by the General Assembly and unspent prior
33 appropriations made by the General Assembly for the particular
34 appropriation item.

35 (3) Payments Subject to Availability of Funds – Retainage Fully Funded –
36 5% Cash Balance Required. – The annual appropriations for highway
37 maintenance and construction provided for by the Appropriations Act
38 shall be expended only to the extent that sufficient funds are available in
39 the Highway Fund. The Department of Transportation shall fully fund
40 retainage from maintenance and construction contracts in the year in
41 which the work is performed, and in addition shall maintain an available
42 cash balance at the end of each month equal to at least five percent (5%)
43 of the unpaid balance of the total maintenance and construction contract

1 obligations. In the event this cash position is not maintained, no further
2 construction and maintenance contract commitments shall be entered
3 into until the cash balance has been regained. For the purposes of
4 awarding contracts involving federal-aid, any amount due from the
5 federal government and the Highway Bond Fund as a result of
6 unreimbursed expenditures may be considered as cash for the purposes
7 of this provision.

- 8 (4) Anticipation of Revenues. – In awarding State highway construction
9 and maintenance contracts requiring payments beyond a biennium, the
10 Director of the Budget may anticipate revenues as authorized and
11 certified by the General Assembly, to continue contract payments for up
12 to seventy-five percent (75%) of the revenues which are estimated for
13 the first fiscal year of the succeeding biennium and which are not
14 required for other budget items. Up to fifty percent (50%) of the
15 revenues not required for other budget items may be anticipated for the
16 second ~~and subsequent fiscal years'~~ year of the succeeding biennium's
17 contract payments. Up to forty percent (40%) of the revenues not
18 required for other budget items may be anticipated for the first year of
19 the second succeeding biennium and up to twenty percent (20%) of the
20 revenues not required for other budget items may be anticipated for the
21 second year of the second succeeding biennium.

- 22 (5) Amounts Obligated – Payments Subject to the Availability of Funds –
23 Termination of Contracts. – Highway maintenance and construction
24 appropriations may be obligated in the amount of allotments made to the
25 Department of Transportation by the Office of State Budget and
26 Management for the estimated payments for maintenance and
27 construction contract work to be performed in the appropriation fiscal
28 year. The allotments shall be multi-year allotments and shall be based
29 on estimated revenues and shall be subject to the maximum contract
30 authority contained in subdivision (2) above. Payment for highway
31 maintenance and construction work performed pursuant to contract in
32 any fiscal year other than the current fiscal year will be subject to
33 appropriations by the General Assembly. Highway maintenance and
34 construction contracts shall contain a schedule of estimated completion
35 progress and any acceleration of this progress shall be subject to the
36 approval of the Department of Transportation provided funds are
37 available. The State reserves the right to terminate or suspend any
38 highway maintenance or construction contract and any highway
39 maintenance or construction contract shall be so terminated or
40 suspended if funds will not be available for payment of the work to be
41 performed during that fiscal year pursuant to the contract. In the event
42 of termination of any contract, the contractor shall be given a written
43 notice of termination at least 60 days before completion of scheduled

work for which funds are available. In the event of termination, the contractor shall be paid for the work already performed in accordance with the contract specifications.

(6) Provision Incorporated in Contracts. – The provisions of subdivision (5) of this section shall be incorporated verbatim in all highway construction and maintenance contracts.

(7) Existing Contracts Are Not Affected. – The provisions of this section shall not apply to highway construction and maintenance contracts awarded by the Department of Transportation prior to July 15, 1980."

(c) The Department of Transportation shall report quarterly beginning on October 15, 1996, and then on the fifteenth of the month following the end of the fiscal quarter, to the Joint Legislative Transportation Oversight Committee on all projects to be built with funds obligated using the cash flow provisions of G.S. 143-28.1. The report shall contain a list of the projects and the amount obligated in anticipation of revenues for each year of the project.

Requested by: Senator Hoyle

CASH FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND APPROPRIATIONS

Sec. 19.5. Section 18.9 of Chapter 324 of the 1995 Session Laws reads as rewritten:

"Sec. 18.9. (a) The General Assembly authorizes and certifies anticipated revenues of the Highway Fund as follows:

For Fiscal Year 1997-98	\$1,075.6 Million <u>\$1,089.4 Million</u>
For Fiscal Year 1998-99	\$1,093.1 Million <u>\$1,110.7 Million</u>
<u>For Fiscal Year 1999-00</u>	<u>\$1,146.7 Million</u>
<u>For Fiscal Year 2000-01</u>	<u>\$1,174.3 Million</u>

(b) The General Assembly authorizes and certifies anticipated revenues of the Highway Trust Fund as follows:

For Fiscal Year 1997-98	\$ 775.8 Million <u>\$ 788.2 Million</u>
For Fiscal Year 1998-99	\$ 799.8 Million <u>\$ 812.7 Million</u>
<u>For Fiscal Year 1999-00</u>	<u>\$839.3 Million</u>
<u>For Fiscal Year 2000-01</u>	<u>\$867.2 Million</u> ."

Requested by: Senator Hoyle

RADIO ISLAND RAILROAD TRESTLE

Sec. 19.6. (a) Subsection (b) of Section 18.28 of Chapter 324 of the 1995 Session Laws reads as rewritten:

"(b) The Department of Transportation shall proceed with the planning and construction of the trestle, Project P-3100 in the 1996-2002 Transportation Improvement Program, and shall commence construction of the trestle during calendar year 1996. The Beaufort and Morehead Railroad Company, owner of the trestle, shall be conveyed to the Department of Transportation by the North Carolina Ports Railway Commission for

1 construction of the replacement trestle and related purposes authorized by G.S. 136-
2 44.36. The completed bridge shall be owned by the Department of Transportation and
3 shall be added to the State System for maintenance purposes."

4 (b) Notwithstanding any other provision of law, the Department of Transportation
5 may award a contract for Project 3100 in the 1996-2002 Transportation Improvement
6 Program on a design-build basis, using any procurement process that the Department of
7 Transportation determines will result in maximum efficiency in constructing this project.

8 (c) The Department of Transportation shall file a progress report every six months
9 beginning on December 1, 1996, with the Joint Legislative Transportation Oversight
10 Committee on the construction of this project.

11
12 Requested by: Senators Hoyle, Little

13 UNPAVED SECONDARY ROADS ON STATE LANDS

14 Sec. 19.7. Chapter 136 of the General Statutes is amended by adding a new
15 section to read:

16 "§ 136-44.7A. Submission of secondary roads construction programs to State
17 agencies.

18 When the Department of Transportation proposes to pave an unpaved secondary road
19 that crosses land controlled by a State agency, the Department of Transportation shall
20 obtain the approval of that State agency before paving that secondary road."

21
22 Requested by: Senator Hoyle

23 GREEN ROADS INITIATIVE

24 Sec. 19.8. From funds available to the Department of Transportation, the
25 Department of Correction, and the Division of Forest Resources, Department of
26 Environment, Health, and Natural Resources, approximately 700 acres of land shall be
27 planted with trees during the 1996-97 fiscal year as the start of a "Green Roads Initiative"
28 of reforestation along highways across the State.

29 The Department of Transportation, in conjunction with the Department of
30 Environment, Health, and Natural Resources, shall identify the locations where the
31 reforestation can be accomplished through the use of seedlings provided by the Division
32 of Forest Resources and prisoners allocated to the Department of Transportation by the
33 Department of Correction.

34 To the extent possible, the acreage identified for reforestation shall be equally
35 distributed in the 14 transportation engineering divisions.

36 The goals of the initiative are to plant trees that will provide additional natural
37 habitat for birds and other wildlife, to reduce expensive roadside maintenance by
38 reducing the acreage requiring frequent mowing of grasses, to beautify the State's
39 highways, and to maintain safety for the motoring public.

40 The Department of Transportation, the Department of Environment, Health,
41 and Natural Resources, and the Department of Correction shall jointly report to the Joint
42 Legislative Transportation Oversight Committee by December 31, 1996, on progress in
43 implementing the Green Roads Initiative.

1
2 Requested by: Senator Hoyle

3 **CLARIFICATION OF POLICY RELATED TO MATERIALS THAT MAY BE**
4 **DISPLAYED AT WELCOME CENTERS**

5 Sec. 19.9. (a) G.S. 136-18(9) reads as rewritten:

6 "(9) To employ appropriate means for properly selecting, planting and
7 protecting trees, shrubs, vines, grasses or legumes in the highway right-
8 of-way in the promotion of erosion control, landscaping and general
9 protection of said highways; to acquire by gift or otherwise land for and
10 to construct, operate and maintain roadside parks, picnic areas, picnic
11 tables, scenic overlooks and other appropriate turnouts for the safety and
12 convenience of highway users; and to cooperate with municipal or
13 county authorities, federal agencies, civic bodies and individuals in the
14 furtherance of those objectives. None of the roadside parks, picnic areas,
15 picnic tables, scenic overlooks or other turnouts, or any part of the
16 highway right-of-way shall be used for commercial purposes except (i)
17 for materials displayed in welcome centers in accordance with G.S. 136-
18 89.56, and (ii) for vending machines permitted by the Department of
19 Transportation and placed by the Division of Services for the Blind,
20 Department of Human Resources, as the State licensing agency
21 designated pursuant to Section 2(a)(5) of the Randolph-Sheppard Act
22 (20 USC 107a(a)(5)). The Department of Transportation shall regulate
23 the placing of the vending machines in highway rest areas and shall
24 regulate the articles to be dispensed. Every other use or attempted use of
25 any of these areas for commercial purposes shall constitute a Class 1
26 misdemeanor and each day's use shall constitute a separate offense."

27 (b) G.S. 136-89.56 reads as rewritten:

28 **"§ 136-89.56. Commercial enterprises.**

29 No commercial enterprises or activities shall be authorized or conducted by the
30 Department of Transportation, or the governing body of any city or town, within or on
31 the property acquired for or designated as a controlled-access facility, as defined in this
32 Article, except ~~for vending for:~~

33 (1) Materials displayed at welcome centers which shall be directly related
34 to travel, accommodations, tourist-related activities, tourist-related
35 services, and attractions. These materials may contain advertisements
36 for real estate; and

37 (2) Vending machines permitted by the Department of Transportation and
38 placed by the Division of Services for the Blind, Department of Human
39 Resources, as the State licensing agency designated pursuant to Section
40 2(a)(5) of the Randolph-Sheppard Act (20 USC 107a(a)(5)). The
41 Department of Transportation shall regulate the placing of the vending
42 machines in highway rest areas and shall regulate the articles to be
43 dispensed. In order to permit the establishment of adequate fuel and

1 other service facilities by private owners or their lessees for the users of
2 a controlled-access facility, the Department of Transportation shall
3 permit access to service or frontage roads within the publicly owned
4 right-of-way of any controlled-access facility established or designated
5 as provided in this Article, at points which, in the opinion of the
6 Department of Transportation, will best serve the public interest. The
7 location of such fuel and other service facilities may be indicated to the
8 users of the controlled-access facilities by appropriate signs, the size,
9 style, and specifications of which shall be determined by the
10 Department of Transportation.

11 The location of fuel and other service facilities may be indicated to the users of the
12 controlled access facilities by appropriate logos placed on signs owned, controlled, and
13 erected by the Department of Transportation. The owners, operators or lessees of fuel and
14 other service facilities who wish to place a logo identifying their business or service on a
15 sign shall furnish a logo meeting the size, style and specifications determined by the
16 Department of Transportation and shall pay the Department for the costs of initial
17 installation and subsequent maintenance. The fees for logo sign installation and
18 maintenance shall be set by the Board of Transportation based on cost."

19
20 Requested by: Senator Hoyle

21 **RAILROAD DIVIDEND USES**

22 Sec. 19.10. G.S. 136-16.6(a) reads as rewritten:

23 "(a) There is annually ~~appropriated~~ credited to the Highway Fund one hundred
24 percent (100%) of the annual dividends anticipated to be received in the prior fiscal year
25 by the State from its ownership of stock in the North Carolina Railroad Company ~~to the~~
26 ~~Highway Fund~~ for use by the Department of Transportation for railroad purposes."

27
28 Requested by: Senator Hoyle

29 **DEPARTMENT OF TRANSPORTATION LAND SALES PROCEEDS USED FOR** 30 **CAPITAL IMPROVEMENTS**

31 Sec. 19.11. Funds received by the Department of Transportation from the sale
32 of Department-owned land (not right-of-way property) during the 1995-96 fiscal year in
33 the amount of twenty-four thousand three hundred ninety-three dollars (\$24,393) shall be
34 used to supplement appropriations for Department of Transportation capital outlays
35 funded in this act.

36
37 Requested by: Senator Hoyle

38 **VISITOR CENTERS**

39 Sec. 19.12. (a) The Department of Transportation, with the assistance of the
40 Department of Commerce, shall collect the necessary data to accurately estimate the
41 extent and type of use the public makes of the visitor centers on the State highway
42 system. The Department shall use this data to develop a formula for allocating State
43 resources for the funding of these visitor centers.

1 (b) The Department shall study and make a recommendation to the General
2 Assembly about requiring a local match for funds appropriated by the State for the
3 operations of local visitor centers.

4 (c) Until the Department reports to the General Assembly no new visitor centers
5 shall be approved for addition to the State highway system.

6 (d) The Department shall submit the report required by this section no later than
7 December 31, 1996, to the Joint Legislative Transportation Oversight Committee.

8 (e) G.S. 20-79.7(c)(2), as amended by Section 18.17 of Chapter 507 of the
9 1995 Session Laws, reads as rewritten:

10 "(2) From the funds remaining in the Special Registration Plate Account
11 after the deductions in accordance with subdivision (1) of this
12 subsection, there is annually appropriated from the Special Registration
13 Plate Account the sum of five hundred twenty-five thousand dollars
14 (\$525,000) ~~for the 1995-96 fiscal year~~ to provide operating assistance
15 for the Visitor ~~and Welcome~~ Centers:

- 16 a. on U.S. Highway 17 in Camden County, (\$75,000);
17 b. on U.S. Highway 17 in Brunswick County, (\$75,000);
18 c. on U.S. Highway 441 in Macon County, (\$75,000);
19 d. in the Town of Boone, Watauga County, (\$75,000);
20 e. on U.S. Highway 29 in Caswell County, (\$75,000);
21 f. on U.S. Highway 70 in Carteret County, (\$75,000); and
22 g. on U.S. Highway 64 in Tyrrell County, (\$75,000)."
23

24 PART 20. DEPARTMENT OF CORRECTION

25
26 Requested by: Senator Ballance

27 USE OF FACILITIES CLOSED UNDER GPAC

28 Sec. 20.1. In conjunction with the closing of small expensive prison units
29 recommended for consolidation by the Government Performance Audit Committee, the
30 Department of Correction shall consult with the county or municipality in which the unit
31 is located or any private for-profit or nonprofit firm about the possibility of converting
32 that unit to other use. Consistent with existing law, the Department may provide for the
33 lease of any of these units to counties, municipalities, or private firms wishing to convert
34 them to other use. The Department of Correction may also consider converting some of
35 the units recommended for closing from medium security to minimum security, where
36 that conversion would be cost-effective.

37 The Department of Correction shall report quarterly to the Joint Legislative
38 Corrections Oversight Committee on the conversion of these units to other use.
39

40 Requested by: Senator Ballance

41 REIMBURSEMENT TO COUNTIES FOR HOUSING COSTS OF INMATES 42 AWAITING TRANSFER TO STATE PRISON SYSTEM

43 Sec. 20.2. (a) G.S. 148-29 reads as rewritten:

1 "**§ 148-29. Transportation of convicts to prison; reimbursement to counties;**
2 **sheriff's expense affidavit; State not liable for maintenance expenses until**
3 **convict received. affidavit.**

4 The sheriff having in ~~charge~~ custody any prisoner to be taken to the ~~Central Prison at~~
5 ~~Raleigh State prison system~~ shall ~~send him~~ transport the prisoner to the Central Prison
6 prison unit designated by the Division of Prisons within five days after the adjournment
7 of the court at which he was sentenced, if no appeal has been taken. issuance of the final
8 judgment and commitment orders. All such admissions shall be approved and scheduled
9 by the Division of Prisons. Beginning on the sixth day after the issuance of the final
10 judgment and commitment orders and continuing through the day the prisoner is received
11 by the Division of Prisons, the Department of Correction shall pay the county a standard
12 sum set by the General Assembly in its appropriations acts for the cost of providing food,
13 clothing, personal items, supervision, and necessary ordinary medical services to the
14 prisoner awaiting transfer to the State prison system.

15 The sheriff shall file with the board of commissioners of his county a copy of his
16 affidavit as to necessary guard, together with a copy of his itemized account of expenses,
17 both certified to by him as true copies of those on file in his office. ~~The State is not~~
18 ~~liable for the expenses of maintaining convicts until they have been received by the State~~
19 ~~Department of Correction authorities, nor shall any moneys be paid out of the treasury for~~
20 ~~support of convicts prior to such reception."~~

21 (b) The Department of Correction may use funds available for the 1995-96 fiscal
22 year to pay the sum of fourteen dollars and fifty cents (\$14.50) per day as reimbursement
23 to counties for the cost of housing inmates convicted and awaiting transfer to the State
24 prison system, as provided in G.S. 148-29.

25 (c) Of the funds appropriated to the Department of Correction for the 1996-97
26 fiscal year, the Department may use up to fourteen million six hundred thousand dollars
27 (\$14,600,000) to raise the per diem reimbursement to counties from fourteen dollars and
28 fifty cents (\$14.50) per day to forty dollars (\$40.00) per day for the cost of housing
29 inmates convicted and awaiting transfer to the State prison system, as provided in G.S.
30 148-29.

31 (d) Subsections (a) and (b) of this section become effective January 1, 1996.

32
33 Requested by: Senator Ballance

34 **COMBINATION OF PAROLE PROBATION FIELD SERVICES AND PAROLE**
35 **PRE- AND POST-RELEASE SERVICES PROGRAMS FOR BUDGETING**
36 **PURPOSES**

37 Sec. 20.3. Notwithstanding any other provision of law, the Department of
38 Correction may combine Parole Probation Field Services and Parole Pre- and Post-
39 Release Services programs for budgeting purposes in order to reflect the actual operation
40 in the field, since officers from each program are responsible for both parole and
41 probation cases.

42
43 Requested by: Senator Ballance

1 MODIFICATION OF FUNDING FORMULA FROM THE NORTH CAROLINA
2 STATE-COUNTY CRIMINAL JUSTICE PARTNERSHIP ACT

3 Sec. 20.4. Notwithstanding the funding formula set forth in G.S. 143B-273.15,
4 grants made through the North Carolina State-County Criminal Justice Partnership Act
5 for the 1996-97 fiscal year shall be distributed to the counties as specified in G.S. 143B-
6 273.15(2) only, and not as discretionary funds. Appropriations not claimed or expended
7 by counties during the 1996-97 fiscal year shall be distributed pursuant to G.S. 143B-
8 273.15(1).

9
10 Requested by: Senator Ballance

11 DART AFTERCARE FUNDS SHALL NOT REVERT

12 Sec. 20.6. (a) Funds appropriated in this act to the Department of Correction
13 for the 1995-96 fiscal year for a Drug Alcohol Recovery Treatment (DART) aftercare
14 program shall not revert at the end of the fiscal year but shall remain available to the
15 Department during the 1996-97 fiscal year and be used to contract for up to three pilot
16 programs statewide to provide aftercare services, including counseling and job referral
17 services, for DART DWI offenders and other offenders who have completed a DART
18 program in the Division of Prisons.

19 The Department of Correction shall report on the pilot programs to the Chairs
20 of the Senate and House Appropriations Committees and the Chairs of the Senate and
21 House Appropriations Subcommittees on Justice and Public Safety by March 1, 1997.
22 The report shall include information on the number of clients served, the quality of
23 services, the cost-effectiveness of the services, and the benefits of the programs to
24 offenders.

25 (b) This section becomes effective June 30, 1996.

26
27 Requested by: Senator Ballance

28 DEPARTMENT OF CORRECTION/DEPARTMENT OF HUMAN RESOURCES
29 JOINT PLAN/RESERVE FOR SUBSTANCE ABUSE TREATMENT PILOT
30 PROGRAM FOR PAROLEES AND PROBATIONERS SHALL NOT REVERT

31 Sec. 20.7. (a) The balance of the five hundred eighty-three thousand dollars
32 (\$583,000) appropriated in Chapter 24 of the Session Laws of the 1994 Extra Session to
33 the Department of Correction for the 1994-95 fiscal year and carried forward to the 1995-
34 96 fiscal year by Section 19.8 of Chapter 507 of the 1995 Session Laws for an intensive
35 out-patient substance abuse treatment pilot program for parolees and probationers with
36 serious substance abuse histories shall not revert at the end of the fiscal year but shall
37 remain available to the Department during the 1996-97 fiscal year to be used for the
38 operation and evaluation of the Department of Correction/Department of Human
39 Resources joint substance abuse program, the Drug Alcohol Recovery Treatment
40 (DART) aftercare pilot program, and other prison-based or community corrections
41 substance abuse programs in the Department of Correction, as determined by the
42 Secretary of Correction.

1 The Department of Correction shall report quarterly to the Joint Legislative
2 Corrections Oversight Committee on the use of these funds and any benefits realized.
3 The Department of Human Resources shall participate in these reports as they relate to
4 the joint project.

5 (b) This section becomes effective June 30, 1996.

6
7 Requested by: Senators Ballance, Odom

8 **SALARY CONTINUATION BENEFITS FOR ALL DEPARTMENT OF**
9 **CORRECTION EMPLOYEES INJURED BY DELIBERATE ACT OR WHILE**
10 **PERFORMING SUPERVISORY DUTIES**

11 Sec. 20.8. (a) G.S. 143-166.13(b) reads as rewritten:

12 "(b) The following persons are entitled to benefits under this Article regardless of
13 whether they are subject to the Criminal Justice Training and Standards Act:

14 (1) Driver License Examiners injured by accident arising out of and in
15 the course of giving a road test, Division of Motor Vehicles,
16 Department of ~~Transportation~~ Transportation;

17 (2) Employees of the Department of Correction injured by a direct and
18 deliberate act of an offender supervised by the Department or while
19 performing supervisory duties over offenders which place the
20 employees at risk of such injury."

21 (b) This section applies to injuries occurring on or after the effective date of this
22 act.

23
24 Requested by: Senator Ballance

25 **REPORT ON WOMEN AT RISK**

26 Sec. 20.9. The Women at Risk Program shall report by December 1, 1996, and
27 by May 1, 1997, to the Joint Legislative Commission on Governmental Operations, the
28 Chairs of the House and Senate Appropriations Committees, and the Chairs of the House
29 and Senate Appropriations Subcommittees on Justice and Public Safety on the
30 expenditure of State appropriations and on the effectiveness of the program, including
31 information on the number of clients served, the number of clients who have had their
32 probation revoked, and the number of clients who have successfully completed the
33 program.

34
35 Requested by: Senator Ballance

36 **FEDERAL MATCHING FUNDS**

37 Sec. 20.10. Section 27.10A of Chapter 507 of the 1995 Session Laws reads as
38 rewritten:

39 "Sec. 27.10A. Appropriations made ~~in this act for the 1995-97 biennium~~ to the Office
40 of State Construction of the Department of Administration for construction of new prison
41 beds, ~~excluding the sum of seven million five hundred thousand dollars (\$7,500,000) to~~
42 ~~be used for the design and preliminary site work,~~ are to match federal funds available for
43 prison construction in the ~~1995 or~~ 1996 federal fiscal year or subsequent federal fiscal

1 years. If the federal match is not made available by January 1, 1996, available, these
2 State funds shall be made available to the Office of State Construction of the Department
3 of Administration for construction of new prison beds, segregation units, and support
4 buildings and ~~systems as specified in this act.~~ systems.

5 The Office of State Construction shall report to the Chairs of the Joint Legislative
6 Commission on Governmental Operations, the Joint Legislative Corrections Oversight
7 Committee, the Chairs of the Senate and House Appropriations Committees, and the
8 Chairs of the Senate and House Appropriations Subcommittees on Justice and Public
9 Safety on the availability of federal prison construction matching funds."

10
11 Requested by: Senator Ballance

12 **USE OF PRISON MATCH FUNDS**

13 Sec. 20.11. Section 27.10A1 of Chapter 507 of the 1995 Session Laws is
14 repealed. Any funds appropriated in Chapter 507 of the 1995 Session Laws for
15 construction of new prison beds that are not needed to construct prisons for the 1995-97
16 fiscal biennium shall be placed in a reserve for appropriation by the 1997 General
17 Assembly.

18
19 Requested by: Senator Ballance

20 **ALTERNATIVES TO OUT-OF-STATE HOUSING**

21 Sec. 20.12. The Department of Correction shall investigate methods of
22 housing inmates within the State rather than in out-of-state facilities, including the use of
23 modular units and small units scheduled to be closed as a result of the recommendations
24 made by the Government Performance Audit Committee. The Department shall report its
25 findings and recommendations quarterly to the Joint Legislative Commission on
26 Governmental Operations and the Joint Legislative Correction Oversight Committee.

27
28 Requested by: Senator Ballance

29 **HARRIET'S HOUSE FUNDS**

30 Sec. 20.13. (a) Section 19.7 of Chapter 507 of the 1995 Session Laws reads as
31 rewritten:

32 "Sec. 19.7. Of the funds appropriated to the Department of Correction, the sum of
33 two hundred thousand dollars (\$200,000) for the 1995-96 fiscal year and the sum of two
34 hundred thousand dollars (\$200,000) for the 1996-97 fiscal year shall be used to support
35 the programs of Harriet's House, a transitional home for female ex-offenders and their
36 children. The funds may be used for program operating costs, the purchase of equipment,
37 and the rental of real property. Harriet's House shall report quarterly to the Joint
38 Legislative Commission on Governmental Operations on the expenditure of State
39 appropriations and on the effectiveness of the program including information on the
40 number of clients served and the number of clients who successfully complete the
41 Harriet's House program."

42 (b) The balance of the two hundred thousand dollars (\$200,000) appropriated in
43 Chapter 507 of the 1995 Session Laws to the Department of Correction for the 1995-96

1 fiscal year to support the programs at Harriet's House shall not revert at the end of the
2 fiscal year but shall remain available to the Department during the 1996-97 fiscal year to
3 be used for program operating costs, the purchase of equipment, and the rental of real
4 property.

5 (c) This section becomes effective June 30, 1996.

6
7 Requested by: Senators Ballance, Cooper

8 **CREATE A NEW FELONY OFFENSE OF ASSAULT INFLICTING SERIOUS**
9 **BODILY INJURY AS RECOMMENDED BY THE NORTH CAROLINA**
10 **SENTENCING AND POLICY ADVISORY COMMISSION, TO INCREASE THE**
11 **PUNISHMENT FOR SALE OF HANDGUNS TO MINORS TO A CLASS H**
12 **FELONY, AND TO INCREASE THE PUNISHMENT FOR SALE OF**
13 **CONTROLLED SUBSTANCES TO PERSONS UNDER AGE SIXTEEN OR**
14 **PREGNANT FEMALES TO A CLASS D FELONY**

15 Sec. 20.14. (a) Chapter 14 of the General Statutes is amended by adding a new
16 section to read:

17 **"§ 14-32.4. Assault inflicting serious bodily injury.**

18 Unless the conduct is covered under some other provision of law providing greater
19 punishment, any person who assaults another person and inflicts serious bodily injury is
20 guilty of a Class F felony. 'Serious bodily injury' is defined as bodily injury that creates a
21 substantial risk of death, or that causes serious permanent disfigurement, coma, a
22 permanent or protracted condition that causes extreme pain, or permanent or protracted
23 loss or impairment of the function of any bodily member or organ, or that results in
24 prolonged hospitalization."

25 (b) G.S. 14-315(a1) reads as rewritten:

26 "(a1) Sale of Handguns. – If a person sells, offers for sale, gives, or in any way
27 transfers to a minor any handgun as defined in G.S. 14-269.7, the person is guilty of a
28 ~~Class I~~ Class H felony and, in addition, shall forfeit the proceeds of any sale made in
29 violation of this section. This section does not apply in any of the following
30 circumstances:

31 (1) The handgun is lent to a minor for temporary use if the minor's
32 possession of the handgun is lawful under G.S. 14-269.7 and G.S.
33 14-316 and is not otherwise unlawful.

34 (2) The handgun is transferred to an adult custodian pursuant to Chapter
35 33A of the General Statutes, and the minor does not take possession
36 of the handgun except that the adult custodian may allow the minor
37 temporary possession of the handgun in circumstances in which the
38 minor's possession of the handgun is lawful under G.S. 14-269.7 and
39 G.S. 14-316 and is not otherwise unlawful.

40 (3) The handgun is a devise or legacy and is distributed to a parent or
41 guardian under G.S. 28A-22-7, and the minor does not take
42 possession of the handgun except that the parent or guardian may
43 allow the minor temporary possession of the handgun in

1 circumstances in which the minor's possession of the handgun is
2 lawful under G.S. 14-269.7 and G.S. 14-316 and is not otherwise
3 unlawful."

4 (c) G.S. 90-95(e)(5) reads as rewritten:

5 "(5) Any person 18 years of age or over who violates G.S. 90-95(a)(1) by
6 selling or delivering a controlled substance to a person under 16
7 years of age or a pregnant female shall be punished as a ~~Class E~~
8 Class D felon. Mistake of age is not a defense to a prosecution
9 under this section. It shall not be a defense that the defendant did
10 not know that the recipient was pregnant;"

11 (d) This section becomes effective January 1, 1997, and applies to offenses
12 committed on or after that date.

13
14 Requested by: Senators Ballance, Odom

15 **EXTEND THE REGULAR PERIOD OF POST-RELEASE SUPERVISION FROM**
16 **SIX TO NINE MONTHS/EXTEND THE PERIOD OF POST-RELEASE**
17 **SUPERVISION TO FIVE YEARS FOR SEX OFFENDERS/PROVIDE FOR**
18 **SPECIAL CONDITIONS OF POST-RELEASE SUPERVISION FOR SEX**
19 **OFFENDERS AND PERSONS CONVICTED OF OFFENSES INVOLVING**
20 **PHYSICAL, MENTAL, OR SEXUAL ABUSE OF MINORS/PROVIDE FOR**
21 **MANDATORY CONDITIONS OF PROBATION FOR SEX OFFENDERS AND**
22 **PERSONS CONVICTED OF OFFENSES INVOLVING PHYSICAL, MENTAL,**
23 **OR SEXUAL ABUSE OF CHILDREN**

24 Sec. 20.14A. (a) G.S. 15A-1368.2(c) reads as rewritten:

25 "(c) A supervisee's period of post-release supervision shall be for a period of ~~six~~
26 ~~months—~~nine months, unless the offense is an offense for which registration is required
27 pursuant to Article 27A of Chapter 14 of the General Statutes. For offenses subject to the
28 registration requirement of Article 27A of Chapter 14 of the General Statutes, the period
29 of post-release supervision is five years. The conditions of post-release supervision are as
30 authorized in G.S. 15A-1368.5."

31 (b) G.S. 15A-1368.4 is amended by adding a new subsection to read:

32 "(b1) Additional Required Conditions for Sex Offenders and Persons Convicted of
33 Offenses Involving Physical, Mental, or Sexual Abuse of a Minor. – In addition to the
34 required condition set forth in subsection (b) of this section, for a supervisee who has
35 been convicted of an offense which is a reportable conviction as defined in G.S. 14-
36 208.6(4), or which involves the physical, mental, or sexual abuse of a minor, controlling
37 conditions, violations of which may result in revocation of post-release supervision, are:

38 (1) Register as required by G.S. 14-208.7 if the offense is a reportable
39 conviction as defined by G.S. 14-208.6(4).

40 (2) Participate in such evaluation and treatment as is necessary to
41 complete a prescribed course of psychiatric, psychological, or other
42 rehabilitative treatment as ordered by the Commission.

1 (3) Not communicate with, be in the presence of, or found in or on the
2 premises of the victim of the offense.

3 (4) Not reside in a household with any minor child if the offense is one
4 in which there is evidence of sexual abuse of a minor.

5 (5) Not reside in a household with any minor child if the offense is one
6 in which there is evidence of physical or mental abuse of a minor,
7 unless a court of competent jurisdiction expressly finds that it is
8 unlikely that the defendant's harmful or abusive conduct will recur
9 and that it would be in the child's best interest to allow the
10 supervisee to reside in the same household with a minor child."

11 (c) G.S. 15A-1343 is amended by adding a new subsection to read:

12 "(b2) Special Conditions of Probation for Sex Offenders and Persons Convicted of
13 Offenses Involving Physical, Mental, or Sexual Abuse of a Minor. – As special
14 conditions of probation, a defendant who has been convicted of an offense which is a
15 reportable conviction as defined in G.S. 14-208.6(4), or which involves the physical,
16 mental, or sexual abuse of a minor, must:

17 (1) Register as required by G.S. 14-208.7 if the offense is a reportable
18 conviction as defined by G.S. 14-208.6(4).

19 (2) Participate in such evaluation and treatment as is necessary to
20 complete a prescribed course of psychiatric, psychological, or other
21 rehabilitative treatment as ordered by the court.

22 (3) Not communicate with, be in the presence of, or found in or on the
23 premises of the victim of the offense.

24 (4) Not reside in a household with any minor child if the offense is one
25 in which there is evidence of sexual abuse of a minor.

26 (5) Not reside in a household with any minor child if the offense is one
27 in which there is evidence of physical or mental abuse of a minor,
28 unless the court expressly finds that it is unlikely that the defendant's
29 harmful or abusive conduct will recur and that it would be in the
30 minor child's best interest to allow the probationer to reside in the
31 same household with a minor child.

32 (6) Satisfy any other conditions determined by the court to be
33 reasonably related to his rehabilitation.

34 Defendants subject to the provisions of this subsection shall not be placed on
35 unsupervised probation."

36 (d) This section becomes effective December 1, 1996.

37
38 Requested by: Senators Ballance, Rand, Plyler, Perdue, Odom
39 **CLASS F FELONY OFFENSE TO ASSAULT LAW ENFORCEMENT OFFICER**
40 **AND INFLICT SERIOUS BODILY INJURY/CREATE A NEW CRIMINAL**
41 **OFFENSE OF ASSAULTING FIREFIGHTER**

42 Sec. 20.14B. (a) Article 8 of Chapter 14 of the General Statutes is amended by adding
43 a new section to read:

1 **"§ 14-34.7. Assault on a law enforcement officer.**

2 Unless covered under some other provision of law providing greater punishment, a
3 person is guilty of a Class F felony if the person assaults a law enforcement officer while
4 the law enforcement officer is discharging or attempting to discharge his or her official
5 duties and inflicts serious bodily injury on the law enforcement officer."

6 (b) G.S. 143-34.6 reads as rewritten:

7 **"§ 14-34.6. Assault or affray on a firefighter; an emergency medical technician,**
8 **ambulance attendant, emergency department nurse, or emergency**
9 **department physician.**

10 (a) A person is guilty of a Class A1 misdemeanor if the person commits an assault
11 or an affray on any of the following persons who are discharging or attempting to
12 discharge their official duties:

13 (1) ~~an~~ An emergency medical technician, technician.

14 (2) An ambulance attendant, attendant.

15 (3) An emergency department nurse, or nurse.

16 (4) An emergency department physician while the technician, attendant,
17 nurse, or physician is discharging or attempting to discharge official
18 duties. physician.

19 (5) A firefighter.

20 (b) Unless a person's conduct is covered under some other provision of law
21 providing greater punishment, a person is guilty of a Class I felony if the person violates
22 subsection (a) of this section and (i) inflicts serious bodily injury or (ii) uses a deadly
23 weapon other than a firearm.

24 (c) Unless a person's conduct is covered under some other provision of law
25 providing greater punishment, a person is guilty of a Class F felony if the person violates
26 subsection (a) of this section and uses a firearm."

27 (c) This section becomes effective December 1, 1996, and applies to offenses
28 committed on or after that date.

29
30 Requested by: Senator Ballance

31 **ELIMINATE WAIVER OF PRELIMINARY HEARINGS IN PAROLE AND**
32 **POST-RELEASE SUPERVISION REVOCATION PROCEEDINGS**

33 Sec. 20.15. (a) G.S. 15A-1376 reads as rewritten:

34 "(b) When and Where Preliminary Hearing on Parole Violation Required. – Unless
35 the hearing required by subsection (e) is first held ~~or the parolee waives the hearing~~ or a
36 continuance is requested by the parolee, a preliminary hearing on parole violation must
37 be held reasonably near the place of the alleged violation or arrest and within seven
38 working days of the arrest of a parolee to determine whether there is probable cause to
39 believe that he violated a condition of parole. Otherwise, the parolee must be released
40 seven working days after his arrest to continue on parole pending a hearing. If the
41 parolee is not within the State, his preliminary hearing is as prescribed by G.S. 148-
42 65.1A."

43 (b) G.S. 15A-1368.6 reads as rewritten:

1 "(b) When and Where Preliminary Hearing on Post-Release Supervision Violation
2 Required. – Unless the hearing required by subsection (e) of this section is first held ~~or~~
3 ~~the supervisee waives the hearing~~ or a continuance is requested by the supervisee, a
4 preliminary hearing on supervision violation shall be held reasonably near the place of
5 the alleged violation or arrest and within seven working days of the arrest of a supervisee
6 to determine whether there is probable cause to believe that the supervisee violated a
7 condition of post-release supervision. Otherwise, the supervisee shall be released seven
8 working days after arrest to continue on supervision pending a hearing. If the supervisee
9 is not within the State, the preliminary hearing is as prescribed by G.S. 148-65.1A."

10 (c) This section is effective upon ratification.

11
12 Requested by: Senator Ballance

13 **FUNDS TO HOUSE PRISONERS OUT OF STATE**

14 Sec. 20.16. In addition to appropriations needed to fund the existing 1,867
15 contracted beds in out-of-state facilities, the Department of Correction may use up to ten
16 million dollars (\$10,000,000) of the funds appropriated to the Department for the 1996-
17 97 fiscal year to contract to house up to 500 prisoners out of state.

18 19 **PART 21. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY**

20
21 Requested by: Senators Ballance, Parnell

22 **EXTEND DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY** 23 **STUDY COMMISSION**

24 Sec. 21.1. (a) Section 20.4(d) of Chapter 324 of the 1995 Session Laws reads as
25 rewritten:

26 "(d) The Study Commission shall make an interim report to the 1996 Regular
27 Session of the 1995 General Assembly by May 1, 1996, and shall submit a final written
28 report of its findings and recommendations to the General Assembly by May 1, 1996.
29 1997 General Assembly. All reports shall be filed with the Speaker of the House of
30 Representatives and the President Pro Tempore of the Senate. Upon filing its final report,
31 the Commission shall terminate."

32 (b) This section becomes effective April 30, 1996.

33
34 Requested by: Senator Ballance

35 **STUDY LAW ENFORCEMENT OFFICER COMPENSATION AND SALARY** 36 **CONTINUATION FOR RESIDENTIAL FACILITY EMPLOYEES**

37 Sec. 21.2. (a) The Office of State Personnel shall study:

- 38 (1) Employee classifications, salary schedules, pay equity, and pay
39 inequities for all sworn law enforcement personnel certified by the
40 North Carolina Criminal Justice Training and Standards Commission
41 in every law enforcement agency in the State. The study shall
42 consider appropriate factors related to the compensation of law
43 enforcement personnel, including job specifications and

1 qualifications required by the Office of State Personnel, the
 2 compensation of personnel in accordance with educational levels
 3 and years of experience, and the equity of compensation between all
 4 State law enforcement agencies.

5 (2) The feasibility and desirability of providing salary continuation
 6 pursuant to Article 12B of Chapter 143 of the General Statutes for
 7 employees of State-operated residential facilities who have been
 8 injured by acts of persons housed at the facilities or who have been
 9 injured while performing supervisory duties over persons housed at
 10 the facilities.

11 (3) Issues related to civilianizing certain State government law
 12 enforcement functions and positions, including the appropriate use
 13 of nonsworn, noncertified personnel in positions for which sworn
 14 status is not cost-effective or required. This study shall include the
 15 recommendations made by the Government Performance Audit
 16 Committee on civilianization to the 1993 General Assembly.

17 (b) The Office of State Personnel shall report to the Criminal Law Study
 18 Commission on its findings and recommendations related to the studies mandated by this
 19 section no later than November 1, 1996.
 20

21 **PART 22. JUDICIAL DEPARTMENT**

22
 23 Requested by: Senator Ballance

24 **ADDITIONAL ASSISTANT DISTRICT ATTORNEYS**

25 Sec. 22. (a) G.S. 7A-60(a1) reads as rewritten:

26 "(a1) The counties of the State are organized into prosecutorial districts, and each
 27 district has the counties and the number of full-time assistant district attorneys set forth in
 28 the following table:

			No. of Full-Time Asst. District	
Prosecutorial				
District	Counties	Attorneys		
1	Camden, Chowan, Currituck,		8	
	Dare, Gates, Pasquotank,			
	Perquimans			
2	Beaufort, Hyde, Martin, 4		<u>5</u>	
	Tyrrell, Washington			
3A	Pitt	7	<u>8</u>	
3B	Carteret, Craven, Pamlico		6	<u>7</u>
4	Duplin, Jones, Onslow, 10		<u>11</u>	
	Sampson			
5	New Hanover, Pender	9	<u>10</u>	
6A	Halifax	3		
6B	Bertie, Hertford,	3	<u>4</u>	

1		Northampton		
2	7	Edgecombe, Nash, Wilson	10	<u>12</u>
3	8	Greene, Lenoir, Wayne	8	<u>9</u>
4	9	Franklin, Granville,	8	
5		Vance, Warren		
6	9A	Person, Caswell	2	
7	10	Wake	20	<u>23</u>
8	11	Harnett, Johnston, Lee	10	<u>11</u>
9	12	Cumberland	12	<u>13</u>
10	13	Bladen, Brunswick, Columbus	6	<u>7</u>
11	14	Durham	9	<u>10</u>
12	15A	Alamance	6	
13	15B	Orange, Chatham	5	
14	16A	Scotland, Hoke	3	
15	16B	Robeson	7	<u>8</u>
16	17A	Rockingham	4	
17	17B	Stokes, Surry	4	
18	18	Guilford	18	<u>22</u>
19	19A	Cabarrus	4	
20	19B	Montgomery, Randolph	5	
21	19C	Rowan	4	
22	20	Anson, Moore, Richmond,	12	
23		Stanly, Union		
24	21	Forsyth	12	<u>13</u>
25	22	Alexander, Davidson, Davie,	11	<u>13</u>
26		Iredell		
27	23	Alleghany, Ashe, Wilkes,	4	
28		Yadkin		
29	24	Avery, Madison, Mitchell,	3	
30		Watauga, Yancey		
31	25	Burke, Caldwell, Catawba	11	
32	26	Mecklenburg	24	<u>28</u>
33	27A	Gaston	8	<u>9</u>
34	27B	Cleveland,	5	<u>6</u>
35		Lincoln		
36	28	Buncombe	8	
37	29	Henderson, McDowell, Polk,	8	
38		Rutherford, Transylvania		
39	30	Cherokee, Clay, Graham,	6	
40		Haywood, Jackson, Macon,		
41		Swain."		

(b) This section becomes effective January 1, 1997.

43

1 Requested by: Senator Ballance

2 **ASSISTANT PUBLIC DEFENDERS**

3 Sec. 22.1. From funds appropriated to the Indigent Persons' Attorney Fee Fund
4 for the 1996-97 fiscal year, the Administrative Office of the Courts may use up to three
5 hundred sixty-five thousand three hundred seventy-six dollars (\$365,376) for salaries,
6 benefits, and related expenses to establish up to 11 new assistant public defenders.

7
8 Requested by: Senator Ballance

9 **RESERVE FOR DRUG TREATMENT COURT PROGRAM**

10 Sec. 22.2. (a) Of the funds appropriated to the Judicial Department in the certified
11 budget for the 1995-96 fiscal year to the Reserve for Court/Drug Treatment Program,
12 established by Section 41 of Chapter 24 of the Session Laws of the 1994 Extra Session,
13 as amended by Section 21.6 of Chapter 507 of the 1995 Session Laws, up to the sum of
14 one hundred seventy-five thousand dollars (\$175,000) of any balance remaining in the
15 reserve shall not revert, but may be used during the 1996-97 fiscal year for nonrecurring
16 program items.

17 (b) This section becomes effective June 30, 1996.

18

19 Requested by: Senator Ballance

20 **ANNUAL REPORT ON RECIDIVISM**

21 Sec. 22.3. The Judicial Department, through the North Carolina Sentencing
22 and Policy Advisory Commission, and the Department of Correction shall jointly prepare
23 an annual report on recidivism among criminal offenders. The findings of the report shall
24 be based upon methodology similar to that employed in the May 1, 1996, Recidivism
25 Study that was presented to the Chairs of the House and Senate Appropriations
26 Committees and the Chairs of the House and Senate Appropriations Subcommittees on
27 Justice and Public Safety. This methodology shall include tracking of all offenders
28 assigned to community corrections programs or released from prison by fiscal year,
29 beginning with the 1993-94 fiscal year for the first year's report, and then identifying
30 those offenders rearrested within two years or more after assignment to a program or
31 release from prison. Community correction programs to be included in the report are the
32 Treatment Alternatives to Street Crime (TASC), the Community Penalties Program,
33 Community Service, all supervised probation and parole programs, and all community
34 correction programs supervised or funded by the Department of Correction.

35 As part of this joint project, the Department of Correction shall provide the
36 Sentencing and Policy Advisory Commission with a computerized list of offenders
37 released from prison and offenders entering supervised probation during the specified
38 time period. The list shall include specific offender-identifying information and clearly
39 identify offenders entering community corrections programs supervised or funded by the
40 Department of Correction. The Sentencing and Policy Advisory Commission shall be
41 responsible for matching offenders to Division of Criminal Information (DCI) criminal
42 records and for the production and printing of the final report.

1 Data collection and report preparation for the first year shall be funded from
 2 the sum of four thousand dollars (\$4,000) appropriated to the Judicial Department for the
 3 1996-97 fiscal year for that purpose, and grant funds available to the Department of
 4 Correction for the 1996-97 fiscal year, up to the sum of twenty-five thousand dollars
 5 (\$25,000). The report shall be due by April 1 of each year.
 6

7 Requested by: Senator Ballance

8 **AUTHORIZE ADDITIONAL MAGISTRATES**

9 Sec. 22.4. G.S. 7A-133(c) reads as rewritten:

10 "(c) Each county shall have the numbers of magistrates and additional seats of
 11 district court, as set forth in the following table:
 12

13				Additional
14	County	Min.-Max.	Magistrates Court	Seats of
15	Camden	1 2		
16	Chowan	2 3		
17	Currituck	1 3		
18	Dare	3 8		
19	Gates	2 3		
20	Pasquotank	3 5		
21	Perquimans	2 3		
22	Martin	5 8		
23	Beaufort	4 8		
24	Tyrrell	1 3		
25	Hyde	2 4		
26	Washington	3 4		
27	Pitt	10 12	Farmville	
28				Ayden
29	Craven	7 10	Havelock	
30	Pamlico	2 3		
31	Carteret	5 8		
32	Sampson	6 8		
33	Duplin	9 11		
34	Jones	2 3		
35	Onslow	8 14		
36	New Hanover	6 11		
37	Pender	4 6		
38	Halifax	9 14	Roanoke	
39				Rapids, Scotland Neck
40	Northampton	5	6 7	

1	Bertie	4	<u>5-6</u>		
2	Hertford	5	6		
3	Nash	7	10	Rocky Mount	
4	Edgecombe	4	6	Rocky Mount	
5	Wilson	4	6		
6	Wayne	5	11	Mount Olive	
7	Greene	2	4		
8	Lenoir	4	10	La Grange	
9	Granville	3	7		
10	Vance	3	<u>5-6</u>		
11	Warren	3	4		
12	Franklin	3	6		
13	Person	3	4		
14	Caswell	2	5		
15	Wake	12	20	Apex,	
16					Wendell,
17					Fuquay-
18					Varina,
19					Wake Forest
20	Harnett	7	11	Dunn	
21	Johnston	10	12	Benson,	
22					Clayton,
23					Selma
24	Lee	4	6		
25	Cumberland		10	17	
26	Bladen	4	6		
27	Brunswick	4	7		
28	Columbus	6	8	Tabor City	
29	Durham	8	12		
30	Alamance	7	10	Burlington	
31	Orange	4	11	Chapel Hill	
32	Chatham	3	8	Siler City	
33	Scotland	3	5		
34	Hoke	4	5		
35	Robeson	8	16	Fairmont,	
36					Maxton,
37					Pembroke,
38					Red Springs,
39					Rowland,
40					St. Pauls
41	Rockingham	4	9	Reidsville,	
42					Eden,
43					Madison

1	Stokes	2	5		
2	Surry	5	9	Mt. Airy	
3	Guilford	20	26	High Point	
4	Cabarrus	5	9	Kannapolis	
5	Montgomery		2	4	
6	Randolph	5	<u>8</u> <u>10</u>	Liberty	
7	Rowan	5	10		
8	Stanly	5	6		
9	Union	4	6		
10	Anson	4	5		
11	Richmond		5	6	Hamlet
12	Moore	5	8	Southern	
13					Pines
14	Forsyth	3	15	Kernersville	
15	Alexander		2	3	
16	Davidson	7	10	Thomasville	
17	Davie	2	3		
18	Iredell	4	9	Mooresville	
19	Alleghany		1	2	
20	Ashe	3	4		
21	Wilkes	4	6		
22	Yadkin	3	5		
23	Avery	3	4		
24	Madison	4	5		
25	Mitchell	3	4		
26	Watauga	4	6		
27	Yancey	2	4		
28	Burke	4	7		
29	Caldwell	4	7		
30	Catawba	6	10	Hickory	
31	Mecklenburg		15	26	
32	Gaston	11	20		
33	Cleveland	5	8		
34	Lincoln	4	6		
35	Buncombe		6	15	
36	Henderson		4	6 <u>7</u>	
37	McDowell		3	5	
38	Polk	3	4		
39	Rutherford		6	8	
40	Transylvania		2	4	
41	Cherokee	3	4		
42	Clay	1	2		
43	Graham	2	3		

1 Haywood 5 7 Canton
2 Jackson 3 4
3 Macon 3 4
4 Swain 2 3."
5

6 Requested by: Senators Ballance, Odom

7 **MAKE SPECIAL SUPERIOR COURT JUDGE TERMS CONSISTENT**

8 Sec. 22.6. (a) G.S. 7A-45.1 reads as rewritten:

9 **"§ 7A-45.1. Special judges.**

10 (a) Effective November 1, 1993, the Governor may appoint two special superior
11 court judges to serve terms expiring ~~December 31, 1998.~~ September 30, 2000.
12 Successors to the special superior court judges appointed pursuant to this subsection shall
13 be appointed to ~~four-year~~ five-year terms. A special judge takes the same oath of office
14 and is subject to the same requirements and disabilities as are or may be prescribed by
15 law for regular judges of the superior court, save the requirement of residence in a
16 particular district.

17 (a1) Effective October 1, 1995, the Governor may appoint two special superior
18 court judges to serve terms expiring September 30, 2000. Successors to the special
19 superior court judges appointed pursuant to this subsection shall be appointed to five-year
20 terms. A special judge takes the same oath of office and is subject to the same
21 requirements and disabilities as are or may be prescribed by law for regular judges of the
22 superior court, save the requirement of residence in a particular district.

23 (b) A special judge is subject to removal from office for the same causes and in the
24 same manner as a regular judge of the superior court, and a vacancy occurring in the
25 office of special judge is filled by the Governor by appointment for the unexpired term.

26 (c) A special judge, in any court in which he is duly appointed to hold, has the
27 same power and authority in all matters that a regular judge holding the same court would
28 have. A special judge, duly assigned to hold the court of a particular county, has during
29 the session of court in that county, in open court and in chambers, the same power and
30 authority of a regular judge in all matters arising in the district or set of districts as
31 defined in G.S. 7A-41.1(a) in which that county is located, that could properly be heard
32 or determined by a regular judge holding the same session of court.

33 (d) A special judge is authorized to settle cases on appeal and to make all proper
34 orders in regard thereto after the time for which he was commissioned has expired."

35 (b) Section 24.7 of Chapter 769 of the 1993 Session Laws reads as rewritten:

36 "Sec. 24.7. Notwithstanding G.S. 7A-45, G.S. 7A-45.1, Section 7 of Chapter 509 of
37 the 1987 Session Laws, or any other provision of law, if any special superior court judge
38 who is holding office on the effective date of this act first took office as an appointed or
39 elected regular or special superior court judge in the calendar year 1986, the term of that
40 judge is extended through ~~December 31, 1998.~~ September 30, 2000."
41

42 Requested by: Senator Ballance

43 **CRIMINAL CASE MANAGEMENT PROGRAM**

1 Sec. 22.8. Section 21.10 of Chapter 507 of the 1995 Session Laws reads as
2 rewritten:

3 "Sec. 21.10. Of the funds appropriated to the Judicial Department for the 1995-97
4 biennium, the Administrative Office of the Courts shall use the sum of fifty thousand
5 dollars (\$50,000) for the 1995-96 fiscal year and the sum of fifty thousand dollars
6 (\$50,000) for the 1996-97 fiscal year to establish a criminal case management ~~pilot~~
7 program in the Twelfth and Thirteenth Judicial Districts to help reduce the backlog of
8 court cases and resolve new court cases quicker. A case management facilitator position
9 shall be added to the district attorney's office in both of those judicial districts to help
10 implement the ~~pilot~~-program and the positions shall be filled after consultation with the
11 Senior Resident Superior Court Judges in both of those judicial districts. Of the funds
12 appropriated to the Judicial Department for the 1996-97 fiscal year, the Administrative
13 Office of the Courts shall use the sum of two hundred forty-one thousand six hundred
14 forty-eight dollars (\$241,648) to establish criminal case management programs in eight
15 additional judicial districts. The case management facilitators to be added in the eight
16 additional districts shall also be filled after consultation with the Senior Resident Superior
17 Court Judge in each of those eight districts.

18 The Administrative Office of the Courts shall report by ~~May 1, 1996~~ March 1, 1997 to
19 the Chairs of the Senate and House Appropriations Committees and the Chairs of the
20 Senate and House Appropriations Subcommittees on Justice and Public Safety on the
21 implementation of the ~~pilot~~-program."
22

23 Requested by: Senators Ballance, Rand

24 **ADDITIONAL DISTRICT COURT JUDGE**

25 Sec. 22.9. (a) G.S. 7A-133(a) reads as rewritten:

26 "(a) Each district court district shall have the numbers of judges as set forth in the
27 following table:
28
29

District	Judges	County
1	4	Camden Chowan Currituck Dare Gates Pasquotank Perquimans
2	3	Martin Beaufort Tyrrell Hyde Washington

1	3A	4	Pitt	
2	3B	4	Craven	
3				Pamlico
4				Carteret
5	4	6	Sampson	
6				Duplin
7				Jones
8				Onslow
9	5	6	New Hanover	
10				Pender
11	6A	2	Halifax	
12	6B	3	Northampton	
13				Bertie
14				Hertford
15	7	6	Nash	
16				Edgecombe
17				Wilson
18	8	6	Wayne	
19				Greene
20				Lenoir
21	9	4	Granville	
22				(part of Vance
23				see subsection (b))
24				Franklin
25	9A	2	Person	
26				Caswell
27	9B	1	Warren	
28				(part of Vance
29				see subsection (b))
30	10	12	Wake	
31	11	6	Harnett	
32				Johnston
33				Lee
34	12	7 8	Cumberland	
35	13	4	Bladen	
36				Brunswick
37				Columbus
38	14	5		Durham
39	15A	3	Alamance	
40	15B	3	Orange	
41				Chatham
42	16A	2	Scotland	
43				Hoke

1	16B	5	Robeson	
2	17A	2	Rockingham	
3	17B	3	Stokes	
4				Surry
5	18	11	Guilford	
6	19A	3	Cabarrus	
7	19B	3	Montgomery	
8				Randolph
9	19C	3	Rowan	
10	20	7	Stanly	
11				Union
12				Anson
13				Richmond
14				Moore
15	21	7	Forsyth	
16	22	7	Alexander	
17				Davidson
18				Davie
19				Iredell
20	23	3	Alleghany	
21				Ashe
22				Wilkes
23				Yadkin
24	24	3	Avery	
25				Madison
26				Mitchell
27				Watauga
28				Yancey
29	25	7	Burke	
30				Caldwell
31				Catawba
32	26	14	Mecklenburg	
33	27A	5	Gaston	
34	27B	4	Cleveland	
35				Lincoln
36	28	5	Buncombe	
37	29	5	Henderson	
38				McDowell
39				Polk
40				Rutherford
41				Transylvania
42	30	4	Cherokee	
43				Clay

1 Graham
2 Haywood
3 Jackson
4 Macon
5 Swain."

6 (b) The Governor shall appoint an additional district court judge for District Court
7 District 12 as authorized by subsection (a) of this section. The judge's successor shall be
8 elected in the 2000 general election for a four-year term commencing on the first Monday
9 in December 2000.

10 (c) Subsection (a) of this section becomes effective December 15, 1996, or 15
11 days after the date upon which that subsection is approved under Section 5 of the Voting
12 Rights Act of 1965, whichever is later.

13
14 Requested by: Senator Conder

15 **DISTRICT COURT JUDGES**

16 Sec. 22.9A. (a) Section 2(b) of Chapter 589 of the 1995 Session Laws reads as
17 rewritten:

18 "(b) ~~Each~~The district court judgeship held on June 12, 1996, in District Court
19 District 20 by a resident of Moore County (~~Michael Earle Beale and Jayrene Russell~~
20 ~~Maness~~) is allocated to District Court District 19B. The district court judgeship held on
21 June 12, 1996, in District Court District 20 by a resident of Moore County (Michael Earle
22 Beale) is allocated to District Court District 20. The term of each of these judges expires
23 December 7, 1998. A successor to each judge shall be elected in the 1998 general
24 election."

25 (b) Section 2(d) of Chapter 589 of the 1995 Session Laws reads as rewritten:

26 "(d) The effect of subsections (a) through (c) of this section is also to add an
27 additional district court judgeship in District Court District ~~20~~19B effective January 1,
28 1997. The Governor shall appoint a person to fill the vacancy for the remainder of the
29 term expiring the first Monday in December of 2000."

30
31 Requested by: Senator Ballance

32 **MECKLENBURG DRUG COURT FUNDING**

33 Sec. 22.10. It is the intent of the General Assembly that the Mecklenburg Drug
34 Court program shall be funded as a recurring item within the continuation budget.

35
36 Requested by: Senator Ballance

37 **FUNDING FOR SUPERIOR COURT REPORTERS**

38 Sec. 22.11. It is the intent of the General Assembly that funding for superior
39 court reporters shall remain a part of the continuation budget.

40
41 Requested by: Senators Ballance, Odom

42 **DISTRICT COURT REPORTER OPTION**

43 Sec. 22.12. G.S. 7A-198 is amended by adding a new subsection to read:

1 "(g) A party to a civil trial in district court may request a private agreement from
2 the opposing party or parties to share equally in the cost of a court reporter to be selected
3 from a list provided by the Administrative Office of the Courts. If the opposing party
4 does not consent to share this cost, the requesting party may nevertheless pay to have a
5 court reporter present to record the trial and, in the event that the opposing party appeals
6 the case, that party shall reimburse the party providing the court reporter in full for the
7 costs incurred for the court reporter's services and transcripts.

8 In the event that the recording device in a civil trial conducted without a court reporter
9 fails for any reason to provide a reasonably accurate record of the trial for purposes of
10 appeal, then the trial judge shall grant a motion for a new trial made by a losing party
11 whose request pursuant to this section to share the cost of a court reporter was not
12 consented to by the opposing party."

13
14 Requested by: Senator Ballance

15 **INDIGENT DEFENSE FUNDS**

16 Sec. 22.13. (a) Of the funds appropriated to the Judicial Department for the
17 1995-96 fiscal year, the sum of one million dollars (\$1,000,000) shall not revert at the
18 end of the fiscal year but shall remain available for expenditure to cover up to one million
19 dollars (\$1,000,000) of the cost of services provided for indigent defense during the
20 1995-96 fiscal year.

21 (b) This section becomes effective June 30, 1996.

22
23 Requested by: Senator Rand

24 **INCREASE FEES IN CRIMINAL CASES IN THE GENERAL COURT OF** 25 **JUSTICE**

26 Sec. 22.14. (a) G.S. 7A-304(a) reads as rewritten:

27 "(a) In every criminal case in the superior or district court, wherein the defendant is
28 convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed
29 against the prosecuting witness, the following costs shall be assessed and collected,
30 except that when the judgment imposes an active prison sentence, costs shall be assessed
31 and collected only when the judgment specifically so provides, and that no costs may be
32 assessed when a case is dismissed.

33 (1) For each arrest or personal service of criminal process, including
34 citations and subpoenas, the sum of five dollars (\$5.00), to be remitted
35 to the county wherein the arrest was made or process was served, except
36 that in those cases in which the arrest was made or process served by a
37 law-enforcement officer employed by a municipality, the fee shall be
38 paid to the municipality employing the officer.

39 (2) For the use of the courtroom and related judicial facilities, the sum of
40 six dollars (\$6.00) in the district court, including cases before a
41 magistrate, and the sum of twenty-four dollars (\$24.00) in superior
42 court, to be remitted to the county in which the judgment is rendered. In
43 all cases where the judgment is rendered in facilities provided by a

1 municipality, the facilities fee shall be paid to the municipality. Funds
2 derived from the facilities fees shall be used exclusively by the county
3 or municipality for providing, maintaining, and constructing adequate
4 courtroom and related judicial facilities, including: adequate space and
5 furniture for judges, district attorneys, public defenders, magistrates,
6 juries, and other court related personnel; office space, furniture and
7 vaults for the clerk; jail and juvenile detention facilities; free parking for
8 jurors; and a law library (including books) if one has heretofore been
9 established or if the governing body hereafter decides to establish one.
10 In the event the funds derived from the facilities fees exceed what is
11 needed for these purposes, the county or municipality may, with the
12 approval of the Administrative Officer of the Courts as to the amount,
13 use any or all of the excess to retire outstanding indebtedness incurred
14 in the construction of the facilities, or to reimburse the county or
15 municipality for funds expended in constructing or renovating the
16 facilities (without incurring any indebtedness) within a period of two
17 years before or after the date a district court is established in such
18 county, or to supplement the operations of the General Court of Justice
19 in the county.

20 (3) For the retirement and insurance benefits of both State and local
21 government law-enforcement officers, the sum of seven dollars and
22 twenty-five cents (\$7.25), to be remitted to the State Treasurer. Fifty
23 cents (50¢) of this sum shall be administered as is provided in Article
24 12C of Chapter 143 of the General Statutes. Five dollars and seventy-
25 five cents (\$5.75) of this sum shall be administered as is provided in
26 Article 12E of Chapter 143 of the General Statutes, with one dollar and
27 twenty-five cents (\$1.25) being administered in accordance with the
28 provisions of G.S. 143-166.50(e). One dollar (\$1.00) of this sum shall
29 be administered as is provided in Article 12F of Chapter 143 of the
30 General Statutes.

31 (3a) For the supplemental pension benefits of sheriffs, the sum of seventy-
32 five cents (75¢), to be remitted to the Department of Justice and
33 administered under the provisions of Article 12G of Chapter 143 of the
34 General Statutes.

35 (4) For support of the General Court of Justice, the sum of ~~forty-one dollars~~
36 ~~(\$41.00)~~ forty-six dollars (\$46.00) in the district court, including cases
37 before a magistrate, and the sum of ~~forty-eight dollars (\$48.00)~~ fifty-
38 three dollars (\$53.00) in the superior court, to be remitted to the State
39 Treasurer.

40 (5) For using pretrial release services, the district or superior court judge
41 shall, upon conviction, impose a fee of fifteen dollars (\$15.00) to be
42 remitted to the county providing the pretrial release services. This cost
43 shall be assessed and collected only if the defendant had been accepted

1 and released to the supervision of the agency providing the pretrial
2 release services.

- 3 (6) For support of the General Court of Justice, for the issuance by the clerk
4 of a report to the Division of Motor Vehicles pursuant to G.S. 20-24.2,
5 the sum of fifty dollars (\$50.00), to be remitted to the State Treasurer.
6 Upon a showing to the court that the defendant failed to appear because
7 of an error or omission of a judicial official, a prosecutor, or a law-
8 enforcement officer, the court shall waive this fee."

- 9 (b) Subsection (a) of this section becomes effective September 1, 1996.
10

11 PART 23. DEPARTMENT OF JUSTICE

12
13 Requested by: Senator Ballance

14 AUTHORIZATION OF FICTITIOUS LICENSES AND REGISTRATION 15 PLATES ON PUBLICLY OWNED MOTOR VEHICLES

16 Sec. 23. (a) G.S. 20-39(h) reads as rewritten:

17 "(h) The Commissioner, notwithstanding any other provision of this Chapter, may
18 lawfully and to the extent necessary, provide local, State or federal law-enforcement
19 officers on special undercover assignments with motor vehicle drivers licenses and motor
20 vehicle registration plates under assumed names using false or fictitious addresses. Such
21 registration plates shall only be used on publicly owned or leased vehicles. Requests for
22 these licenses and registration plates shall be made to the Commissioner by the head of
23 the local, State or federal law-enforcement agency and be accompanied by approval in
24 writing from the Director of the State Bureau of Investigation upon a specific finding by
25 the Director that the request is justified and necessary. The Director shall keep a record
26 of all such licenses, registration plates, assumed names, false or fictitious addresses, and
27 law-enforcement officers using the licenses or registration plates, and shall request the
28 immediate return of any license or registration plate that is no longer necessary. Licenses
29 and registration plates provided under this subsection shall expire six months after initial
30 issuance or subsequent validation after the request for extension has been approved in
31 writing by the Director of the State Bureau of Investigation. The head of the local, State
32 or federal law-enforcement agency shall be responsible for the use of the licenses and
33 registration plates and shall return them immediately to the Commissioner for
34 cancellation upon either (i) their expiration, (ii) request of the Director of the State
35 Bureau of Investigation, or (iii) request of the Commissioner. Failure to return a license
36 or registration plates issued pursuant to this subsection shall be punished as a Class 2
37 misdemeanor. At no time shall the number of valid licenses and registration plates issued
38 under this act exceed ~~fifty~~, one hundred, and those issued shall be strictly monitored by
39 the Director. All of the private registration plates issued to special agents of the State
40 Bureau of Investigation under the Department of Justice and to alcohol law enforcement
41 agents under the Department of Crime Control and Public Safety, pursuant to G.S. 14-
42 250, may be fictitious plates and shall not be counted in the total number of fictitious
43 plates authorized by this subsection."

1 (b) The Joint Legislative Commission on Governmental Operations shall study the
2 statutory authorization of the use of private, confidential, and fictitious license plates on
3 State-owned motor vehicles and the administration and enforcement of the applicable
4 statutes. The Commission shall report the results of its study to the 1997 General
5 Assembly.

6 (c) Subsection (a) of this section expires June 30, 1997.

7
8 Requested by: Senator Ballance

9 **FINGERPRINT AND PHOTOGRAPH DELINQUENT JUVENILES**

10 Sec. 23.2. (a) Article 48 of Chapter 7A of the General Statutes is amended by
11 adding a new section to read:

12 **"§ 7A-603. Fingerprinting and photographing delinquent juveniles.**

13 (a) A juvenile shall be fingerprinted and photographed by a law enforcement
14 officer or agency upon adjudication of the juvenile as a delinquent pursuant to G.S. 7A-
15 637 if the juvenile was 10 years of age or older at the time the juvenile allegedly
16 committed an offense that would be a Class A, B, C, D, or E felony if committed by an
17 adult. Upon adjudication, the court shall order the juvenile be fingerprinted and
18 photographed unless the juvenile has been fingerprinted and photographed previously and
19 the fingerprints and photographs are in a proper format for transfer to the State Bureau of
20 Investigation.

21 (b) Fingerprints obtained pursuant to this section shall be transferred to the State
22 Bureau of Investigation in a format approved by the State Bureau of Investigation and
23 placed in the Automated Fingerprint Identification System (AFIS) to be used for all
24 investigation and comparison purposes. Photographs shall be placed in a format approved
25 by the State Bureau of Investigation and may be used for all investigative or comparison
26 purposes.

27 (c) Fingerprints and photographs taken pursuant to this section shall not be
28 included in the clerk's record pursuant to G.S. 7A-675 and shall not be eligible for
29 expunction pursuant to G.S. 7A-676."

30 (b) G.S. 15A-502(c) reads as rewritten:

31 "(c) This section does not authorize the taking of photographs or fingerprints of a
32 juvenile alleged to be delinquent except under G.S. 7A-596 through ~~7A-601~~. ~~7A-601~~ and
33 ~~7A-603.~~"

34 (c) This section becomes effective October 1, 1996, and applies to offenses
35 committed on or after that date.

36
37 Requested by: Senators Ballance, Rand

38 **ESTABLISH CRIMINAL JUSTICE INFORMATION NETWORK GOVERNING** 39 **BOARD**

40 Sec. 23.3. (a) Chapter 143 of the General Statutes is amended by adding a new
41 Article to read:

42 **"ARTICLE 69.**

43 **"CRIMINAL JUSTICE INFORMATION NETWORK GOVERNING BOARD.**

"§ 143-660. Definitions.

As used in this Article:

- (1) 'Board' means the Criminal Justice Information Network Governing Board established by G.S. 143-661.
- (2) 'Local government user' means a unit of local government of this State having authorized access to the Network.
- (3) 'Network' means the Criminal Justice Information Network established by the Board pursuant to this Article.
- (4) 'Network user' or 'user' means any person having authorized access to the Network.
- (5) 'State agency' means any State department, agency, institution, board, commission, or other unit of State government.

"§ 143-661. Criminal Justice Information Network Governing Board – creation; purpose; membership; conflicts of interest.

(a) The Criminal Justice Information Network Governing Board is established within the Department of Justice, State Bureau of Investigation, to operate the State's Criminal Justice Information Network, the purpose of which shall be to provide the governmental and technical information systems infrastructure necessary for accomplishing State and local governmental public safety and justice functions in the most effective manner by appropriately and efficiently sharing criminal justice information among law enforcement, judicial, and corrections agencies. The Board is established within the Department of Justice, State Bureau of Investigation, for organizational and budgetary purposes only and the Board shall exercise all of its statutory powers in this Article independent of control by the Department of Justice.

(b) The Board shall consist of 15 members, appointed as follows:

- (1) Three members appointed by the Governor, including one member who shall be a director or employee of a State correction agency for a term to begin September 1, 1996, and to expire on June 30, 1997, one member who shall be an employee of the North Carolina Department of Crime Control and Public Safety for a term beginning September 1, 1996, and to expire on June 30, 1997, and one member selected from a list of at least three names submitted to the Governor by the North Carolina Association of Chiefs of Police for a term to begin September 1, 1996, and to expire on June 30, 1999.
- (2) Four members appointed by the General Assembly in accordance with G.S. 120-121, as follows:
 - a. Two members recommended by the President Pro Tempore of the Senate, including one member of the general public for a term to begin on September 1, 1996, and to expire on June 30, 1997, and one member who shall be selected from a list of at least three names submitted to the President Pro Tempore by the North Carolina League of Municipalities and who shall be a member of or an employee working directly for the governing

- 1 board of a North Carolina municipality for a term to begin on
2 September 1, 1996, and to expire on June 30, 1999; and
3 b. Two members recommended by the Speaker of the House of
4 Representatives, including one member of the general public for
5 a term to begin on September 1, 1996, and to expire on June 30,
6 1999, and one member selected from a list of at least three names
7 submitted to the Speaker by the North Carolina Association of
8 County Commissioners, and who shall be a member of or an
9 employee working directly for the governing board of a North
10 Carolina county for a term to begin on September 1, 1996, and to
11 expire on June 30, 1997.
- 12 (3) Two members appointed by the Attorney General, including one
13 member who shall be an employee of the Attorney General for a term to
14 begin on September 1, 1996, and to expire on June 30, 1997, and one
15 member from a list of at least three names submitted to the Attorney
16 General by the North Carolina Sheriffs' Association for a term to begin
17 on September 1, 1996, and to expire on June 30, 1999.
- 18 (4) Five members appointed by the Chief Justice of the North Carolina
19 Supreme Court, including the Director or an employee of the
20 Administrative Office of the Courts for a term to begin on September 1,
21 1996, and to expire on June 30, 1997, one clerk of the superior court for
22 a term to begin on September 1, 1996, and to expire on June 30, 1997,
23 two judges of the trial division of the General Court of Justice for terms
24 to begin on September 1, 1996, and to expire on June 30, 1999, and one
25 district attorney or employee of a district attorney for a term to begin on
26 September 1, 1996, and to expire on June 30, 1999.
- 27 (5) One member appointed by the Chair of the Information Resource
28 Management Commission, who shall be the Chair or a member of that
29 Commission for a term to begin on September 1, 1996, and to expire on
30 June 30, 1999.

31 The respective appointing authorities shall appoint to the Board persons having a
32 background in and familiarity with criminal information systems and networks generally
33 and with the criminal information needs and capacities of the constituency from which
34 the member is appointed.

35 As the initial terms expire, subsequent members of the Board shall be appointed to
36 serve four-year terms. At the end of a term, a member shall continue to serve on the
37 Board until a successor is appointed. A member who is appointed after a term is begun
38 serves only for the remainder of the term and until a successor is appointed. Any
39 vacancy in the membership of the Board shall be filled by the same appointing authority
40 that made the appointment, except that vacancies among members appointed by the
41 General Assembly shall be filled in accordance with G.S. 120-122.

42 (c) Members of the Board shall not be employed by or serve on the board of
43 directors or other corporate governing body of any information systems, computer

1 hardware, computer software, or telecommunications vendor of goods and services to the
2 State or to any unit of local government in the State. No member of the Board shall vote
3 on an action affecting solely the member's own State agency or local governmental unit
4 or specific judicial office.

5 **"§ 143-662. Compensation and expenses of Board members; travel reimbursements.**

6 Members of the Board shall serve without compensation but may receive travel and
7 subsistence as follows:

8 (1) Board members who are officials or employees of a State agency or unit
9 of local government, in accordance with G.S. 138-6.

10 (2) All other Board members, at the rate established in G.S. 138-5.

11 **"§ 143-663. Powers and duties.**

12 (a) The Board shall have the following powers and duties:

13 (1) To establish and operate the Network as an integrated system of State
14 and local government components for effectively and efficiently storing,
15 communicating, and using criminal justice information at the State and
16 local levels throughout North Carolina's law enforcement, judicial, and
17 corrections agencies, with the components of the Network to include
18 electronic devices, programs, data, and governance and to set the
19 Network's policies and procedures.

20 (2) To develop and adopt uniform standards and cost-effective information
21 technology, after thorough evaluation of the capacity of information
22 technology to meet the present and future needs of the State and, in
23 consultation with the Information Resource Management Commission,
24 to develop and adopt standards for entering, storing, and transmitting
25 information in criminal justice databases and for achieving maximum
26 compatibility among user technologies.

27 (3) To identify the funds needed to establish and maintain the Network,
28 identify public and private sources of funding, and secure funding to:

29 a. Create the Network and facilitate the sharing of information
30 among users of the Network; and

31 b. Make grants to local government users to enable them to acquire
32 or improve elements of the Network that lie within the
33 responsibility of their agencies or State agencies; provided that
34 the elements developed with the funds must be available for use
35 by the State or by local governments without cost and the
36 applicable State agencies join in the request for funding.

37 (4) To provide assistance to local governments for the financial and systems
38 planning for Network-related automation and to coordinate and assist
39 the Network users of this State in soliciting bids for information
40 technology hardware, software, and services in order to assure
41 compliance with the Board's technical standards, to gain the most
42 advantageous contracts for the Network users of this State, and to assure
43 financial accountability where State funds are used.

1 (5) To provide a liaison among local government users and to advocate on
2 behalf of the Network and its users in connection with legislation
3 affecting the Network.

4 (6) To facilitate the sharing of knowledge about information technologies
5 among users of the Network.

6 (7) To take any other appropriate actions to foster the development of the
7 Network.

8 (b) All grants or other uses of funds appropriated or granted to the Board shall be
9 conditioned on compliance with the Board's technical and other standards.

10 **"§ 143-664. Election of officers; meetings; staff, etc.**

11 (a) The Governor shall call the first meeting of the Board. At the first meeting, the
12 Board shall elect a chair and a vice-chair, each to serve a one-year term, with subsequent
13 officers to be elected for one-year terms. The Board shall hold at least two regular
14 meetings each year, as provided by policies and procedures adopted by the Board. The
15 Board may hold additional meetings upon the call of the chair or any three Board
16 members. A majority of the Board membership constitutes a quorum.

17 (b) The Board shall employ a full-time Executive Director who shall have
18 appropriate training and experience to assist the Board in the performance of its duties.
19 The Executive Director shall be exempt from coverage under the State Personnel Act and
20 shall serve at the pleasure of the Board. The salary of the Executive Director shall be set
21 by the Governor upon the recommendation of the Board.

22 (c) The Executive Director may employ other full or part-time staff and contract
23 for such services as may be necessary or appropriate to assist the Board in the
24 performance of its duties, as funds permit. Staff employed by the Executive Director
25 shall be exempt from coverage under the State Personnel Act and shall serve at the
26 pleasure of the Executive Director. The salaries of the staff shall be set by the Executive
27 Director.

28 (d) The Board may meet in an area provided by the Department of Justice and the
29 Board's staff shall use space provided by the Department."

30 (b) G.S. 143B-426.21(a) is amended by adding a new subdivision to read:

31 "(9) The Chair of the Criminal Justice Information Network Governing
32 Board."

33 (c) The Criminal Justice Information Network Governing Board shall report by
34 April 1, 1997, to the Chairs of the Senate and House Appropriations Committees and the
35 Chairs of the Senate and House Appropriations Subcommittees on Justice and Public
36 Safety on the organization, operations, and expenditures of the Board, including the
37 Board's progress in developing data-sharing standards, the progress in the coordination
38 and cooperation of State and local agencies in establishing standards, and the estimated
39 time of completion of the standards. The Board shall also provide a long-term strategic
40 plan and cost analysis for statewide implementation of the Criminal Justice Information
41 Network as well as a report on the State and local law enforcement agencies'
42 implementation of the mobile data network system, including the amount of funds spent

1 on the system as of the date of the report and the long-term costs of implementing the
2 system statewide.

3 (d) Of the funds appropriated in this act to the reserve for the Criminal Justice
4 Information Network Governing Board, the sum of two hundred thousand dollars
5 (\$200,000) shall be used to support the operation of the Criminal Justice Information
6 Network Governing Board, including staff salaries and benefits and related expenses, and
7 the sum of three hundred thousand dollars (\$300,000) shall be used to fund the
8 development of data standards for the Network. Funds appropriated to the reserve for the
9 Criminal Justice Information Network Governing Board shall not revert.

11 PART 24. DEPARTMENT OF HUMAN RESOURCES

13 Requested by: Senator Martin of Guilford

14 MEDICAID

15 Sec. 24. Section 23.14 of Chapter 324, 1995 Session Laws, reads as rewritten:

16 "Sec. 23.14. (a) Funds appropriated in this act for services provided in accordance
17 with Title XIX of the Social Security Act (Medicaid) are for both the categorically needy
18 and the medically needy. Funds appropriated for these services shall be expended in
19 accordance with the following schedule of services and payment bases. All services and
20 payments are subject to the language at the end of this subsection.

21 Services and payment bases:

- 22 (1) Hospital-Inpatient - Payment for hospital inpatient services will be
23 prescribed in the State Plan as established by the Department of Human
24 Resources. Administrative days for any period of hospitalization shall
25 be limited to a maximum of three days.
- 26 (2) Hospital-Outpatient - Eighty percent (80%) of allowable costs or a
27 prospective reimbursement plan as established by the Department of
28 Human Resources.
- 29 (3) Nursing Facilities - Payment for nursing facility services will be
30 prescribed in the State Plan as established by the Department of Human
31 Resources. Nursing facilities providing services to Medicaid recipients
32 who also qualify for Medicare, must be enrolled in the Medicare
33 program as a condition of participation in the Medicaid program. State
34 facilities are not subject to the requirement to enroll in the Medicare
35 program.
- 36 (4) Intermediate Care Facilities for the Mentally Retarded - As prescribed
37 in the State Plan as established by the Department of Human Resources.
- 38 (5) Drugs - Drug costs as allowed by federal regulations plus a professional
39 services fee per month excluding refills for the same drug or generic
40 equivalent during the same month. Reimbursement shall be available
41 for up to six prescriptions per recipient, per month, including refills.
42 Payments for drugs are subject to the provisions of subsection (f) of this
43 section and to the provisions at the end of subsection (a) of this section,

1 or in accordance with the State Plan adopted by the Department of
2 Human Resources consistent with federal reimbursement regulations.
3 Payment of the professional services fee shall be made in accordance
4 with the Plan adopted by the Department of Human Resources,
5 consistent with federal reimbursement regulations. The professional
6 services fee shall be five dollars and sixty cents (\$5.60) per prescription.
7 Adjustments to the professional services fee shall be established by the
8 General Assembly.

- 9 (6) Physicians, Chiropractors, Podiatrists, Optometrists, Dentists, Certified
10 Nurse Midwife Services - Fee schedules as developed by the
11 Department of Human Resources. Payments for dental services are
12 subject to the provisions of subsection (g) of this section.
- 13 (7) Community Alternative Program, EPSDT Screens - Payment to be
14 made in accordance with rate schedule developed by the Department of
15 Human Resources.
- 16 (8) Home Health and Related Services, Private Duty Nursing, Clinic
17 Services, Prepaid Health Plans, Durable Medical Equipment - Payment
18 to be made according to reimbursement plans developed by the
19 Department of Human Resources.
- 20 (9) Medicare Buy-In - Social Security Administration premium.
- 21 (10) Ambulance Services - Uniform fee schedules as developed by the
22 Department of Human Resources.
- 23 (11) Hearing Aids - Actual cost plus a dispensing fee.
- 24 (12) Rural Health Clinic Services - Provider-based - reasonable cost;
25 nonprovider based - single cost reimbursement rate per clinic visit.
- 26 (13) Family Planning - Negotiated rate for local health departments. For
27 other providers - see specific services, for instance, hospitals,
28 physicians.
- 29 (14) Independent Laboratory and X-Ray Services - Uniform fee schedules as
30 developed by the Department of Human Resources.
- 31 (15) Optical Supplies - One hundred percent (100%) of reasonable wholesale
32 cost of materials.
- 33 (16) Ambulatory Surgical Centers - Payment as prescribed in the
34 reimbursement plan established by the Department of Human
35 Resources.
- 36 (17) Medicare Crossover Claims - An amount up to the actual coinsurance or
37 deductible or both, in accordance with the Plan, as approved by the
38 Department of Human Resources.
- 39 (18) Physical Therapy and Speech Therapy - Services limited to EPSDT
40 eligible children. Payments are to be made only to ~~the Children's~~
41 Special Health Services program-qualified providers at rates negotiated
42 by the Department of Human Resources.

- 1 (19) Personal Care Services - Payment in accordance with Plan approved by
2 the Department of Human Resources.
- 3 (20) Case Management Services - Reimbursement in accordance with the
4 availability of funds to be transferred within the Department of Human
5 Resources.
- 6 (21) Hospice - Services may be provided in accordance with Plan developed
7 by the Department of Human Resources.
- 8 (22) Other Mental Health Services - Unless otherwise covered by this
9 section, coverage is limited to agencies meeting the requirements of the
10 rules established by the Commission for Mental Health, Developmental
11 Disabilities, and Substance Abuse Services, and reimbursement is made
12 in accordance with a Plan developed by the Department of Human
13 Resources not to exceed the upper limits established in federal
14 regulations.
- 15 (23) Medically Necessary Prosthetics or Orthotics for EPSDT Eligible
16 Children - Reimbursement in accordance with Plan approved by the
17 Department of Human Resources.
- 18 (24) Health Insurance Premiums - Payments to be made in accordance with
19 the Plan adopted by the Department of Human Resources consistent
20 with federal regulations.
- 21 (25) Medical Care/Other Remedial Care - Services not covered elsewhere in
22 this section include related services in schools; health professional
23 services provided outside the clinic setting to meet maternal and infant
24 health goals; and services to meet federal EPSDT mandates. Services
25 addressed by this paragraph are limited to those prescribed in the State
26 Plan as established by the Department of Human Resources. Providers
27 of these services must be certified as meeting program standards of the
28 Department of Environment, Health, and Natural Resources.
- 29 (26) Pregnancy Related Services - Covered services for pregnant women
30 shall include nutritional counseling, psychosocial counseling, and
31 predelivery and postpartum home visits by maternity care coordinators
32 and public health nurses.

33 Services and payment bases may be changed with the approval of the Director of the
34 Budget.

35 Reimbursement is available for up to 24 visits per recipient per year to any one or
36 combination of the following: physicians, clinics, hospital outpatient, optometrists,
37 chiropractors, and podiatrists. Prenatal services, all EPSDT children, and emergency
38 rooms are exempt from the visit limitations contained in this paragraph. Exceptions may
39 be authorized by the Department of Human Resources where the life of the patient would
40 be threatened without such additional care. Any person who is determined by the
41 Department to be exempt from the 24-visit limitation may also be exempt from the six-
42 prescription limitation.

(b) Allocation of Nonfederal Cost of Medicaid. The State shall pay eighty-five percent (85%); the county shall pay fifteen percent (15%) of the nonfederal costs of all applicable services listed in this section.

(c) Copayment for Medicaid Services. The Department of Human Resources may establish copayment up to the maximum permitted by federal law and regulation.

(d) Medicaid and Aid to Families With Dependent Children Income Eligibility Standards. The maximum net family annual income eligibility standards for Medicaid and Aid to Families with Dependent Children, and the Standard of Need for Aid to Families with Dependent Children shall be as follows:

Family Size	Categorically Needy		Medically Needy	
	Standard of Need	AFDC Payment Level*	AA, AB, AD*	
1	\$ 4,344	\$ 2,172	\$ 2,900	
2	5,664	2,8323,800		
3	6,528	3,2644,400		
4	7,128	3,5644,800	5 7,776	3,888 5,200
6	8,376	4,1885,600		
7	8,952	4,4766,000		
8	9,256	4,6806,300		

*Aid to Families With Dependent Children (AFDC); Aid to the Aged (AA); Aid to the Blind (AB); and Aid to the Disabled (AD).

The payment level for Aid to Families With Dependent Children shall be fifty percent (50%) of the standard of need.

These standards may be changed with the approval of the Director of the Budget with the advice of the Advisory Budget Commission.

(e) All Elderly, Blind, and Disabled Persons who receive Supplemental Security Income are eligible for Medicaid coverage.

(f) ICF and ICF/MR Work Incentive Allowances. The Department of Human Resources may provide an incentive allowance to Medicaid-eligible recipients of ICF and ICF/MR facilities who are regularly engaged in work activities as part of their developmental plan and for whom retention of additional income contributes to their achievement of independence. The State funds required to match the federal funds that are required by these allowances shall be provided from savings within the Medicaid budget or from other unbudgeted funds available to the Department. The incentive allowances may be as follows:

Monthly Net Wages	Monthly Incentive Allowance
\$1.00 to \$100.99	Up to \$50.00
\$101.00 - \$200.99	\$80.00
\$201.00 to \$300.99	\$130.00
\$301.00 and greater	\$212.00.

1 (g) Dental Coverage Limits. Dental services shall be provided on a restricted basis
2 in accordance with rules adopted by the Department to implement this subsection.

3 (h) Dispensing of Generic Drugs. Notwithstanding G.S. 90-85.27 through G.S.
4 90-85.31, under the Medical Assistance Program (Title XIX of the Social Security Act) a
5 prescription order for a drug designated by a trade or brand name shall be considered to
6 be an order for the drug by its established or generic name, except when the prescriber
7 personally indicates, either orally or in his own handwriting on the prescription order,
8 'dispense as written' or words of similar meaning. Generic drugs, when available in the
9 pharmacy, shall be dispensed at a lower cost to the Medical Assistance Program rather
10 than trade or brand name drugs, subject to the prescriber's 'dispense as written' order as
11 noted above.

12 As used in this subsection 'brand name' means the proprietary name the manufacturer
13 places upon a drug product or on its container, label, or wrapping at the time of
14 packaging; and 'established name' has the same meaning as in section 502(e)(3) of the
15 Federal Food, Drug, and Cosmetic Act as amended, 21 U.S.C. § 352(e)(3).

16 (i) Exceptions to Service Limitations, Eligibility Requirements, and Payments.
17 Service limitations, eligibility requirements, and payments bases in this section may be
18 waived by the Department of Human Resources, with the approval of the Director of the
19 Budget, to allow the Department to carry out pilot programs for prepaid health plans,
20 managed care plans, or community-based services programs in accordance with plans
21 approved by the United States Department of Health and Human Services, or when the
22 Department determines that such a waiver will result in a reduction in the total Medicaid
23 costs for the recipient.

24 (j) Volume Purchase Plans and Single Source Procurement. The Department of
25 Human Resources, Division of Medical Assistance, may, subject to the approval of a
26 change in the State Medicaid Plan, contract for services, medical equipment, supplies,
27 and appliances by implementation of volume purchase plans, single source procurement,
28 or other similar processes in order to improve cost containment.

29 (k) Cost Containment Programs. The Department of Human Resources, Division
30 of Medical Assistance, may undertake cost containment programs including
31 preadmissions to hospitals and prior approval for certain outpatient surgeries before they
32 may be performed in an inpatient setting.

33 (l) For all Medicaid eligibility classifications for which the federal poverty level is
34 used as an income limit for eligibility determination, the income limits will be updated
35 each April 1 immediately following publication of federal poverty guidelines.

36 (m) The Department of Human Resources shall provide Medicaid to 19-, 20-, and
37 21-year olds in accordance with federal rules and regulations.

38 (n) The Department of Human Resources shall provide coverage to pregnant
39 women and to children according to the following schedule:

- 40 (1) Pregnant women with incomes equal to or less than one hundred eighty-
41 five percent (185%) of the federal poverty guidelines as revised each
42 April 1 shall be covered for Medicaid ~~benefits~~; benefits.

- 1 (2) Infants under the age of 1 with family incomes equal to or less than one
2 hundred eighty-five percent (185%) of the federal poverty guidelines as
3 revised each April 1 shall be covered for Medicaid ~~benefits;~~ benefits.
- 4 (3) Children aged 1 through 5 with family incomes equal to or less than one
5 hundred thirty-three percent (133%) of the federal poverty guidelines as
6 revised each April 1 shall be covered for Medicaid ~~benefits;~~ benefits.
- 7 (4) Children aged 6 through 18 with family incomes equal to or less than
8 the federal poverty guidelines as revised each April 1 shall be covered
9 for Medicaid benefits. ~~Services to pregnant women eligible under this
10 section continue throughout the pregnancy but include only those
11 related to pregnancy and to those other conditions determined by the
12 Department as conditions that may complicate pregnancy. In order to
13 reduce county administrative costs and to expedite the provision of
14 medical services to pregnant women, to infants, and to children eligible
15 under this section, no resources test shall be applied; and~~
- 16 (5) The Department of Human Resources shall provide Medicaid coverage
17 for adoptive children with special or rehabilitative needs regardless of
18 the adoptive family's income.

19 Services to pregnant women eligible under this subsection continue throughout the
20 pregnancy but include only those related to pregnancy and to those other conditions
21 determined by the Department as conditions that may complicate pregnancy. In order to
22 reduce county administrative costs and to expedite the provision of medical services to
23 pregnant women, to infants, and to children described in subdivisions (3) and (4) of this
24 subsection, no resources test shall be applied.

25 (o) The Department of Human Resources may use Medicaid funds budgeted from
26 program services to support the cost of administrative activities to the extent that these
27 administrative activities produce a net savings in services requirements. Administrative
28 initiatives funded by this section shall be first approved by the Office of State Budget and
29 Management.

30 (p) The Department of Human Resources shall submit a monthly status report on
31 expenditures for acute care and long-term care services to the Fiscal Research Division
32 and to the Office of State Budget and Management. This report shall include an analysis
33 of budgeted versus actual expenditures for eligibles by category and for long-term care
34 beds. In addition, the Department shall revise the program's projected spending for the
35 current fiscal year and the estimated spending for the subsequent fiscal year on a
36 quarterly basis. Reports for the preceding month shall be forwarded to the Fiscal
37 Research Division and to the Office of State Budget and Management no later than the
38 third Thursday of the month.

39 (q) The Division of Medical Assistance, Department of Human Resources, may
40 provide incentives to counties that successfully recover fraudulently spent Medicaid
41 funds by sharing State savings with counties responsible for the recovery of the
42 fraudulently spent funds.

	<u>Family Size</u>	<u>Care Adults</u>	<u>Rehabilitation</u>	<u>Other</u>
1	1	\$ 4,860	\$ 8,364	\$ 4,200
2	2	5,940	10,944	5,300
3	3	6,204	13,500	6,400
4	4	7,284	16,092	7,500
5	5	7,824	18,648	7,900
6	6	8,220	21,228	8,300
7	7	8,772	21,708	8,800
8	8	9,312	22,220	9,300

10
 11 The eligibility level for children in the Medical Eye Care Program in the Division
 12 of Services for the Blind and for adults in the ~~Clozaril~~ Atypical Antipsychotic Medication
 13 Program in the Division of Mental Health, Developmental Disabilities, and Substance
 14 Abuse Services shall be one hundred percent (100%) of the federal poverty guidelines, as
 15 revised annually by the United States Department of Health and Human Services and in
 16 effect on July 1 of each fiscal year. Additionally, those adults enrolled in the ~~Clozaril~~
 17 Atypical Antipsychotic Medication Program who become gainfully employed may
 18 continue to be eligible to receive State support, in decreasing amounts, for the purchase
 19 of ~~Clozaril~~ atypical antipsychotic medication and related services up to three hundred
 20 percent (300%) of the poverty level.

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

	<u>Income</u>	<u>State Participation</u>	<u>Client Participation</u>
	(% of poverty)		
23	0-100%	100%	0%
24	101-120%	95%	5%
25	121-140%	85%	15%
26	141-160%	75%	25%
27	161-180%	65%	35%
28	191-180%	65%	35%
29	<u>181-200%</u>	<u>55%</u>	<u>45%</u>
30	201-220%	45%	55%
31	221-240%	35%	65%
32	241-260%	25%	75%
33	261-280%	15%	85%
34	281-300%	5%	95%
35	301%-over	0%	100%.

36 The Department of Human Resources shall contract at, or as close as possible to,
 37 Medicaid rates for medical services provided to residents of State facilities of the
 38 Department."
 39

1 Requested by: Senator Martin of Guilford

2 **MEDICAID SUBROGATION CHANGE**

3 Sec. 24.1A. (a) G.S. 108A-57 reads as rewritten:

4 **"§ 108A-57. Subrogation rights; withholding of information a misdemeanor.**

5 (a) Notwithstanding any other provisions of the law, to the extent of payments
6 under this Part, the State, or the county providing medical assistance benefits, shall be
7 subrogated to all rights of recovery, contractual or otherwise, of the beneficiary of ~~such~~
8 this assistance, or of ~~his—the~~ beneficiary's personal representative, ~~his—~~heirs, or the
9 administrator or executor of ~~his—the~~ estate, against any person. ~~It shall be the~~
10 ~~responsibility of the—~~The county attorney—attorney, or an attorney retained by the county
11 ~~and/or or~~ the State or both, or an attorney retained by the beneficiary of the assistance if
12 ~~such—this~~ attorney has actual notice of payments made under this Part ~~to—shall~~ enforce this
13 ~~section, and said section.~~ An attorney retained by the county or the State or both shall be
14 compensated for ~~his—~~services in accordance with the attorneys' fee arrangements approved
15 by the ~~Department; provided, however, that any—Department.~~ Any attorney retained by
16 the beneficiary of the assistance shall ~~be compensated for his services—~~distribute proceeds
17 obtained on behalf of the beneficiary by settlement with, judgment against, or otherwise
18 from a third party by reason of the injury or death in accordance with the following
19 schedule and in the following order of ~~priority from any amount obtained on behalf of the~~
20 ~~beneficiary by settlement with, judgment against, or otherwise from a third party by~~
21 ~~reason of such injury or death: priority:~~

- 22 (1) First to the payment of any court costs taxed by the judgment;
- 23 (2) Second to the payment of the fee of the attorney representing the
24 beneficiary making the settlement or obtaining the judgment, but this
25 fee shall not exceed one-third of the gross amount obtained or ~~recovered~~
26 ~~to which the right of subrogation applies; recovered;~~
- 27 (3) Third to the payment to the Department of the amount of assistance
28 received by the ~~beneficiary as prorated with other claims against the~~
29 ~~amount obtained or received from the third party to which the right of~~
30 ~~subrogation applies, but the amount shall not exceed one third of the~~
31 ~~amount obtained or recovered to which the right of subrogation applies;~~
32 beneficiary; and
- 33 (4) Fourth to the payment of any amount remaining to the beneficiary or ~~his~~
34 the beneficiary's personal representative.

35 The United States and the State of ~~North Carolina shall be—~~is entitled to shares in each
36 net recovery under this section. Their shares shall be promptly paid under this section
37 and their proportionate parts of ~~such—the~~ sum shall be determined in accordance with the
38 matching formulas in use during the period for which assistance was paid to the recipient.

39 (b) It ~~shall be—~~is a Class 1 misdemeanor for any person seeking or having obtained
40 assistance under this Part for himself or another to willfully fail to disclose to the county
41 department of social services or its attorney the identity of any person or organization
42 against whom the recipient of assistance has a right of recovery, contractual or
43 otherwise."

1 (b) This section becomes effective October 1, 1996.

2
3 Requested by: Senator Martin of Guilford

4 **VOCATIONAL REHABILITATION SUBROGATION CHANGE**

5 Sec. 24.1B. (a) G.S. 143-547 reads as rewritten:

6 **"§ 143-547. Subrogation rights; withholding of information a misdemeanor.**

7 (a) Notwithstanding any other provisions of law, to the extent of payments under
8 this Article, the State Vocational Rehabilitation program shall be subrogated to all rights
9 of recovery, contractual or otherwise, of the beneficiary of the assistance, or ~~his~~ the
10 beneficiary's personal representative, ~~his~~ heirs, or the administrator or executor of ~~his~~ the
11 estate, against any person; provided, however, that any person. Any attorney retained by
12 the beneficiary of the assistance shall be compensated for his services distribute proceeds
13 obtained on behalf of the beneficiary by settlement with, judgment against, or otherwise
14 from a third party by reason of injury or death in accordance with the following schedule
15 and in the following order of ~~priority from any amount obtained on behalf of the~~
16 ~~beneficiary by settlement with, judgment against, or otherwise from a third party by~~
17 ~~reason of such injury or death: priority:~~

- 18 (1) First to the payment of any court costs taxed by the judgment;
- 19 (2) Second to the payment of the fee of the attorney representing the
20 beneficiary making the settlement or obtaining the judgment, but this
21 fee shall not exceed one-third of the gross amount obtained or ~~recovered~~
22 ~~to which the right of subrogation applies; recovered;~~
- 23 (3) Third to the payment of the amount of assistance received by the
24 beneficiary as prorated with other claims against the amount obtained or
25 received from the third party ~~to for which the~~ a right of subrogation
26 applies, but the amount shall not exceed one-third of the amount
27 obtained or ~~recovered to which the right of subrogation applies;~~
28 recovered; and
- 29 (4) Fourth to the payment of any amount remaining to the beneficiary or ~~his~~
30 the beneficiary's personal representative.

31 The United States and the State ~~of North Carolina shall be~~ is entitled to shares in each net
32 recovery under this section. Their shares shall be promptly paid under this section and
33 their proportionate parts of ~~such~~ the sum shall be determined in accordance with the
34 matching formulas in use during the period for which assistance was paid to the recipient.

35 (b) In furnishing a person rehabilitation services, including medical case services
36 under this Chapter, the Division of Vocational Rehabilitation Services is subrogated to
37 the person's right of recovery from:

- 38 (1) Personal insurance;
- 39 (2) Worker's Compensation;
- 40 (3) Any other person or personal injury caused by the other person's
41 negligence or wrongdoing; or
- 42 (4) Any other source.

1 (c) The Division of Vocational Rehabilitation Services' right to subrogation is
2 limited to the cost of the rehabilitation services provided by or through the Division for
3 which a financial needs test is a condition of the service provisions. Those services that
4 are provided without a financial needs test are excluded from these subrogation rights.

5 (d) The Division of Vocational Rehabilitation Services may totally or partially
6 waive subrogation rights when the Division finds that enforcement would tend to defeat
7 the client's process of rehabilitation or when client assets can be used to offset additional
8 Division costs.

9 (e) The Division of Vocational Rehabilitation Services may adopt rules for the
10 enforcement of its rights of subrogation.

11 (f) It is a Class 1 misdemeanor for a person seeking or having obtained assistance
12 under this Part for himself or another to willfully fail to disclose to the Division of
13 Vocational Rehabilitation Services or its attorney the identity of any person or
14 organization against whom the recipient of assistance has a right of recovery, contractual
15 or otherwise."

16 (b) This section becomes effective October 1, 1996.

17
18 Requested by: Senator Martin of Guilford

19 **THOMAS S.**

20 Sec. 24.4. Section 23.21 of Chapter 324 of the 1995 Session Laws reads as
21 rewritten:

22 "Sec. 23.21. (a) Funds appropriated to the Department of Human Resources in this
23 act for the 1995-96 fiscal year and the 1996-97 fiscal year for members of the Thomas S.
24 Class as identified in Thomas S., et al. v. Britt, formerly Thomas S., et al. v. Flaherty,
25 shall be expended only for programs serving Thomas S. Class members or for services
26 for those clients who are:

27 (1) Adults with mental retardation, or who have been treated as if they had
28 mental retardation, who were admitted to a State psychiatric hospital on
29 or after March 22, 1984, and who are included on the Division of
30 Mental Health, Developmental Disabilities, and Substance Abuse
31 Services' official list of prospective Class members;

32 (2) Adults with mental retardation who have a documented history of State
33 psychiatric hospital admissions regardless of admission date and who,
34 without funding support, have a good probability of being readmitted to
35 a State psychiatric hospital;

36 (3) Adults with mental retardation who have never been admitted to a State
37 psychiatric hospital but who have a documented history of behavior
38 determined to be of danger to self or others that results in referrals for
39 inpatient psychiatric treatment and who, without funding support, have a
40 good probability of being admitted to a State psychiatric hospital; or

41 (4) Adults who are included on the Division of Mental Health,
42 Developmental Disabilities, and Substance Abuse Services' official list
43 of prospective Class members and have yet to be confirmed as Class

1 members, who currently reside in the community, and who have a good
2 probability of being admitted to a facility licensed as a 'home for the
3 aged and disabled'.

4 No more than five percent (5%) of the funds appropriated in this act for the Thomas S.
5 program shall be used for clients meeting subdivisions (2), (3), or (4) of this subsection.

6 (b) To ensure that Thomas S. Class members are appropriately served, no State
7 funds shall be expended on placement and services for Thomas S. Class members except:

8 (1) Funds specifically appropriated by the General Assembly for the
9 placement and services of Thomas S. Class members; and

10 (2) Funds for placement and services for which Thomas S. Class members
11 are otherwise eligible.

12 (b1) Thomas S. funds may be expended to support services for Thomas S. Class
13 members in adult care homes when the service needs of individual Class members in
14 these homes cannot be met via the established maximum adult care home rate.

15 (c) The Department of Human Resources shall continue to implement a
16 prospective unit cost reimbursement system and shall ensure that unit cost rates reflect
17 reasonable costs by conducting cost center service type rate comparisons and cost center
18 line item budget reviews as may be necessary.

19 (d) Reporting requirements. The Department of Human Resources shall submit by
20 April 1 of each fiscal year a report to the General Assembly on the progress achieved in
21 serving members and prospective members of the Thomas S. Class. The report shall
22 include the following:

23 (1) The number of Thomas S. clients confirmed as Class members;

24 ~~(2) The number of prospective Class members evaluated;~~

25 ~~(3) The number of prospective Class members awaiting evaluation;~~

26 (3a) The number of individuals identified as prospective Class members;

27 (4) The number of Class members or prospective Class members added in
28 the preceding 12 months due to their admission to a State psychiatric
29 hospital;

30 (5) A description of the types of treatment services provided to Class
31 members; and

32 (6) An analysis of the use of funds appropriated for the Class.

33 (e) Notwithstanding any other provision of law, if the Department of Human
34 Resources determines that a local program is not providing minimally adequate services
35 to members of the Class identified in Thomas S., et al. v. Britt, formerly Thomas S., et al.
36 v. Flaherty, or does not show a willingness to do so, the Department may ensure the
37 provision of these services through contracts with public or private agencies or by direct
38 operation by the Department of these programs."
39

40 Requested by: Senator Martin of Guilford

41 **THOMAS S. FUNDS**

42 Sec. 24.4A. If Thomas S. funds are not sufficient, then notwithstanding G.S.
43 143-16.3 and G.S. 143-23, the Director of the Budget may use funds available to the

1 Department in an amount not to exceed twelve million eight hundred thousand dollars
2 (\$12,800,000).

3
4 Requested by: Senator Martin of Guilford
5 **EXTENSION OF TASK FORCE TO DETERMINE A MINIMUM**
6 **REIMBURSEMENT RATE FOR ADULT DEVELOPMENTAL ACTIVITY**
7 **PROGRAMS (ADAP)**

8 Sec. 24.5. Section 1 of Chapter 481 of the 1995 Session Laws reads as
9 rewritten:

10 "Section 1. The Secretary of the Department of Human Resources shall establish in
11 the Office of the Secretary a special task force to determine a minimum reimbursement
12 rate for Adult Developmental Activity Programs (ADAP). In addition, this task force
13 shall review the current funding stream to ensure that it is the most effective way possible
14 to provide day services to adults with developmental disabilities, including which
15 division within the Department is most appropriate for this program. The task force shall
16 report to the Mental Health Study Commission the results of its study in time for these
17 results to be included in the Mental Health Study Commission's report to the ~~1995~~
18 ~~General Assembly, Regular Session 1996-1997 General Assembly.~~ The task force shall
19 terminate after the presentation of its report to the Commission.

20 At a minimum, the task force shall consist of:

- 21 (1) Two representatives from community rehabilitation programs;
- 22 (2) A representative from the Department of Human Resources;
- 23 (3) A representative from the Division of Mental Health, Developmental
24 Disabilities, and Substance Abuse Services;
- 25 (4) A representative from the Division of Vocational Rehabilitation; and
- 26 (5) A representative from the Association for Retarded Citizens.

27 This task force shall be funded by funds available to the Department."
28

29 Requested by: Senator Martin of Guilford
30 **CONSOLIDATION OF JOHN UMSTEAD HOSPITAL AND THE ADATC-**
31 **BUTNER OPERATING FUND**

32 Sec. 24.6. As the administrative and programmatic functions of John Umstead
33 Hospital and the ADATC-Butner (Alcohol and Drug Abuse Treatment Center at Butner)
34 have been consolidated in an effort to streamline administrative costs, the Division of
35 Mental Health, Developmental Disabilities, and Substance Abuse Services may
36 consolidate the operating budget of these two institutions.
37

38 Requested by: Senator Martin of Guilford
39 **IMPROVEMENT OF OPERATING EFFICIENCIES IN COLLOCATED**
40 **INSTITUTIONS**

41 Sec. 24.7. The Department of Human Resources' colocated institutions shall
42 create operating efficiencies in support functions through increased service coordination
43 across facilities. The Department shall ensure that annual savings in salary and supplies

1 of at least one hundred thousand dollars (\$100,000) are achieved in the 1996-97 fiscal
2 year and in every fiscal year thereafter. These institutions' managers shall be included in
3 the process and in the determination of the methods for achieving the required savings.
4

5 Requested by: Senator Martin of Guilford

6 **AREA MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND**
7 **SUBSTANCE ABUSE SERVICES PROGRAMS**
8 **REDUCTIONS/SPECIFICATIONS**

9 Sec. 24.9. The Division of Mental Health, Developmental Disabilities, and
10 Substance Abuse Services shall ensure that reductions in its State appropriations for the
11 1996-97 fiscal year that are allocated to area mental health, developmental disabilities,
12 and substance abuse programs are applied by the area authorities only to those services
13 and programs in which additional increased federal TITLE IVA-Emergency Assistance
14 and Medicaid revenues are anticipated.
15

16 Requested by: Senator Martin of Guilford

17 **CAROLINA ALTERNATIVES EXPANSION LIMITS**

18 Sec. 24.10. The Department of Human Resources shall move forward with
19 planning, readiness assessments, and other necessary activities to be able to expand the
20 Carolina Alternatives Child and Adult Waiver Pilot Program. Prior to actual
21 implementation of additional covered populations, between January 1997, and July 1997,
22 the Department shall:

- 23 (1) Receive approval from the Health Care Financing Administration;
- 24 (2) Make a determination that each area authority that is going to participate
25 in the pilot has the capacity to implement the waiver; and
- 26 (3) Receive authorization from the Office of State Budget and Management
27 to proceed with the pilot.
28

29 Requested by: Senator Martin of Guilford

30 **CLINICAL SOCIAL WORKER EXEMPTION**

31 Sec. 24.10A. Section 8 of Chapter 732 of the 1991 Session Laws reads as
32 rewritten:

33 "Sec. 8. This act becomes effective January 1, 1992. G.S. 90B-10(b)(3)a. is repealed
34 effective January 1, ~~1997-1999~~. The term of the additional Board position for clinical
35 social worker created by this act shall commence upon the expiration of the term of the
36 public member whose term expires first."
37

38 Requested by: Senator Martin of Guilford

39 **FOSTER CARE REPORTING REPEALED**

40 Sec. 24.11. Section 23.22 of Chapter 324 of the 1995 Session Laws is
41 repealed.
42

43 Requested by: Senator Martin of Guilford

CHILD SUPPORT RESERVE SHALL NOT REVERT

Sec. 24.13. (a) Any funds appropriated to the Reserve for Child Support Legislation for the 1995-96 fiscal year but not expended as of June 30, 1996, shall not revert but shall remain available for the 1996-97 fiscal year to implement the provisions contained in Chapter 538 of the 1995 Session Laws.

(b) This section is effective June 30, 1996.

Requested by: Senator Martin of Guilford

AFDC EMERGENCY ASSISTANCE RULES CLARIFIED

Sec. 24.14. The Social Services Commission shall ensure that Aid to Families With Dependent Children Emergency Assistance (AFDC-EA) cash is provided only to those with verifiable emergencies by:

- (1) Ensuring that the applicant produce documented verification of the emergency for which AFDC-EA cash is requested; except that where it is unreasonable or not feasible to obtain written verification, such verification can be achieved through telephonic or other reliable means of communication; and
- (2) Ensuring that the verified emergency is one that would threaten the health, safety, or well-being of the child or children in the care or custody of the applicant.

Requested by: Senator Martin of Guilford

CLARIFICATION OF AUTHORIZED ADDITIONAL USE OF HIV FOSTER CARE AND ADOPTIVE FAMILY FUNDS

Sec. 24.14A. Section 23.9 of Chapter 507 of the 1995 Session Laws reads as rewritten:

"Sec. 23.9. In addition to providing board payments to foster and adoptive families of HIV-infected children as prescribed in Chapter 324 of the 1995 Session Laws, any additional funds remaining that were appropriated in Chapter 324 of the 1995 Session Laws for this purpose shall be used as follows:

- (1) To provide medical training in avoiding HIV transmission in the home; and
- (2) To transfer funds to the Department of Environment, Health, and Natural Resources to create three social work positions within the Department of Environment, Health, and Natural Resources, for the eastern part of North Carolina to enable the case-managing of families with HIV-infected children so that the children and the parents get access to medical care and so that child protective services issues are addressed rapidly and effectively. The three positions shall be medically based and located:
 - a. One in the northeast, covering Northampton, Hertford, Halifax, Gates, Chowan, Perquimans, Pasquotank, Camden, Currituck, Bertie, Wilson, Edgecombe, and Nash Counties;

- 1 b._ One in the central east, covering Martin, Pitt, Washington,
2 Tyrrell, Dare, Hyde, Beaufort, Jones, Greene, Craven, and
3 Pamlico Counties; and
4 c._ One in the southeast, covering New Hanover, Robeson,
5 Brunswick, Carteret, Onslow, Lenoir, Pender, Duplin, Bladen,
6 and Columbus Counties."

7
8 Requested by: Senators Martin of Guilford, Hartsell

9 **EXTEND CABARRUS COUNTY AFDC AND FOOD STAMP WORKFARE**
10 **PILOT PROGRAM**

11 Sec. 24.16A. Chapter 368 of the 1995 Session Laws reads as rewritten:

12 "Section 1. Notwithstanding any law to the contrary, the Department of Human
13 Resources shall designate Cabarrus County as a pilot county for the purpose of
14 conducting a demonstration Workfare Program for certain Aid to Families with
15 Dependent Children (AFDC) and Food Stamp recipients. Immediately upon the
16 ratification of this act, the Department shall seek all federal waivers necessary to allow
17 this demonstration program. To the extent that this act or the program established
18 pursuant to it conflicts with any State law, the program supersedes that law.

19 Sec. 2. (a) The Cabarrus County demonstration Workfare Program for certain
20 AFDC and Food Stamp recipients shall:

- 21 (1) Provide job opportunities to all able-bodied AFDC and Food Stamp
22 recipients who:
23 a. Are not eligible for the JOBS program;
24 b. Are between the ages of 18 and 64;
25 c. Are not caring for a child under one year of age;
26 d. Are working less than 30 hours per week; and
27 e. Are not full-time high school students or the equivalent;
28 (2) Create job opportunities in the public, the private, nonprofit, and the
29 private, for-profit sector, primarily in the human services areas by
30 allowing Cabarrus County to use grant diversions, consisting of the
31 AFDC benefits and the cash value of Food Stamps that would be paid to
32 otherwise eligible recipients to match employer funds, to subsidize the
33 employment of these recipients. Human service area jobs will meet
34 such socially necessary needs as day care work, nursing home aide
35 work, and in-home aide work;
36 (3) Allow wages paid to these recipients, which contain grant-diverted
37 funds, to be exempt from income for purposes of determining eligibility
38 for assistance;
39 (4) Structure payment of wages to these recipients such that they will be
40 considered income, in order to make recipients eligible for the federal
41 earned income tax credit;
42 (5) Create work experience opportunities in the private sector more
43 realistically to reflect the world of work;

- 1 (6) Require these recipients to participate in the development of an
2 opportunity contract, outlining the responsibilities of the recipient and
3 agency, as well as the incentives for compliance and the sanctions for
4 noncompliance;
 - 5 (7) Require all these recipients who participate in the program to pursue and
6 accept employment, full or part time, subsidized or unsubsidized, as a
7 condition for continued eligibility for AFDC and Food Stamp
8 assistance;
 - 9 (8) Require job search training of all participants;
 - 10 (9) Require monitored job search of all participants until employment is
11 found or until other work activities of up to 40 hours per week are in
12 place;
 - 13 (10) Provide child care by allowing Cabarrus County to use grant diversions,
14 consisting of the Family Support Act child day care subsidies that
15 would be paid to otherwise eligible recipients, and transportation as
16 required;
 - 17 (11) Create a positive work incentive by providing wage incentives to
18 participants who are in compliance with the program, equal to the first
19 thirty dollars (\$30.00) and one-third of the remainder of monthly gross
20 income for a period of up to two years;
 - 21 (12) Provide enhanced Food Stamp benefits after participants are employed
22 and are in program compliance by using the thirty dollar (\$30.00) and
23 one-third of the remainder wage incentive as an income exemption;
 - 24 (13) Provide time-limited sanctions, or withholding of benefits for the adult
25 members of the household of all AFDC and Food Stamp benefits for
26 noncompliance, beginning with the first sanction period equal to the
27 time necessary to come into compliance, second sanction period – four
28 months, third and subsequent sanctions – eight months; and
 - 29 (14) Provide automatic Medicaid coverage for children and pregnant adults
30 of sanctioned families by transferring the children administratively to
31 the Medicaid for Indigent Children (MIC) Program and by transferring
32 the pregnant adults administratively to the Medicaid for Pregnant
33 Women (MPW) Program.
- 34 (b) An adjunct program to the demonstration program prescribed in subsection (a)
35 of this section shall:
- 36 (1) Require AFDC recipients who are mandated JOBS participants to
37 pursue and accept employment, full or part time, subsidized or
38 unsubsidized, as part of their job plan. The maximum number of hours
39 delegated to job activities, including employment, shall be 40 hours per
40 week. AFDC recipients who are JOBS eligible and who are caring for
41 children under five years of age shall, in this program, not be limited to
42 20 hours per week;

- 1 (2) Require AFDC recipients who are potential JOBS participants to engage
2 in job search until either employment is found or they become JOBS
3 eligible; and
4 (3) Ensure that sanctions for noncompliance and provision of Medicaid
5 coverage shall be as provided in subdivisions (13) and (14) of
6 subsection (a) of this section.

7 Sec. 3. This act shall be funded by Cabarrus County using the grant diversions
8 and administrative transfers prescribed in Section 2 of this act, together with federal and
9 State administrative funding allocated to Cabarrus County for the public assistance and
10 JOBS programs.

11 Sec. 4. The Department of Human Resources shall evaluate the Cabarrus
12 County Demonstration Project and report to the General Assembly on or before ~~March 1,~~
13 ~~1997.~~ May 1, 1998.

14 Sec. 5. This act becomes effective July 1, 1995 and shall expire on ~~July 1,~~
15 ~~1997.~~ January 1, 1999."

16
17 Requested by: Senator Martin of Guilford

18 **MEDICAL DATA PROCESSING FUNDS**

19 Sec. 24.16B. The sum of one hundred fifty thousand dollars (\$150,000) for the
20 1996-97 fiscal year is transferred from the Insurance Regulatory Fund established
21 pursuant to G.S. 58-6-25 to the Division of Facility Services, Department of Human
22 Resources, to certify statewide data processors pursuant to Article 11A of Chapter 131E
23 of the General Statutes, to purchase data from statewide data processors, and to process
24 and analyze the data.

25
26 Requested by: Senator Martin of Guilford

27 **RURAL COMMUNITY AND MIGRANT HEALTH CENTERS'** 28 **PARTICIPATION IN STATE CONTRACT PURCHASING**

29 Sec. 24.17. G.S. 143-49(6) reads as rewritten:

- 30 "(6) To make available to nonprofit corporations operating charitable
31 hospitals, to local nonprofit community sheltered workshops or centers
32 that meet standards established by the Division of Vocational
33 Rehabilitation of the Department of Human Resources, to private
34 nonprofit agencies licensed or approved by the Department of Human
35 Resources as child placing ~~agencies or agencies,~~ residential child-care
36 facilities, private nonprofit rural, community, and migrant health centers
37 designated by the Office of Rural Health and Resource Development,
38 and to counties, cities, towns, governmental entities and other
39 subdivisions of the State and public agencies thereof in the expenditure
40 of public funds, the services of the Department of Administration in the
41 purchase of materials, supplies and equipment under such rules,
42 regulations and procedures as the Secretary of Administration may
43 adopt. In adopting rules and regulations any or all provisions of this

1 Article may be made applicable to such purchases and contracts made
2 through the Department of Administration, and in addition the rules and
3 regulations shall contain a requirement that payment for all such
4 purchases be made in accordance with the terms of the contract. Prior to
5 adopting rules and regulations under this subdivision, the Secretary of
6 Administration may consult with the Advisory Budget Commission."
7

8 Requested by: Senator Martin of Guilford

9 **REDUCE DHR FUNDS IN ANTICIPATION OF RECEIPT OF FEDERAL FUNDS**

10 Sec. 24.18. Section 23 of Chapter 324 of the 1995 Session Laws reads as
11 rewritten:

12 "Sec. 23. (a) Funds appropriated to the Department of Human Resources for the
13 1995-96 fiscal year have been reduced by fourteen million thirteen thousand three
14 hundred ninety-six dollars (\$14,013,396) in anticipation of the receipt of federal funds
15 from the Title IV A - Emergency Assistance Program and the Social Services Block
16 Grant. If these federal funds are not received or if only a portion of these funds are
17 received, notwithstanding ~~G.S. 143-15.3, G.S. 143-16.3,~~ the Director of the Budget may
18 use funds available to the Department, not to exceed fourteen million thirteen thousand
19 three hundred ninety-six dollars ~~(\$14,013,393).~~ (\$14,013,396). The Director of the
20 Budget shall report to the Joint Legislative Commission on Governmental Operations
21 prior to any such transfer.

22 (b) Funds appropriated to the Department of Human Resources for the 1996-97
23 fiscal year have been reduced by sixteen million six hundred twenty-five thousand
24 fourteen dollars (\$16,625,014) in anticipation of the receipt of federal funds from the
25 Title IV A - Emergency Assistance Program. If these federal funds are not received or if
26 only a portion of these funds are received, notwithstanding G.S. 143-16.3, the Director of
27 the Budget may use funds available to the Department, not to exceed sixteen million six
28 hundred twenty-five thousand fourteen dollars (\$16,625,014). The Director of the
29 Budget shall report to the Joint Legislative Commission on Governmental Operations
30 prior to any such transfer."
31

32 Requested by: Senator Martin of Guilford

33 **DHR RESOURCE STUDIES EXTENDED**

34 Sec. 24.19. Section 23.6B of Chapter 324 of the 1995 Session Laws reads as
35 rewritten:

36 "Sec. 23.6B. The Department shall study the following two issues and shall report
37 these two issues, together with any recommendations, to the ~~1995 General Assembly,~~
38 ~~Regular Session 1996, within one week of convening.~~ General Assembly by December 1,
39 1996:

- 40 (1) The average staff vacancy rate by division over the last five fiscal years,
41 to determine its effect on lapsed salaries; and

- 1 (2) An analysis of unbudgeted revenues in excess of revenues in the
2 certified budget as amended by the General Assembly received by the
3 Department in the last two fiscal years, including:
4 a. Indirect cost receipts; and
5 b. Prior year earned revenue."
6

7 Requested by: Senator Martin of Guilford

8 **INDEPENDENT STUDY/PLAN FOR REORGANIZATION OF DEPARTMENT**
9 **OF HUMAN RESOURCES**

10 Sec. 24.20. (a) The General Assembly intends to reorganize the Department of
11 Human Resources to improve service delivery through careful identification of service
12 needs and strategic integration of program planning, implementation, and evaluation.
13 The General Assembly intends that this program planning, implementation, and
14 evaluation reflect a family-centered policy that lends itself to accessible, nonfragmented
15 service delivery. To the extent consistent with these goals, the General Assembly intends
16 that the reorganization consolidate and streamline functions, programs, and services.

17 (b) There is established the Independent Study Commission on the
18 Reorganization of the Department of Human Resources, budgetarily based in the Office
19 of State Budget and Management. The Commission shall study systemwide issues
20 affecting the administration and delivery of Department of Human Resources' services in
21 North Carolina in order to determine how best to effect the General Assembly's intent
22 prescribed in subsection (a) of this section.

23 (c) The Commission shall be composed of 15 members, as follows:

- 24 (1) Five members of the House of Representatives at the time of their
25 appointment, two appointed by the Speaker of the House of
26 Representatives, one other a chair of the House Appropriations
27 Subcommittee on Human Resources, one other a member of the House
28 Appropriations Subcommittee on Human Resources, and one other the
29 House of Representatives chair or other member of the Subcommittee
30 on Human Resources of the Joint Legislative Commission on
31 Governmental Operations;

- 32 (2) Five members of the Senate at the time of their appointment, two
33 appointed by the President Pro Tempore of the Senate, one other the
34 chair of the Senate Appropriations Subcommittee on Human Resources,
35 one other a member of the Senate Appropriations Subcommittee on
36 Human Resources, and one other the Senate chair or other member of
37 the Subcommittee on Human Resources of the Joint Legislative
38 Commission on Governmental Operations; and

- 39 (3) Five members appointed by the Governor, including one representative
40 from the Department of Human Resources and four public members.

41 (d) The Speaker of the House of Representatives and the President Pro
42 Tempore of the Senate shall each select a legislative member from their respective
43 chambers to serve as cochair of the Commission.

1 (e) The Commission, while in the discharge of official duties, may exercise all
2 the powers provided for under the provisions of G.S. 120-19 and G.S. 120-19.1 through
3 G.S. 120-19.4. The Commission may meet at any time upon the joint call of the cochairs.
4 The Commission may meet in the Legislative Building or the Legislative Office
5 Building.

6 (f) Members of the Commission shall receive subsistence and travel expenses
7 at the rates set forth in G.S. 120-3.1.

8 (g) The Commission may contract for professional, clerical, or consultant
9 services as provided by G.S. 120-32.02. The Legislative Services Commission, through
10 the Legislative Services Officer, shall assign professional and clerical staff to staff the
11 Commission. The House of Representatives' and the Senate's Supervisors of Clerks shall
12 assign clerical staff to the Commission or committee, upon the direction of the
13 Legislative Services Commission. The expenses relating to professional and clerical
14 employees supplied through the Legislative Services Commission shall be borne by the
15 Legislative Services Commission.

16 (h) When a vacancy occurs in the membership of the Commission, the vacancy
17 shall be filled by the same appointing officer who made the initial appointment.

18 (i) All State departments and agencies and local governments and their
19 subdivisions shall furnish the Commission with any information in their possession or
20 available to them.

21 (j) The cochairs of the Commission shall appoint five members of the
22 Commission to serve as an advisory council. In partnership with this council, the Office
23 of State Budget and Management shall contract with an independent management
24 consultant for the development of a plan to effect the General Assembly's intent
25 prescribed in subsection (a) of this section. This plan shall include an implementation
26 schedule and shall be designed to improve the Department of Human Resources' capacity
27 for:

- 28 (1) Integrated and comprehensive planning and needs assessment;
- 29 (2) Performance-based evaluation of integrated programs and services; and
- 30 (3) Development of policies that encourage, facilitate, and mandate
31 integrated delivery of effective family-centered services at the local
32 level.

33 Because time is of the essence, if a majority of the advisory council has not
34 been appointed by August 2, 1996, the Office of State Budget and Management may
35 negotiate and enter into a contract with an independent management consultant without
36 the council's involvement. In this case, the professional legislative staff shall work with
37 the Office of State Budget and Management in the contract negotiations and
38 specifications.

39 The independent management consultant that is awarded the contract shall
40 report to the Commission as the Commission considers appropriate and shall submit a
41 final report to the Commission by March 1, 1997. While conducting its work, the
42 independent management consultant shall devise a means of obtaining confidential input

1 from managerial and nonmanagerial human services personnel, such as through the
2 establishment of a confidential, temporary hotline.

3 (k) The Commission shall report its findings and recommendations, including
4 any legislative proposals, to the General Assembly by April 1, 1997, at which time the
5 Commission shall terminate.

6 (1) Of the funds appropriated to the Department of Human Resources, the sum
7 of five hundred thousand dollars (\$500,000) is transferred to the Office of State Budget
8 and Management to implement this section.

9
10 Requested by: Senator Martin of Guilford

11 **DHR REPORT ON PLANS FOR IMPLEMENTING DYS COMPREHENSIVE**
12 **STUDY RECOMMENDATIONS**

13 Sec. 24.21. The Department of Human Resources shall report to the Joint
14 Legislative Commission on Governmental Operations by October 1, 1996, on its plans
15 for implementing the recommendations of the Comprehensive Study of the Division of
16 Youth Services.

17
18 Requested by: Senator Martin of Guilford

19 **STUDY COURT-ORDERED COUNTY PAYMENT OF JUVENILE**
20 **TREATMENT**

21 Sec. 24.21A. (a) The Division of Youth Services, Department of Human Resources,
22 and the Administrative Office of the Courts shall study county payment of the cost of
23 medical, surgical, psychiatric, psychological, or other treatment of juveniles ordered
24 pursuant to G.S. 7A-647 when the parents are not able to pay the cost of treatment. The
25 study shall provide recommendations on the feasibility and desirability of allowing the
26 counties to present evidence of their financial status in each case and of requiring the
27 State to pay the cost of treatment of juveniles in counties that are not able to pay the cost
28 of treatment.

29 (b) The Division of Youth Services and the Administrative Office of the Courts
30 shall report the results of this study and its recommendations to the Chairs of the House
31 and Senate Appropriations Committees and the Chairs of the House and Senate
32 Appropriations Subcommittees on the Department of Human Resources and on Justice
33 and Public Safety by December 1, 1996.

34
35 Requested by: Senator Martin of Guilford

36 **S.O.S. AND FAMILY RESOURCE CENTER GRANT PROGRAMS**
37 **ADMINISTRATIVE COST LIMITS**

38 Sec. 24.22. Section 23.6 of Chapter 324 of the 1995 Session Laws reads as
39 rewritten:

40 "Sec. 23.6. (a) Of the funds appropriated to the Department of Human Resources in
41 this act, the Department may use up to a total of three hundred fifty thousand dollars
42 (\$350,000) each fiscal year of the biennium to administer the S.O.S. Program, to provide
43 technical assistance to applicants and to local S.O.S. programs, and to evaluate the local

1 S.O.S. programs. The Department may contract with appropriate public or nonprofit
2 agencies to provide the technical assistance, including training and related services.

3 (b) Of the funds appropriated in this act to the Department of Human Resources
4 for the Family Resource Center Grant Program, the Department may use up to three
5 hundred thousand dollars (\$300,000) ~~each fiscal year of the biennium for the 1995-96~~
6 fiscal year and two hundred fifty thousand dollars (\$250,000) for the 1996-97 fiscal year
7 to administer the Program."
8

9 Requested by: Senator Martin of Guilford

10 **SUPPORT OUR STUDENTS PROGRAM'S LOCATION**

11 Sec. 24.23. The Department of Human Resources shall ensure that the Support
12 Our Students Program remains in the Division of Youth Services.
13

14 Requested by: Senator Martin of Guilford

15 **DHR POSITION ELIMINATION SPECIFICATIONS**

16 Sec. 24.24. (a) The Department of Human Resources shall ensure that the
17 elimination of positions, other than those that are mental health institutionally based, in
18 the 1996-97 fiscal year, targeted by the Department, as referenced in the Current
19 Operations Appropriations Act of 1996, or in the Conference Report incorporated into the
20 Act, be effected as follows:

21 (1) All vacant positions targeted for elimination shall be eliminated
22 effective July 1, 1996; and

23 (2) All filled positions targeted for elimination shall be eliminated effective
24 November 1, 1996, except for filled positions targeted for elimination in
25 the Office of the Controller, which positions shall be eliminated on or
26 before December 31, 1996.

27 The Department of Human Resources shall not eliminate any position
28 prescribed by this subsection that it targeted but that was not referenced as eliminated in
29 the Current Operations Appropriations Act of 1996 or in the Conference Report
30 incorporated into the Act. In order to comply with State Personnel Commission policy
31 and in order to protect filled positions, the Department may substitute vacant positions or
32 filled positions whose incumbents volunteer for discontinued service allowance for filled
33 positions targeted for elimination.

34 (b) The Department of Human Resources shall further ensure that the
35 elimination of the 130.5 mental health institutionally based positions be effected
36 according to the following priority:

37 (1) First, from vacant, noncritical positions, which positions shall be
38 eliminated effective July 1, 1996;

39 (2) Then, from vacant, critical positions, which positions shall be
40 eliminated effective July 1, 1996; and

41 (3) Then, from filled, noncritical positions, which positions shall be
42 eliminated effective November 1, 1996.
43

1 Requested by: Senator Martin of Guilford

2 **FOOD STAMP ELECTRONIC BENEFITS TRANSFER FUNDS**
3 **SPECIFICATION**

4 Sec. 24.25. Funds appropriated to the Controller's Office, Department of
5 Human Resources, for the Food Stamp Electronic Benefits Transfer Program (EBT) shall
6 remain in the Controller's Office and shall not be transferred to any other office or
7 division within the Department.

8 The Controller's Office, Department of Human Resources, may proceed with
9 statewide implementation of the Food Stamp EBT Program.

10

11 Requested by: Senators Martin of Guilford, Cochrane

12 **IN-HOME AIDE FUNDS**

13 Sec. 24.26. Section 23.11D of Chapter 507 of the 1995 Session Laws reads as
14 rewritten:

15 "Sec. 23.11D. Of the funds appropriated to the Division of Aging, Department of
16 Human Resources, in this act, the sum of five hundred thousand dollars (\$500,000) for
17 the 1995-96 fiscal year and the sum of ~~five hundred thousand dollars (\$500,000)~~ five
18 million five hundred thousand dollars (\$5,500,000) for the 1996-97 fiscal year shall be
19 allocated via the Home and Community Care Block Grant ~~and used to fund in-home aide~~
20 ~~services and caregiver support services.~~ for home and community care services for older
21 persons who are not eligible for Medicaid and who are on the waiting list for these
22 services. These funds shall be used only for direct services. Service recipients shall pay
23 for services based on their income in accordance with G.S. 143B-181.1(a)(10)."

24

25 Requested by: Senator Martin of Guilford

26 **ADULT CARE HOME REIMBURSEMENT RATE/ADULT CARE HOME**
27 **ALLOCATION OF NONFEDERAL COST OF MEDICAID PAYMENTS**

28 Sec. 24.26C. Section 23.10 of Chapter 507 of the 1995 Session Laws reads as
29 rewritten:

30 "Sec. 23.10. (a) Effective July 1, 1995, the maximum monthly rate for residents in
31 adult care home facilities shall be nine hundred seventy-five dollars (\$975.00) per month
32 for ambulatory residents and one thousand seventeen dollars (\$1,017) per month for
33 semiambulatory residents.

34 (b) Effective August 1, 1995, the maximum monthly rate for residents in adult care
35 home facilities shall be eight hundred forty-four dollars (\$844.00) per month per resident.

36 (c) Effective August 1, 1995, the Department of Human Resources may use the
37 remaining funds available from the State/County Special Assistance appropriation to
38 provide:

39 (1) Needed Medicaid-covered services, specifically one hour of personal
40 care services per day to all Medicaid-eligible residents and a maximum
41 of 50 additional hours per month of personal care services for residents
42 who require heavy care;

1 (2) Funds to the area mental health authorities to provide wraparound
2 services for adult home care residents with mental health conditions;

3 (3) Funds for the implementation of the provisions of G.S. 131D-4.1 and
4 G.S. 131D-4.2, including funds for necessary additional staff.

5 (d) The eligibility of Special Assistance recipients residing in adult care homes on
6 August 1, 1995, shall not be affected by an income reduction in the Special Assistance
7 eligibility criteria resulting from adoption of the Rate Setting Methodology Report and
8 Related Services, providing these recipients are otherwise eligible.

9 (e) Effective August 1, 1995, the State shall pay fifty percent (50%) and the
10 county shall pay fifty percent (50%) of the nonfederal costs of Medicaid services paid to
11 adult care home facilities. As Medicaid personal care requirements increase, the county
12 matching share shall be capped until it equals fifteen percent (15%) of the nonfederal
13 Medicaid personal care requirements.

14 (f) To maximize Medicaid funding, the Department of Human Resources may
15 take the temporary measures necessary to implement Medicaid funding during the period
16 from August 1, 1995, through September 30, 1995. This authorization includes
17 authorization to continue payment of State/County Assistance at the July 1995 rates until
18 the Health Care Financing Administration approval of Medicaid personal care services
19 with future recoupment from providers of an amount equal to the difference between the
20 July 1995 rates and the August 1995 rates.

21 (g) Effective July 1, 1996, the maximum monthly rate for residents in adult care
22 home facilities shall be eight hundred seventy-four dollars (\$874.00) per month per
23 resident."

24
25 Requested by: Senator Martin of Guilford

26 FIRE PROTECTION REVOLVING LOAN FUND

27 Sec. 24.26D. (a) Chapter 122A of the General Statutes is amended by adding a
28 new section to read:

29 "§ 122A-5.13. Adult Care Home, Group Home, and Nursing Home Fire Protection 30 Fund authorized; authority.

31 (a) The North Carolina Housing Finance Agency shall establish an Adult Care
32 Home, Group Home, and Nursing Home Fire Protection Fund (hereinafter 'Fire
33 Protection Fund') to assist owners of adult care homes, group homes for developmentally
34 disabled adults, and nursing homes with the purchase and installation of fire protection
35 systems in existing and new adult care homes, group homes for developmentally disabled
36 adults, and nursing homes. The Fire Protection Fund shall be a revolving fund.

37 (b) The Agency, in consultation with the Department of Human Resources, shall
38 adopt rules for the management and use of the Fire Protection Fund. These rules at a
39 minimum shall provide for the following:

40 (1) Financial incentives for owners of facilities who utilize Fire Protection
41 Fund monies to install sprinkler systems instead of smoke detection
42 equipment.

- 1 (2) Maximum loan amounts of one dollar and seventy-five cents (\$1.75) per
2 square foot for advanced smoke detectors and digital communication
3 equipment, three dollars and seventy-five cents (\$3.75) per square foot
4 for residential sprinkler systems, and six dollars (\$6.00) per square foot
5 for institutional sprinkler systems.
- 6 (3) Interest rates from three percent (3%) to six percent (6%) for a period
7 not to exceed 20 years for sprinkler systems and 10 years for smoke
8 detection systems.
- 9 (4) Documentary verification that owners of facilities obtain fire protection
10 systems at a reasonable cost.
- 11 (5) Acceleration of a loan when statutory fire protection requirements are
12 not met by the facility for which the loan was made.
- 13 (6) Loan approval priority criteria that considers the frailty level of
14 residents at a facility.
- 15 (7) Loan origination and servicing fees."

16 (b) Proceeds from the Fire Protection Fund created in this act may be used to
17 provide staff support to the North Carolina Housing Finance Agency for loan processing
18 and to the Department of Human Resources for review and approval of fire protection
19 plans and inspection of fire protection systems.

20 (c) The North Carolina Housing Finance Agency shall, by October 1, 1996, adopt
21 temporary rules to implement this section.

22 (d) Of the funds appropriated to the Department of Human Resources in this act,
23 the sum of one million dollars (\$1,000,000) shall be transferred to the North Carolina
24 Housing Finance Agency to fund the Fire Protection Fund.

25
26 Requested by: Senator Martin of Guilford

27 **CHILD DAY CARE SUBSIDIES**

28 Sec. 24.26E. (a) The maximum gross annual income for initial eligibility, adjusted
29 biennially, for subsidized child care services shall be seventy-five percent (75%) of the
30 State median income, adjusted for family size.

31 (b) Parents who receive child care subsidy to work, look for work, attend work-
32 related training or education activities, or meet the special developmental needs of their
33 child, shall share in the cost of child care. No fees shall be charged to the client when
34 child day care services are provided to the individuals in the following circumstances:

- 35 (1) When children are receiving day care services in conjunction with
36 protective services as described in 10 NCAC 35E.0106, up to a
37 maximum of 12 months from the time protective services are initiated;
- 38 (2) When day care services are provided as a support to a child receiving
39 Child Welfare Services as described in the North Carolina Division of
40 Social Services Family Services Manual, Volume 1, Chapter II; or
- 41 (3) When a child with no income is living with someone other than the
42 child's biological or adoptive parent or is living with someone who does
43 not have court-ordered financial responsibility.

1 (c) The amount of the fees charged to the client shall be in accordance with the fee
2 determination process established schedules adopted by the Social Services Commission
3 and published by the Division of Child Development. Fees shall be established based on
4 a percent of gross family income and adjusted for family size. Fees shall be determined
5 as follows:

FAMILY SIZE	PERCENT OF GROSS FAMILY INCOME
1-3	9%
4-5	8%
6 or more	7%

10 Local departments of social services shall apply this new fee schedule to recipients at the
11 next eligibility review on or after the effective date of this section.

12 (d) The monthly schedule of payments for the purchase of child day care
13 services for low-income children from providers who have fifty percent (50%) or more
14 children receiving child care subsidized with State or federal funds include:

15 (1) Provision of payment rates for child care that are tied to the provider's
16 regulatory status as follows:

- 17 a. Registered homes and "A"licensed centers receive the market
18 rate or the rate they charge their full fee-paying parents,
19 whichever is lower;
- 20 b. "AA"licensed centers receive one hundred ten percent (110%) of
21 the market rate or the rate they charge their full fee-paying
22 parents, whichever is lower; and
- 23 c. Unregistered providers receive fifty percent (50%) of the market
24 rate or the rate they charge their full fee-paying parents,
25 whichever is lower.

26 (2) Provision of payment rates for child care providers in counties who do
27 not have at least 75 children in each age group for center-based and
28 home-based care as follows:

- 29 a. Payment rates shall be set at the statewide market rate for
30 registered homes and "A"licensed centers.
- 31 b. If it can be demonstrated that the application of the statewide
32 market rate to a county with fewer than 75 children in each age
33 group is lower than the county market rate and would inhibit the
34 ability of the county to purchase child care for low-income
35 children, then the county market rate may be applied.

36 (e) Payment rates described in subdivision (1) of subsection (d) of this section
37 shall be applied to all licensed child care centers, including Head Start, that have more
38 than fifty percent (50%) of enrolled children receiving child care subsidies, and to
39 registered family child care homes and unregulated providers that enroll subsidized
40 children.

41 (f) The Department may seek the necessary waivers to extend the Family
42 Support Act Transitional Child Care to two-year coverage in order to maximize federal
43 funds.

1 (g) This section becomes effective September 1, 1996.

2
3 Requested by: Senator Martin of Guilford

4 **ALLOCATION OF MENTAL HEALTH, DEVELOPMENTAL DISABILITIES,**
5 **AND SUBSTANCE ABUSE EXPANSION FUNDS**

6 Sec. 24.26F. Of the funds appropriated in this act to the Division of Mental
7 Health, Developmental Disabilities, and Substance Abuse Services, Department of
8 Human Resources, for expansion of mental health, developmental disabilities, and
9 substance abuse programs and services, those funds needed by area authorities for "catch-
10 up" purposes shall be allocated pursuant to the Incentive Method adopted by the Mental
11 Health Study Commission and presented in the Commission's Report to the 1996 General
12 Assembly. The Department, in conjunction with all stakeholders, shall work together to
13 develop a needs-based approach for the allocation of future expansion funds.

14
15 Requested by: Senators Martin of Guilford, Cooper

16 **EARLY CHILDHOOD INITIATIVES**

17 Sec. 24.29. (a) The intent of the General Assembly is to strengthen the
18 accountability and effectiveness of the Early Childhood Education and Development
19 Initiatives Program, as set forth in Part 10B of Article 3 of Chapter 143B of the General
20 Statutes.

21 In order to accomplish this goal, the General Assembly finds that, to the extent
22 practicable, the findings and recommendations of the independent performance audit
23 prepared pursuant to subdivision (1) of Section 27A of Chapter 324 of the 1995 Session
24 Laws shall be implemented by the North Carolina Partnership for Children, Inc., the
25 Department of Human Resources, and the local partnerships as set forth herein.

26 (b) G.S. 143B-168.12(a) reads as rewritten:

27 "(a) In order to receive State funds, the following conditions shall be met:

28 (1) ~~Members of the Board of Directors shall consist~~ The North Carolina
29 Partnership shall have a Board of Directors consisting of the following
30 39 members:

- 31 a. The Secretary of Human Resources, ex officio;
- 32 b. The Secretary of Environment, Health, and Natural Resources, ex
33 officio;
- 34 c. The Superintendent of Public Instruction, ex officio;
- 35 d. The President of the Department of Community Colleges, ex
36 officio;
- 37 e. One resident from each of the 1st, 3rd, 5th, 7th, 9th, and 11th
38 Congressional Districts, appointed by the President Pro Tempore
39 of the Senate;
- 40 f. One resident from each of the 2nd, 4th, 6th, 8th, 10th, and 12th
41 Congressional Districts, appointed by the Speaker of the House
42 of Representatives;

- 1 g. Seventeen members, of whom four shall be members of the party
2 other than the Governor's party, appointed by the Governor;
3 h. The President Pro Tempore of the Senate, or a designee;
4 i. The Speaker of the House of Representatives, or a designee;
5 j. The Majority Leader of the Senate, or a designee;
6 k. The Majority Leader of the House of Representatives, or a
7 designee;
8 l. The Minority Leader of the Senate, or a designee; and
9 m. The Minority Leader of the House of Representatives, or a
10 designee.
- 11 (2) The North Carolina Partnership shall agree to adopt procedures for its
12 operations that are comparable to those of Article 33C of Chapter 143 of
13 the General Statutes, the Open Meetings Law, and Chapter 132 of the
14 General Statutes, the Public Records Law, and provide for enforcement
15 by the Department.
- 16 (3) The North Carolina Partnership shall oversee the development and
17 implementation of the local demonstration projects as they are selected.
- 18 (4) The North Carolina Partnership shall develop and implement a
19 comprehensive standard fiscal accountability plan to ensure the fiscal
20 integrity and accountability of State funds appropriated to it and to the
21 local partnerships. The standard fiscal accountability plan shall, at a
22 minimum, include a uniform, standardized system of accounting,
23 internal controls, payroll, fidelity bonding, chart of accounts, and
24 contract management and monitoring. The North Carolina Partnership
25 may contract with outside firms to develop and implement the standard
26 fiscal accountability plan. All local partnerships shall be required to
27 participate in the standard fiscal accountability plan developed and
28 adopted by the North Carolina Partnership pursuant to this subdivision.
- 29 (5) The North Carolina Partnership shall develop and implement a
30 centralized accounting and contract management system which
31 incorporates features of the required standard fiscal accountability plan
32 described in subdivision (4) of subsection (a) of this section. The
33 following local partnerships shall be required to participate in the
34 centralized accountability system developed by the North Carolina
35 Partnership pursuant to this subdivision:
- 36 a. Local partnerships which have significant deficiencies in their
37 accounting systems, internal controls, and contract management
38 systems, as determined by the North Carolina Partnership based
39 on the annual financial audits of the local partnerships conducted
40 by the Office of the State Auditor; and
- 41 b. Local partnerships which are in the first two years of operation
42 following their selection. At the end of this two-year period,
43 local partnerships shall continue to participate in the centralized

1 accounting and contract management system. With the approval
2 of the North Carolina Partnership, local partnerships may
3 perform accounting and contract management functions at the
4 local level using the standardized and uniform accounting
5 system, internal controls, and contract management systems
6 developed by the North Carolina Partnership.

7 Local partnerships which otherwise would not be required to participate
8 in the centralized accounting and contract management system pursuant
9 to this subdivision may voluntarily choose to participate in the system.
10 Participation or nonparticipation shall be for a minimum of two years,
11 unless, in the event of nonparticipation, the North Carolina Partnership
12 determines that any partnership's annual financial audit reveals serious
13 deficiencies in accounting or contract management.

14 (6) The North Carolina Partnership shall develop a formula for allocating
15 direct services funds appropriated for this purpose to local partnerships.

16 (7) The North Carolina Partnership may adjust its allocations on the basis
17 of local partnerships' performance assessments. In determining whether
18 to adjust its allocations to local partnerships, the North Carolina
19 Partnership shall consider whether the local partnerships are meeting the
20 outcome goals and objectives of the North Carolina Partnership and the
21 goals and objectives set forth by the local partnerships in their approved
22 annual program plans.

23 The North Carolina Partnership may use additional factors to determine
24 whether to adjust the local partnerships' allocations. These additional
25 factors shall be developed with input from the local partnerships and
26 shall be communicated to the local partnerships when the additional
27 factors are selected. These additional factors may include board
28 involvement, family and community outreach, collaboration among
29 public and private service agencies, and family involvement.

30 On the basis of performance assessments, local partnerships annually
31 shall be rated 'superior', 'satisfactory', or 'needs improvement'. Local
32 partnerships rated 'superior' shall receive, to the extent that funds are
33 available, a ten percent (10%) increase in their annual funding
34 allocation. Local partnerships rated 'satisfactory' shall receive their
35 annual funding allocation. Local partnerships rated 'needs
36 improvement' shall receive ninety percent (90%) of their annual funding
37 allocation.

38 The North Carolina Partnership may contract with outside firms to
39 conduct the performance assessments of local partnerships.

40 (8) The North Carolina Partnership shall establish a local partnership
41 advisory committee comprised of 15 members. Eight of the members
42 shall be chairs of local partnerships' board of directors, and seven shall
43 be staff of local partnerships. Members shall be chosen by the Chair of

1 the North Carolina Partnership from a pool of candidates nominated by
2 their respective boards of directors. The local partnership advisory
3 committee shall serve in an advisory capacity to the North Carolina
4 Partnership and shall establish a schedule of regular meetings.
5 Members shall serve two-year terms and may not serve more than two
6 consecutive terms. Members shall be chosen from local partnerships on
7 a rotating basis. The advisory committee shall annually elect a chair
8 from among its members.

9 (9) The North Carolina Partnership shall report (i) quarterly to the Joint
10 Legislative Commission on Governmental Operations and (ii) to the
11 General Assembly and the Governor on the ongoing progress of all the
12 local partnerships' work, including all details of the use to which the
13 allocations were put, and on the continuing plans of the North Carolina
14 Partnership and of the Department, together with legislative proposals,
15 including proposals to implement the program statewide."

16 (c) G.S. 143B-168.13(a) reads as rewritten:

17 "(a) The Department shall:

18 (1) Develop a statewide process, in cooperation with the North Carolina
19 Partnership, to select the local demonstration projects. The first 12 local
20 demonstration projects developed and implemented shall be located in
21 the 12 congressional districts, one to a district. The locations of
22 subsequent selections of local demonstration projects shall represent the
23 various geographic areas of the State.

24 (2) ~~Develop, in cooperation with the North Carolina Partnership, Develop~~
25 ~~and conduct a statewide needs and resource assessment for each county.~~
26 ~~Of the funds appropriated to it to implement this Part, the Department~~
27 ~~may make available funds to each county for one year to an appropriate~~
28 ~~private nonprofit entity or to the county to perform this assessment.~~
29 ~~every third year, beginning in the 1997-98 fiscal year. This needs~~
30 ~~assessment shall be conducted in cooperation with the North Carolina~~
31 ~~Partnership and with the local partnerships. The data and findings of~~
32 ~~this needs assessment shall form the basis for annual program plans~~
33 ~~developed by local partnerships and approved by the North Carolina~~
34 ~~Partnership.~~

35 (3) Provide technical and administrative assistance to local partnerships,
36 particularly during the first year after they are selected under this Part to
37 receive State funds. The Department, at any time, may authorize the
38 North Carolina Partnership or a governmental or public entity to do the
39 contracting for one or more local partnerships. After a local
40 partnership's first year, the Department may allow the partnership to
41 contract for itself.

42 (4) Adopt, in cooperation with the North Carolina Partnership, any rules
43 necessary to implement this Part, ~~including rules to ensure that no State~~

1 ~~funds or local funds used to supplant these State funds shall be used for~~
2 ~~personnel sick leave and annual leave benefits not allowed to State~~
3 ~~employees. Part, including rules to ensure that State leave policy is not~~
4 ~~applied to the North Carolina Partnership and the local partnerships. In~~
5 ~~order to allow local partnerships to focus on the development of long-~~
6 ~~range plans in their initial year of funding, the Department may adopt~~
7 ~~rules that limit the categories of direct services for young children and~~
8 ~~their families for which funds are made available during the initial year.~~

9 (5) ~~Report (i) quarterly to the Joint Legislative Commission on~~
10 ~~Governmental Operations and (ii) to the General Assembly and the~~
11 ~~Governor by April 1, 1994, and by March 1, 1995, on the ongoing~~
12 ~~results of all the local demonstration projects' work, including all details~~
13 ~~of the use to which the allocations were put, and on the continuing plans~~
14 ~~of the North Carolina Partnership and of the Department, together with~~
15 ~~legislative proposals, including proposals to implement the program~~
16 ~~statewide.~~

17 (6) Annually update its funding formula using the most recent data
18 available. These amounts shall serve as the basis for determining 'full
19 funding' amounts for each local partnership."

20 (d) (1) G.S. 143B-168.14(a) reads as rewritten:

21 "(a) In order to receive State funds, the following conditions shall be met:

22 (1) Each local demonstration project shall be coordinated by a new local
23 partnership responsible for developing a comprehensive, collaborative,
24 long-range plan of services to children and families in the service-
25 delivery area. The board of directors of each local partnership shall
26 consist of members including representatives of public and private
27 nonprofit health and human service agencies, day care providers, the
28 business community, foundations, county and municipal governments,
29 local education units, and families. The Department, in cooperation with
30 the North Carolina Partnership, may specify in its requests for
31 applications the local agencies that shall be represented on a local board
32 of directors. No existing local, private, nonprofit 501(c)(3) organization,
33 other than one established on or after July 1, 1993, and that meets the
34 guidelines for local partnerships as established under this Part, shall be
35 eligible to apply to serve as the local partnership for the purpose of this
36 Part.

37 (2) Each local partnership shall agree to adopt procedures for its operations
38 that are comparable to those of Article 33C of Chapter 143 of the
39 General Statutes, the Open Meetings Law, and Chapter 132 of the
40 General Statutes, the Public Records Law, and provide for enforcement
41 by the Department.

42 (3) Each local partnership shall adopt procedures to ensure that all
43 personnel who provide services to young children and their families

1 under this Part know and understand their responsibility to report
2 suspected child abuse, neglect, or dependency, as defined in G.S. 7A-
3 517.

4 (4) Each local partnership shall participate in the uniform, standard fiscal
5 accountability plan developed and adopted by the North Carolina
6 Partnership.

7 (5) Each local partnership shall have a minimum resident population of
8 150,000 or represent a minimum of three contiguous counties.
9 Population estimates of the Office of State Planning shall be used to
10 determine whether the population requirements of this subdivision have
11 been met."

12 (2) Multicounty local partnerships existing as of the effective date of this act
13 shall be exempt from the requirements described in subdivision (5) of G.S. 143B-
14 168.14(a). The North Carolina Partnership shall report to the Joint Legislative
15 Commission on Governmental Operations by January 1, 1997, on its progress towards
16 implementation of regionalization of the local partnerships. Local partnerships shall be
17 in compliance with this section effective July 1, 1997.

18 (e) G.S. 143B-168.15 reads as rewritten:

19 "**§ 143B-168.15. Use of State funds.**

20 (a) State funds allocated to local projects for services to children and families shall
21 be used to meet assessed needs, expand coverage, and improve the quality of these
22 services. The local plan shall address the assessed needs of all children to the extent
23 feasible. It is the intent of the General Assembly that the needs of both young children
24 below poverty who remain in the home, as well as the needs of young children below
25 poverty who require services beyond those offered in child care settings, be addressed.
26 Therefore, as local partnerships address the assessed needs of all children, they should
27 devote an appropriate amount of their State allocations, considering these needs and other
28 available resources, to meet the needs of children below poverty and their families.

29 (b) Depending on local, regional, or statewide needs, funds may be used to support
30 activities and services that shall be made available and accessible to providers, children,
31 and families on a voluntary basis. Of the funds allocated to local partnerships that are
32 designated by the Secretary for direct services, seventy-five percent (75%) shall be used
33 for any one or more of the following activities and services:

34 (1) Child day care services, including:

- 35 a. Child day care subsidies to reduce waiting lists;
- 36 b. Raising the county child day care subsidy rate to the State market
37 rate, if applicable, in return for improvements in the quality of
38 child day care services;
- 39 c. Raising the income eligibility for child day care subsidies to
40 seventy-five percent (75%) of the State median family income;
- 41 d. Start-up funding for child day care providers;
- 42 e. Assistance to enable child day care providers to conform to
43 licensing and building code requirements;

- 1 f. Child day care resources and referral services;
- 2 g. Enhancement of the quality of child day care provided;
- 3 h. Technical assistance for child day care providers;
- 4 i. Quality grants for child day care centers or family child day care
- 5 homes;
- 6 j. Expanded services or enhanced rates for children with special
- 7 needs;
- 8 k. Head Start services;
- 9 l. Development of comprehensive child day care services that
- 10 include child health and family support;
- 11 m. Activities to reduce staff turnover;
- 12 n. Activities to serve children with special needs;
- 13 o. Transportation services related to providing child day care
- 14 services;
- 15 p. Evaluation of plan implementation of child day care services; and
- 16 q. Needs and resources assessments for child day care services.
- 17 (2) Family- and child-centered services, including early childhood
- 18 education and child development services, including:
 - 19 a. Enhancement of the quality of family- and child-centered
 - 20 services provided;
 - 21 b. Technical assistance for family- and child-centered services;
 - 22 c. Needs and resource assessments for family- and child-centered
 - 23 services;
 - 24 d. Home-centered services; and
 - 25 e. Evaluation of plan implementation of family- and child-centered
 - 26 services.
- 27 (3) Other appropriate activities and services for child day care providers
- 28 and for family- and child-centered services, including:
 - 29 a. Staff and organizational development, leadership and
 - 30 administrative development, technology assisted education, and
 - 31 long-range planning; and
 - 32 b. Procedures to ensure that infants and young children receive
 - 33 needed health, immunization, and related services.
- 34 (c) Long-term plans for local projects that do not receive their full allocation in the
- 35 first year, other than those selected in 1993, should consider how to meet the assessed
- 36 needs of low-income children and families within their neighborhoods or communities.
- 37 These plans also should reflect a process to meet these needs as additional allocations and
- 38 other resources are received.
- 39 (d) State funds designated ~~by the Secretary~~ for start-up and related activities may
- 40 be used for capital expenses or to support activities and services for children, families,
- 41 and providers. State funds designated ~~by the Secretary~~ to support ~~activities and direct~~
- 42 services for children, families, and providers shall not be used for major capital expenses
- 43 unless the ~~Secretary~~ North Carolina Partnership approves this use of State funds based

1 upon a finding that a local partnership has demonstrated that (i) this use is a clear priority
2 need for the local plan, (ii) it is necessary to enable the local partnership to provide
3 services and activities to underserved children and families, and (iii) the local partnership
4 will not otherwise be able to meet this priority need by using State or federal funds
5 available to that ~~county~~-local partnership. The funds approved for capital projects in any
6 two consecutive fiscal years may not exceed ten percent (10%) of the total funds for
7 direct services allocated to a local partnership in those two consecutive fiscal years.

8 (e) State funds allocated to local partnerships shall not supplant current
9 expenditures by counties on behalf of young children and their families, and maintenance
10 of current efforts on behalf of these children and families shall be sustained. State funds
11 shall not be applied without the Secretary's approval where State or federal funding
12 sources, such as Head Start, are available or could be made available to that county.

13 (f) Local partnerships may carry over funds from one fiscal year to the next,
14 subject to the following conditions:

15 (1) Local partnerships in their first year of receiving direct services funding
16 may, on a one-time basis only, carry over any unspent funds to the
17 subsequent fiscal year.

18 (2) Any local partnership may carry over any unspent funds to the
19 subsequent fiscal year, subject to the limitation that funds carried over
20 may not exceed the increase in funding the local partnership received
21 during the current fiscal year over the prior fiscal year.

22 (g) Not less than thirty percent (30%) of each local partnership's direct services
23 allocation shall be used to expand child day care subsidies. To the extent practicable,
24 these funds shall be used to enhance the affordability, availability, and quality of child
25 day care services as described in this section. Notwithstanding any other provision of
26 law, funds allocated for child day care subsidies shall not be considered in calculating the
27 base funding amount for determining the cash and in-kind matching requirements which
28 the North Carolina Partnership or local partnerships may be required to meet."

29 (f) Section 27A of Chapter 324 of the 1995 Session Laws reads as rewritten:

30 "Sec. 27A. Notwithstanding any other provision of law, the Early Childhood
31 Education and Development Initiatives, under Part 10B of Article 3 of Chapter 143B of
32 the General Statutes, are subject to the following terms and conditions for the 1995-97
33 fiscal biennium:

34 (1) Accountability.

35 The intent of the General Assembly is to strengthen the
36 accountability of the Department of Human Resources, the North
37 Carolina Partnership for Children, Inc., and the local partnerships in the
38 expenditure of public funds and achievement of Program goals for the
39 Early Childhood Education and Development Initiatives Program, as
40 authorized under Part 10B of Article 3 of Chapter 143B of the General
41 Statutes. The importance of education as a part of all initiatives in this
42 Program shall be emphasized.

1 In order to accomplish this level of accountability, the Joint
2 Legislative Commission on Governmental Operations shall, consistent
3 with current law, be the legislative oversight body for the Program. The
4 President Pro Tempore of the Senate and the Speaker of the House of
5 Representatives may appoint a subcommittee of the Joint Legislative
6 Commission on Governmental Operations to carry out this function.
7 This subcommittee may conduct all initial reviews of plans, reports, and
8 budgets relating to the Program and shall make recommendations to the
9 Joint Legislative Commission on Governmental Operations.

10 a. Existing Partnerships - Local partnerships receiving State funds
11 shall submit a Certification Annual Report on April 1 of each
12 year to the North Carolina Partnership for Children, Inc., the
13 Joint Legislative Commission on Governmental Operations, or
14 any committee designated by Joint Legislative Commission on
15 Governmental Operations. Administrative costs shall be
16 equivalent to, on an average statewide basis for all local
17 partnerships, not more than eight percent (8%) of the total
18 statewide allocation to all local partnerships. Quality incentive
19 grants shall be administered at the partnership level. A definition
20 of administrative costs shall be determined by the independent
21 firm selected under sub-subdivision b. of this subdivision.

22 b. Program Audit - The Joint Legislative Commission on
23 Governmental Operations shall select an independent firm
24 recognized in performance auditing to conduct an independent
25 performance audit of the first two years of operations of the 24
26 existing partnerships and of the administration of the Program by
27 the Department of Human Resources. The audit's directives shall
28 be determined by the Joint Legislative Commission on
29 Governmental Operations and the independent firm. An interim
30 program and performance audit report shall be submitted to the
31 Joint Legislative Commission on Governmental Operations by
32 January 1, 1996, and a final program and performance audit
33 report shall be submitted to the Joint Legislative Commission on
34 Governmental Operations by April 1, 1996. A definition of
35 administrative costs shall be determined by the independent firm.
36 Only in-kind contributions that are quantifiable, as determined by
37 the independent firm, may be applied to the in-kind match
38 requirement. The match requirement in subdivision (3) of this
39 section shall be studied by the independent firm and
40 recommendations for revision, if any, shall be reported to the
41 Joint Legislative Commission on Governmental Operations.

42 ~~e. The North Carolina Partnership for Children, Inc., shall continue~~
43 ~~to make quarterly reports to the Joint Legislative Commission on~~

1 ~~Governmental Operations as provided for in G.S. 143B-~~
2 ~~168.13(5).~~

3 d. ~~Partnerships~~ Partnerships - In subsequent fiscal biennia, any
4 new local partnership, before receiving State funds, shall be
5 required to submit a detailed plan for expenditure of State funds
6 for appropriate programs to the North Carolina Partnership for
7 Children, Inc., and the Joint Legislative Commission on
8 Governmental Operations for approval in April of the fiscal year
9 in which the local partnership received planning funds. State
10 funds to implement the programs shall not be allocated to the
11 local partnership until the program plan is approved by the North
12 Carolina Partnership for Children, Inc., after consultation with
13 the Joint Legislative Commission on Governmental Operations.
14 After receipt of initial program funds, local partnerships shall
15 then be required to submit annual Certification Reports as
16 provided for in sub-subdivision a. of this subdivision.

17 e. Contracting for Services - The North Carolina Partnership for
18 Children, Inc., and all local Partnerships shall use competitive
19 bidding practices in contracting for goods and services on all
20 contract amounts of \$1,500 and above, and where practicable, for
21 amounts of less than \$1,500.

22 f. Role of North Carolina Partnership for Children, Inc. - The role
23 of the North Carolina Partnership for Children, Inc., shall be
24 expanded to provide technical assistance to local partnerships,
25 assess outcome goals for children and families, ensure that
26 statewide goals and legislative guidelines are being met, help
27 establish policies and outcome measures, obtain non-State
28 resources for early childhood and family services, and document
29 and verify the cumulative contributions received by the
30 partnerships.

31 (2) Funding.

32 a. ~~Existing partnerships~~ Partnerships - All 24 local partnerships that
33 received State funds during the 1993-95 biennium shall receive
34 their State funds proposed for the 1995-96 fiscal year. Existing
35 partnerships shall file budgets and plans for review by the North
36 Carolina Partnership for Children, Inc. Funds for the 1996-97
37 fiscal year shall be available after the Joint Legislative
38 Commission on Governmental Operations has reviewed the
39 independent evaluation discussed in sub-subdivision (1)b. of this
40 subdivision, and the Partnership has approved these plans and
41 budgets in consultation with the Joint Legislative Commission on
42 Governmental Operations. These 24 partnerships shall be
43 required to submit a Certification Annual Report as provided in

1 sub-subdivision a. of subdivision (1) of this ~~section~~, subsection
2 beginning in April 1997.

3 b. ~~New partnerships~~ Partnerships - Funds for planning, up to a
4 maximum of \$3,500,000, may be made available to the ~~12~~-new
5 partnerships in the 1995-96 fiscal year out of the continuation
6 monies designated for the program. If the performance audit
7 report is determined to be satisfactory to the Joint Legislative
8 Commission on Governmental Operations, funding and other
9 recommendations for expansion shall be made to the General
10 Assembly by the Joint Legislative Commission on Governmental
11 Operations for the 1996-97 fiscal year.

12 c. Department of Human Resources; State-level administrative
13 funding in the 1995-96 fiscal year and the 1996-97 fiscal year -
14 Of the funds appropriated to the Department of Human
15 Resources for Early Childhood Education and Development
16 Initiatives for the 1995-97 fiscal biennium:

- 17 1. No funds shall be used for State education technology;
- 18 2. The Department of Human Resources shall receive
19 \$500,000 for the 1995-96 fiscal year and ~~\$250,000~~
20 \$500,000 for the 1996-97 fiscal year for State
21 administration;
- 22 3. The Joint Legislative Commission on Governmental
23 Operations shall receive \$500,000 for the 1995-96 fiscal
24 year for the independent performance audit contract; ~~and~~
- 25 4. Funding for the North Carolina Partnership for Children,
26 Inc., shall be \$700,000 for ~~each fiscal year of the~~
27 ~~biennium~~ the 1995-96 fiscal year and shall be \$1,700,000
28 for the 1996-97 fiscal year; and
- 29 5. Funding for the Frank Porter Graham Child Development
30 Center's evaluation of the Early Childhood Education and
31 Development Initiatives shall be increased to \$850,000 for
32 the 1996-97 fiscal year.

33 (3) Matching requirement.

34 The North Carolina Partnership for Children, Inc., and all local
35 partnerships shall, in the aggregate, be required to match no less than
36 50% of the total amount budgeted for the Early Childhood Education
37 and Development Initiatives in each fiscal year of the biennium as
38 follows: contributions of cash equal to at least ten percent (10%) and
39 in-kind donated resources equal to no more than ten percent (10%) for a
40 total match requirement of twenty percent (20%) for each fiscal year.
41 Funds allocated for child day care subsidies are exempt from this
42 matching requirement. Only in-kind contributions that are quantifiable,

1 as determined by the independent auditing firm, shall be applied to the
2 in-kind match requirement.

3 Failure to obtain a twenty percent (20%) match by May 1 of each fiscal year
4 shall result in a proportionate reduction in the appropriation for the
5 Early Childhood Education and Development Initiatives Program for
6 the next fiscal year. The North Carolina Partnership for Children, Inc.,
7 shall be responsible for compiling information on the private cash and
8 in-kind contributions into a report that is submitted to the Joint
9 Legislative Commission on Governmental Operations pursuant to G.S.
10 143B-168.13(5) in a format that allows verification by the Department
11 of Revenue. The same match requirements shall apply to any expansion
12 funds appropriated by the General Assembly."

13 (g) Article 12I of Chapter 120 of the General Statutes is repealed.

14 (h) Section 23.13 of Chapter 324 of the 1995 Session Laws reads as rewritten:

15 "Sec. 23.13. Counties participating in the Early Childhood Education and
16 Development Initiatives authorized by Part 10B of Article 3 of Chapter 143B of the
17 General Statutes may use the county's allocation of State and federal child care funds to
18 subsidize child care according to the county's Early Childhood Education and
19 Development Initiatives Plan as approved by the ~~Department of Human Resources~~. North
20 Carolina Partnership for Children, Inc. The use of federal funds shall be consistent with
21 the appropriate federal regulations. Day care providers shall, at a minimum, comply with
22 the applicable requirements for State licensure or registration pursuant to Article 7 of
23 Chapter 110 of the General Statutes, with other applicable requirements of State law or
24 rule, including rules adopted for nonregistered day care by the Social Services
25 Commission, and with applicable federal regulations."

26 (i) Notwithstanding any policy to the contrary, the Frank Porter Graham Child
27 Development Center may use any method legally available to it to track children who are
28 participating or who have participated in any Early Childhood Education and
29 Development Initiative in order to carry out its ongoing evaluation of the Early
30 Childhood Education and Development Initiatives Program.

31 (j) In addition to the specific changes set forth in subsections (b) through (i) of
32 this section, the Department of Human Resources, the North Carolina Partnership, and
33 the local partnerships also shall do the following:

- 34 (1) Plan and prepare for effective Early Childhood Initiatives Program
35 implementation in those counties not yet phased into the overall
36 program.
- 37 (2) Maintain the current State level of administrative support for the Early
38 Childhood Initiatives Program.
- 39 (3) Develop a statewide resource and referral database.
- 40 (4) Continue the evaluation of the Early Childhood Initiatives Program by
41 the Frank Porter Graham Child Development Center.
- 42 (5) Conduct a study related to transportation issues as recommended in the
43 independent performance audit and report the results to the Joint

1 Legislative Commission on Governmental Operations by January 1,
2 1997.

3 (k) There is allocated from the funds appropriated to the Department of
4 Human Resources, Division of Child Development, in this act, the sum of ten million one
5 hundred fifty thousand dollars (\$10,150,000) for the 1996-97 fiscal year, to be used as
6 follows:

- 7 (1) Of the 24 partnerships existing as of 1995-96, funds for direct services
8 for the Mecklenburg County and Cumberland County partnerships shall
9 be increased a total of \$1,400,000. The North Carolina Partnership, Inc.
10 shall determine the relative proportion of this increased funding that the
11 Mecklenburg County and Cumberland County partnerships will receive.
12 These funds shall be for expansion of programs, effective January 1,
13 1997;
- 14 (2) For the new partnerships planned for as of 1995-96, funds shall be
15 \$7,550,000. These funds shall be for expansion of programs, effective
16 January 1, 1997; and
- 17 (3) For the new partnerships planned for as of 1996-97, funds shall be
18 \$1,200,000 for planning purposes.

19
20 Requested by: Senator Martin of Guilford

21 **AFDC FRAUD CONTROL PROGRAM/CLIENT PROTECTION**

22 Sec. 24.30. (a) The Department of Human Resources, immediately, shall elect
23 the optional Aid to Families with Dependent Children (AFDC) Fraud Control Program
24 pursuant to 45 CFR 235.112. This program is deemed to apply to Work First Cash
25 Assistance, effective July 1, 1996, as well as to AFDC, pursuant to the federal waivers
26 received by the Department of Human Resources on February 5, 1996.

27 (b) The Department of Human Resources shall award incentive bonuses to
28 each county for each of the county's AFDC fraud and Work First Cash Assistance claims
29 recouped pursuant to the AFDC Fraud Control Program. Each incentive bonus shall
30 equal one-half of the State's distributive share of the total AFDC and Work First Cash
31 Assistance benefit amount that was determined fraudulent and recouped pursuant to the
32 AFDC Fraud Control Program.

33 (c) The Department of Human Resources, Division of Social Services, shall
34 develop and implement a statewide automated system to track AFDC and Work First
35 Cash Assistance fraud claims and collect such claims by any appropriate method.

36 (d) The Department of Human Resources shall ensure that persons charged
37 with, or suspected of AFDC fraud not be subjected to any of the following:

- 38 (1) Coercion;
- 39 (2) Discrimination in targeting persons for civil action or criminal
40 prosecution; or
- 41 (3) Civil investigation or civil action without being (ii) properly informed
42 as to those matters that might arise out of this investigation or action

1 that might result in criminal prosecution and (ii) in such a case, being
2 properly advised of their right not to incriminate themselves.

3 (e) The Department shall fund this section from funds available to it.

4 Requested by: Senator Martin of Guilford

5 **FOOD STAMP FELONY FRAUD**

6 Sec. 24.31. (a) G.S. 108A-53(a), as amended by Section 19.5(n) of Chapter 507 of
7 the 1995 Session Laws, reads as rewritten:

8 "(a) Any person, whether provider or recipient or person representing himself as
9 such, who knowingly obtains or attempts to obtain, or aids or abets any person to obtain
10 by means of making a willfully false statement or representation or by impersonation or
11 by failing to disclose material facts or in any manner not authorized by this Part or the
12 regulations issued pursuant thereto, transfers with intent to defraud any food stamps or
13 authorization cards to which ~~he that person~~ is not entitled in the amount of ~~one thousand~~
14 ~~dollars (\$1,000)~~ four hundred dollars (\$400.00) or less shall be guilty of a Class 1
15 misdemeanor. Whoever knowingly obtains or attempts to obtain, or aids or abets any
16 person to obtain by means of making a willfully false statement or representation or by
17 impersonation or by failing to disclose material facts or in any manner not authorized by
18 this Part or the regulations issued pursuant thereto, transfers with intent to defraud any
19 food stamps or authorization cards to which he is not entitled in an amount more than ~~one~~
20 ~~thousand dollars (\$1,000)~~ four hundred dollars (\$400.00) shall be guilty of a Class I
21 felony."

22 (b) This section becomes effective December 1, 1996, and applies to offenses
23 committed on or after that date.

24
25 Requested by: Senator Martin of Guilford

26 **MEDICAID STUDY EXTENSION**

27 Sec. 24.32. Section 23.5A(d) of Chapter 507 of the 1995 Session Laws reads
28 as rewritten:

29 "(d) The task force shall report the results of its study, together with any legislative
30 proposals and cost analyses, to the 1995 General Assembly, Regular Session 1996, within
31 a week of its ~~convening or convening~~, to a special session of the 1995 General Assembly
32 called to deal with federal block grant funding ~~issues~~. issues, or to the 1997 General
33 Assembly within a week of its convening."

34 35 **PART 25. DEPARTMENT OF AGRICULTURE**

36
37 Requested by: Senator Martin of Pitt

38 **RELEASE THE STATE'S REVERSIONARY INTEREST IN THE PROPERTY** 39 **OF FUQUAY-VARINA AMERICAN LEGION POST 116**

40 Sec. 25.1. (a) The General Assembly finds:

41 (1) On April 28, 1941, the United States deeded to the State Board of
42 Education a parcel of land north of Fuquay-Varina in Wake County, that
43 deed being recorded at Book 868, page 171, Wake County Registry, and

1 that deed had a right of termination by the United States if the property
2 was not used for facilities which further the rehabilitation or education
3 of the rural people of North Carolina;

4 (2) On April 1, 1949, as approved by the Council of State, the State of
5 North Carolina deeded to trustees for the use and benefit of Fuquay
6 Springs, North Carolina, Post 116 of the American Legion, the same
7 parcel with the same covenant as to the use of the property, that deed
8 being recorded at Book 1019, page 172, Wake County Registry; and

9 (3) The Congress of the United States, in Private Law 428, approved by
10 President Eisenhower on June 21, 1954, directed the Secretary of
11 Agriculture to convey to those trustees by quitclaim deed its remaining
12 interest in the property; and

13 (4) By deed dated November 30, 1962, and recorded at Book 1533, page
14 54, Wake County Registry, the United States conveyed its remaining
15 interest in the property to the North Carolina Rural Development
16 Corporation, an agency of the State of North Carolina under G.S. 137-
17 31.1; and

18 (5) American Legion Post 116 of Fuquay-Varina desires to make
19 improvements to the property, but financing such improvements is
20 complicated by the restriction on the property.

21 (b) The State of North Carolina and the North Carolina Rural Rehabilitation
22 Corporation shall convey to the grantees of the deed recorded at Book 1019, page 172,
23 Wake County Registry, by quitclaim deed, all of the right, title, and interest they have
24 retained in property deeded by the State of North Carolina, that deed being recorded at
25 Book 1019, page 172, Wake County Registry.

26
27 Requested by: Senators Kerr, Martin of Pitt

28 REMOVE SUNSET FOR GRAPE GROWERS' EXCISE TAX DISTRIBUTION

29 Sec. 25.2. (a) Section 3 of Chapter 836 of the 1987 Session Laws reads as
30 rewritten:

31 "Sec. 3. This act shall become effective August 1, 1987, and shall terminate June 30,
32 1997-1987."

33 (b) Section 12(b) of Chapter 1036 of the 1987 Session Laws, as amended by
34 Section 176(b) of Chapter 900 of the 1991 Session Laws, is repealed.

35 (c) This section is effective upon ratification.

36
37 Requested by: Senator Martin of Pitt

38 TIMBER RECEIPTS FOR CERTAIN CAPITAL PROJECTS

39 Sec. 25.3. The sum of one million three hundred seventy-six thousand dollars
40 (\$1,376,000) shall be transferred from the Department of Agriculture's timber sales
41 capital improvement account, established pursuant to G.S. 146-30, to the Department of
42 Agriculture for the 1996-97 fiscal year and shall be used for the following capital
43 improvement projects at research stations and State farms:

- 1 (1) \$387,400 for an addition to the swine facility at the Cherry Farm Unit.
- 2 (2) \$126,700 for a farm equipment shelter at the Cherry Farm Unit.
- 3 (3) \$329,300 for a shop and storage facility at the Upper Coastal Plain
- 4 Station.
- 5 (4) \$106,900 for a dairy milking parlor at the Caswell Farm Unit.
- 6 (5) \$132,300 for research plot land at the Upper Mountain Station.
- 7 (6) \$150,000 for an irrigation system at the Mountain Station.
- 8 (7) \$143,400 for an office building at the Oxford Station.
- 9

10 PART 26. DEPARTMENT OF COMMERCE

11
12 Requested by: Senator Martin of Pitt

13 GLOBAL TRANSPARK AUTHORITY/AUDIT BY STATE AUDITOR

14 Sec. 26. G.S. 63A-23 reads as rewritten:

15 "§ 63A-23. Annual and quarterly reports.

16 The Authority shall, promptly following the close of each fiscal year, submit an
17 annual report of its activities for the preceding year to the Governor, the General
18 Assembly, and the Local Government Commission. Each report shall be accompanied by
19 an audit of its books and accounts. The audit may be conducted by the State Auditor.
20 ~~The costs of all audits, whether conducted by the State Auditor's staff or contracted with~~
21 ~~a private auditing firm, audits shall be paid from funds of the Authority.~~

22 The Authority shall submit quarterly reports to the Joint Legislative Commission on
23 Governmental Operations. The reports shall summarize the Authority's activities during
24 the quarter and contain any information about the Authority's activities that is requested
25 by the Commission."
26

27 Requested by: Senator Martin of Pitt

28 WORLD TRADE CENTER FUNDS

29 Sec. 26.1. Of the funds appropriated in this act to the Department of
30 Commerce, the sum of two hundred thousand dollars (\$200,000) for the 1996-97 fiscal
31 year shall be allocated to the World Trade Center North Carolina (WTCNC) to support
32 international trade education programs for small and medium-sized businesses. The
33 WTCNC shall report to the Joint Legislative Commission on Governmental Operations
34 on the use of these funds on or before March 1 of each fiscal year, and more frequently as
35 requested by the Commission.
36

37 Requested by: Senator Martin of Pitt

38 FUNDS FOR ECONOMIC DEVELOPMENT

39 Sec. 26.2. Of the funds appropriated in this act to the Department of
40 Commerce, the sum of one million five hundred twenty-five thousand dollars
41 (\$1,525,000) for the 1996-97 fiscal year shall be allocated as follows:

- 42 (1) \$275,000 to the Land Loss Prevention Project, Inc., to provide free legal
- 43 representation to low-income, financially distressed small farmers. The

1 Land Loss Prevention Project, Inc., shall not use these funds to
2 represent farmers who have income and assets that would make them
3 financially ineligible for legal services pursuant to Title 45, Part 1611 of
4 the Code of Federal Regulations. The Land Loss Prevention Project,
5 Inc., shall report to the Joint Legislative Commission on Governmental
6 Operations on October 1 and March 1 of each fiscal year, and more
7 frequently as requested by the Commission, on the use of these funds;

8 (2) \$245,000 to the North Carolina Coalition of Farm and Rural Families,
9 Inc., for its Small Farm Economic Development Project. These funds
10 shall be used to foster economic development within the State's rural
11 farm communities by offering marketing and technical assistance to
12 small and limited resource farmers. The North Carolina Coalition of
13 Farm and Rural Families, Inc., shall report to the Joint Legislative
14 Commission on Governmental Operations on October 1 and March 1 of
15 each fiscal year, and more frequently as requested by the Commission,
16 on the use of these funds;

17 (3) \$730,000 to the North Carolina Institute for Minority Economic
18 Development, Inc., to foster minority economic development within the
19 State through policy analysis, information and technical assistance,
20 resource expansion and support of community-based demonstration
21 initiatives. The North Carolina Institute for Minority Economic
22 Development, Inc., shall report to the Joint Legislative Commission on
23 Governmental Operations on October 1 and March 1 of each fiscal year,
24 and more frequently as requested by the Commission, on the use of
25 these funds; and

26 (4) \$275,000 to the North Carolina Minority Support Center (formerly
27 known as the Minority Credit Union Support Center) for technical
28 assistance to community-based minority credit unions. The North
29 Carolina Minority Support Center shall report to the Credit Union
30 Division of the Department of Commerce and to the Joint Legislative
31 Commission on Governmental Operations on October 1 and March 1 of
32 each fiscal year, and more frequently as requested by the Department or
33 the Commission, on the use of these funds.

34
35 Requested by: Senator Martin of Pitt

36 **MCNC**

37 Sec. 26.3. Section 25.9 of Chapter 324 of the 1995 Session Laws reads as
38 rewritten:

39 "Sec. 25.9. (a) MCNC shall report on all of its programs including contractual
40 services for Supercomputer and the Research and Education Network to the Joint
41 Legislative Commission on Governmental Operations and the Fiscal Research Division
42 on or before March 1 of each fiscal year, and more frequently as requested by the
43 Commission. The reports shall include information on the activities and accomplishments

1 during the past fiscal year, itemized expenditures during the past fiscal year with sources
 2 of funding, planned activities, and accomplishments for at least the next 12 months, and
 3 itemized anticipated expenditures with sources of funding for the next 12 months. The
 4 report on the activities of the Supercomputer and the Research and Education Network
 5 ~~program programs shall identify the users of the Supercomputer, users,~~ the major projects
 6 conducted by the users, and the ~~potential~~ benefits of the projects.

7 (b) MCNC shall provide a report containing detailed budget information to the
 8 Office of State Budget and Management in the same manner as State departments and
 9 agencies in preparation for biennium budget requests. Specific salary information will be
 10 provided upon written request by the Chairs of the Joint Legislative Commission on
 11 Governmental Operations or the Chairs of the House Appropriations Subcommittee on
 12 Natural and Economic Resources and the Chairs of the Senate Appropriations Committee
 13 on Natural and Economic Resources.

14 (c) The funds appropriated in this act to MCNC shall be used as follows:

	<u>FY 1995-96</u>	<u>FY 1996-97</u>
16 Microelectronics Program	\$5,362,523	\$5,362,523 4,966,721
17 Supercomputer	9,576,319	9,576,319 798,275
18 Telecommunications	4,826,158	4,826,158 0-

19 (d) Of the funds appropriated to MCNC for the Microelectronics Program, ~~five~~
 20 ~~million three hundred sixty two thousand five hundred twenty three dollars (\$5,362,523)~~
 21 ~~in each fiscal year~~ four million nine hundred sixty-six thousand seven hundred twenty-
 22 one dollars (\$4,966,721) for the 1996-97 fiscal year is contingent upon a dollar-for-dollar
 23 match in non-State funds.

24 (e) If MCNC finds it necessary to make changes in the program allocations
 25 specified in subsection (c) of this section, MCNC shall report such changes to the Joint
 26 Legislative Commission on Governmental Operations 30 days before the reallocation.

27 (f) ~~Funds appropriated in this act to MCNC for Migration of Current Network to~~
 28 ~~the North Carolina Information Highway System (NCIHS) shall be used as follows:~~

- 29 ~~(1) To cover the costs of connecting and operating the North Carolina~~
 30 ~~Research and Education Network through the North Carolina~~
 31 ~~Information Highway so that universities and research centers will~~
 32 ~~continue to have the capability currently available through the North~~
 33 ~~Carolina Research and Education Network,~~
- 34 ~~(2) For program support, and~~
- 35 ~~(3) For MCNC to serve as gateway to the North Carolina Information~~
 36 ~~Highway for the 18 sites. Funds transferred in this act from the~~
 37 ~~Department of Commerce to the UNC Board of Governors shall be used~~
 38 ~~for contracting the purchase of supercomputing and research and~~
 39 ~~education networking services to continue the provision of these~~
 40 ~~services at North Carolina universities and colleges."~~

41
 42 Requested by: Senator Martin of Pitt

43 **ECONOMIC DEVELOPMENT FUNDS**

1 Sec. 26.4. Section 25.4 of Chapter 507 of the 1995 Session Laws reads as
2 rewritten:

3 "Sec. 25.4. (a) Definition. – For purposes of this section, the term 'community
4 development corporation' means a nonprofit corporation:

- 5 (1) Chartered pursuant to Chapter 55A of the General Statutes;
- 6 (2) Tax-exempt pursuant to section 501(c)(3) of the Internal Revenue Code
7 of 1986;
- 8 (3) Whose primary mission is to develop and improve low-income
9 communities and neighborhoods through economic and related
10 development;
- 11 (4) Whose activities and decisions are initiated, managed, and controlled by
12 the constituents of those local communities; and
- 13 (5) Whose primary function is to act as deal-maker and packager of projects
14 and activities that will increase their constituencies' opportunities to
15 become owners, managers, and producers of small businesses,
16 affordable housing, and jobs designed to produce positive cash flow and
17 curb blight in the target community.

18 (b) Of the funds appropriated in this act to the Rural Economic Development
19 Center, Inc., the sum of ~~three million eight hundred thousand dollars (\$3,800,000) for the~~
20 ~~1995-96~~ two million six hundred fifty thousand dollars (\$2,650,000) for the 1996-97
21 fiscal year shall be placed in an Economic and Community Development Program
22 Reserve. Funds shall be allocated from the Reserve by the Rural Economic Development
23 Center, Inc. as follows:

- 24 (1) \$1,350,000 for community development grants to support community
25 development projects and activities within the State's minority
26 communities. Any community development corporation as defined in
27 this section is eligible to apply for funds. The Rural Economic
28 Development Center shall establish performance-based criteria for
29 determining which community development corporations will receive a
30 grant and the grant amount. Funding will also be allocated to the North
31 Carolina Association of Community Development Corporations, Inc.
32 The Rural Economic Development Center, Inc., shall allocate these
33 grant funds from the Economic and Community Development Program
34 Reserve as follows:
 - 35 a. \$900,000 for direct grants to the local community development
36 corporations that have previously received State funds for this
37 purpose to support operations and project activities,
 - 38 b. \$250,000 for direct grants to local community development
39 organizations that have not previously received State funds,
 - 40 c. \$150,000 to the North Carolina Association of Community
41 Development Corporations, Inc. to provide training, technical
42 assistance, resource development, project assistance, and support
43 for local community development corporations statewide, and

- 1 d. \$50,000 to the Rural Economic Development Center, Inc. to be
2 used to cover expenses in administering this section;
- 3 ~~(2) \$275,000 to the Minority Credit Union Support Center for technical~~
4 ~~assistance to community-based minority credit unions;~~
- 5 (3) \$250,000 to the Microenterprise Loan Program to support the loan fund
6 and operations of the Program;
- 7 (4) ~~\$100,000~~ \$150,000 allocated as follows:
- 8 a. \$25,000 to the Opportunities Industrialization Center of Wilson,
9 Inc., for its ongoing job training programs;
- 10 b. \$25,000 to Opportunities Industrialization Center, Inc., in Rocky
11 Mount, for its ongoing job training programs;
- 12 c. \$25,000 to Pitt-Greenville Opportunities Industrialization Center,
13 Inc. for its ongoing job training programs; and
- 14 d. \$25,000 to the Opportunities Industrialization Center of Lenoir,
15 Greene, and Jones ~~Counties. Counties;~~ and
- 16 e. \$50,000 to the Opportunities Industrialization Center of
17 Elizabeth City, Inc.
- 18 Funds allocated pursuant to sub-subdivisions a. through d. of this
19 subdivision shall be in addition to funds allocated pursuant to Section
20 25.12 of Chapter 324 of the 1995 Session Laws. Reporting
21 requirements of that section shall apply to all funds allocated under this
22 subdivision; and
- 23 (5) ~~\$400,000~~ \$900,000 shall be used for a program to provide supplemental
24 funding for matching requirements for economic development in
25 economically depressed areas. The Center shall use the funds to make
26 grants to local governments and nonprofit corporations to provide funds
27 necessary to match federal grants or other grants for necessary
28 economic development projects and activities in economically
29 depressed areas. The grant recipients shall be selected on the basis of
30 ~~need;~~ need. Of the funds allocated under this subdivision, the sum of up
31 to one hundred thousand dollars (\$100,000) shall be used to address
32 potential and actual threats to the public health resulting from
33 wastewater system problems.
- 34 ~~(6) \$275,000 to the Land Loss Prevention Project, Inc., to provide free legal~~
35 ~~representation to low income, financially distressed small farmers. The~~
36 ~~Land Loss Prevention Project, Inc., shall not use these funds to~~
37 ~~represent farmers who have income and assets that would make them~~
38 ~~financially ineligible for legal services pursuant to Title 45, Part 1611 of~~
39 ~~the Code of Federal Regulations. The Land Loss Prevention Project,~~
40 ~~Inc., shall report to the Joint Legislative Commission on Governmental~~
41 ~~Operations on October 1 and March 1 of each fiscal year, and more~~
42 ~~frequently as requested by the Commission, on the use of these funds;~~

- 1 ~~(7) \$245,000 to the North Carolina Coalition of Farm and Rural Families,~~
2 ~~Inc., for its Small Farm Economic Development Project. These funds~~
3 ~~shall be used to foster economic development within the State's rural~~
4 ~~farm communities by offering financial, marketing, and technical~~
5 ~~assistance to small and limited resource farmers. The North Carolina~~
6 ~~Coalition of Farm and Rural Families, Inc., shall report to the Joint~~
7 ~~Legislative Commission on Governmental Operations on October 1 and~~
8 ~~March 1 of each fiscal year, and more frequently as requested by the~~
9 ~~Commission, on the use of these funds;~~
- 10 ~~(8) \$780,000 to the North Carolina Institute for Minority Economic~~
11 ~~Development, Inc., to foster minority economic development within the~~
12 ~~State through policy analysis, information and technical assistance,~~
13 ~~resource expansion and support of community-based demonstration~~
14 ~~initiatives. The North Carolina Institute for Minority Economic~~
15 ~~Development, Inc., shall report to the Joint Legislative Commission on~~
16 ~~Governmental Operations on October 1 and March 1 of each fiscal year,~~
17 ~~and more frequently as requested by the Commission, on the use of~~
18 ~~these funds;~~
- 19 ~~(9) \$100,000 to the Lake Gaston Economic Development Corporation for~~
20 ~~planning and preliminary development of a conference center and~~
21 ~~related facilities for the Lake Gaston area; and~~
- 22 ~~(10) \$25,000 to the Roanoke-Chowan Community College for its sheltered~~
23 ~~workshop program.~~

24 (c) The Rural Economic Development Center, Inc. shall report to the Joint
25 Legislative Commission on Governmental Operations on October 1 and March 1 of each
26 fiscal year, and more frequently as requested by the Commission, on the uses of funds
27 allocated pursuant to subdivisions (1), ~~(2), (3), (4), (5), (9), and (10)~~ (3), (4), and (5) of
28 subsection (b) of this section."

29
30 Requested by: Senator Martin of Pitt

31 **INDUSTRIAL DEVELOPMENT FUND UTILITY ACCOUNT**

32 Sec. 26.5. (a) Of the funds appropriated in this act to the Department of
33 Commerce for the 1996-97 fiscal year, the sum of two million dollars (\$2,000,000) shall
34 be deposited to and used for the Utility Account established under subsection (b) of this
35 section.

36 (b) There is created within the Industrial Development Fund a special account to
37 be known as the Utility Account to provide funds to assist the local government units of
38 the 10 most severely distressed counties of the State, as determined in accordance with
39 G.S. 105-130.40(c) or G.S. 105-151.17(c), in creating jobs in manufacturing and
40 processing, warehousing and distribution, and data processing, as defined in the Standard
41 Industrial Classification Manual issued by the United States Bureau of the Census. The
42 Department of Commerce shall adopt rules for the administration of the program. Except
43 as otherwise provided in this subsection, these rules shall be consistent with the rules

1 adopted with respect to the Industrial Development Fund. The rules shall provide that the
2 funds in the Utility Account may be used only for construction of or improvements to
3 new or existing water, sewer, gas, or electrical utility distribution lines or equipment for
4 existing or new or proposed industrial buildings to be used for industrial operations in
5 manufacturing or processing, warehousing or distribution, or data processing. To be
6 eligible for funding, the water, sewer, gas, or electrical utility lines or facilities shall be
7 located on the site of the building or, if not located on the site, shall be directly related to
8 the operation of the specific industrial activity. There shall be no maximum funding
9 amount per new job to be created or per project.

10 (c) In addition to the reporting requirements of G.S. 143B-437A, the Department
11 of Commerce shall report annually to the General Assembly concerning the payments
12 made from the Utility Account and the impact of the payments on job creation in the
13 State. The Department of Commerce shall also report quarterly to the Joint Legislative
14 Commission on Governmental Operations and the Fiscal Research Division on the use of
15 the moneys in the Utility Account including information regarding to whom payments
16 were made, in what amounts, and for what purposes.

17
18 Requested by: Senator Martin of Pitt

19 **TECHNOLOGICAL DEVELOPMENT AUTHORITY FUNDS/INVESTMENT**

20 Sec. 26.6. G.S. 96-5 is amended by adding the following new subsection to
21 read:

22 "(g) Notwithstanding subsection (f) of this section, the State Treasurer may invest
23 not more than a total of twenty-five million dollars (\$25,000,000) of funds in the
24 Employment Security Commission Reserve Fund established under subsection (f) of this
25 section in securities issued by the North Carolina Technological Development Authority,
26 Inc., the proceeds for which are directed to support investment in venture capital funds.
27 The State Treasurer shall report to the Joint Legislative Commission on Governmental
28 Operations and the Fiscal Research Division on October 1 and March 1 of each fiscal
29 year on investments made pursuant to this subsection."

30
31 Requested by: Senator Martin of Pitt

32 **CENTER FOR COMMUNITY SELF-HELP FUNDS**

33 Sec. 26.7. (a) Of the funds appropriated in this act to the Department of
34 Commerce, the sum of three million dollars (\$3,000,000) for the 1996-97 fiscal year shall
35 be allocated to the Center for Community Self-Help to further a statewide program of
36 lending for home ownership throughout North Carolina. These funds will be leveraged
37 on a ten-to-one basis, generating at least ten dollars (\$10.00) of nontraditional home loans
38 for every one dollar (\$1.00) of State funds. Payments of principal shall be available for
39 further loans or loan guarantees.

40 (b) The Center for Community Self-Help shall submit, within 180 days after the
41 close of its fiscal year, audited financial statements to the State Auditor. All records
42 pertaining to the use of State funds shall be made available to the State Auditor upon
43 request. The Center for Community Self-Help shall make quarterly reports on the use of

1 State funds to the State Auditor, in form and format prescribed by the State Auditor or his
2 designee. The Center for Community Self-Help shall make a written report by May 1 of
3 each year for the next three years to the General Assembly on the use of the funds
4 allocated under this section.

5 (c) The Center for Community Self-Help shall report to the Joint Legislative
6 Commission on Governmental Operations, the House Appropriations Subcommittee on
7 Natural and Economic Resources, the Senate Appropriations Committee on Natural and
8 Economic Resources, and the Department of Commerce on a quarterly basis for the next
9 three years.

10 (d) The Office of the State Auditor may conduct an annual end-of-year audit of the
11 revolving fund for economic development lending created by this appropriation for each
12 year of the life of the revolving fund.

13 (e) If the Center for Community Self-Help dissolves, the corporation shall
14 transfer the remaining assets of the revolving fund to the State and shall refrain from
15 disposing of the revolving fund assets without approval of the State Treasurer.

16 (f) The Department of Commerce shall disburse this appropriation within 15
17 working days of the receipt of a request for the funds from the Center for Community
18 Self-Help. The request shall include a commitment of the leveraged funds by the Center
19 for Community Self-Help or its affiliates.

20
21 Requested by: Senator Martin of Pitt

22 **RURAL TOURISM DEVELOPMENT FUNDS**

23 Sec. 26.8. (a) Of the funds appropriated in this act to the Department of Commerce
24 for the 1996-97 fiscal year, the sum of two hundred thousand dollars (\$200,000) shall be
25 used for the Rural Tourism Development Grant Program. The Department shall establish
26 and implement this Program to provide grants to local governments and nonprofit
27 organizations to encourage the development of new tourism projects and activities in
28 rural areas of the State. The Department shall develop procedures for the administration
29 and distribution of funds allocated to the Rural Tourism Development Program under the
30 following guidelines:

- 31 (1) Eligible organizations shall make application under procedures
32 established by the Department;
- 33 (2) Eligible organizations shall be nonprofit tourism-related organizations
34 located in the State's rural regions;
- 35 (3) Priority shall be given to eligible organizations that have significant
36 involvement of travel and tourism-related businesses;
- 37 (4) Priority shall be given to eligible organizations serving economically
38 distressed rural counties;
- 39 (5) Priority shall be given to eligible organizations that match funds; and
- 40 (6) Funds may not be used for renting or purchasing land or buildings, or
41 for financing debt.

42 No recipient or new tourism project shall receive a total of more than fifty
43 thousand dollars (\$50,000) of these grant funds for the 1996-97 fiscal year.

1 (b) Of the funds appropriated in this act from the General Fund to the Department
2 of Commerce for the 1996-97 fiscal year, the sum of ten thousand dollars (\$10,000) shall
3 be used to fund the 1996 Babe Ruth Regional All-Star Tournament.

4
5 Requested by: Senator Martin of Pitt

6 **FUNDS FROM WORKER TRAINING TRUST FUND**

7 Sec. 26.9. Notwithstanding G.S. 96-5(f), there is appropriated from the
8 Worker Training Trust Fund to the following agencies the following sums for the 1996-
9 97 fiscal year for the following purposes:

- 10 (1) \$218,500 to the Department of Commerce to be used for a computer
11 system upgrade in the Division of Employment and Training in order to
12 meet federal reporting requirements under the Job Training Partnership
13 Act;
- 14 (2) \$210,000 to the Department of Labor for a computer upgrade in the
15 apprenticeship tracking system in order to meet federal reporting
16 requirements under the Federal Apprenticeship Program;
- 17 (3) \$90,000 to the Department of Labor to establish nationally certified
18 dietary managers pilot projects. These projects will offer training
19 programs to meet new federal regulations requiring a certified dietary
20 manager on-site at every residential care facility in the State; and
- 21 (4) \$100,000 to the Department of Community Colleges for a training
22 program in entrepreneurial skills to be operated by North Carolina
23 REAL Enterprises. Funds appropriated under this subdivision are in
24 addition to those appropriated for the same purpose under Section
25 25.9(d)(6) of Chapter 507 of the 1995 Session Laws.

26
27 Requested by: Senator Perdue

28 **EXTEND STATE PORTS STUDY COMMISSION**

29 Sec. 26.10. (a) Section 16.1(e) of Chapter 542 of the 1995 Session Laws reads as
30 rewritten:

31 "(e) The Commission shall report the results of its study and its recommendations
32 to the ~~1995 General Assembly by May 1, 1996.~~ General Assembly. The Commission
33 may make an interim report to the 1996 Regular Session of the 1995 General Assembly
34 and shall make a final report upon the convening of the 1997 General Assembly. The
35 Commission shall terminate upon filing of its final report."

36 (b) This section becomes effective April 30, 1996.

37
38 Requested by: Senator Plyler

39 **INDUSTRIAL PARK/AUTHORITY**

40 Sec. 26.11. Section 7 of Chapter 419 of the 1971 Session Laws, as rewritten by
41 Section 2 of Chapter 342 of the 1995 Session Laws, reads as rewritten:

42 "**Sec. 7.** Private property needed by said Airport Authority for any airport, landing
43 field or facilities of same may be acquired by gift or devise, or may be acquired by

1 private purchase or by the exercise of the power of eminent domain, pursuant to the
2 provisions of Chapter 40A of the General Statutes of North Carolina, as amended. When
3 the Airport Authority files a complaint to condemn property for the purpose of
4 establishing an industrial park on the property, title to the property and the right to
5 immediate possession of the property vests in the Airport Authority when the complaint
6 is filed and the Airport Authority deposits the value of the property in accordance with
7 ~~G.S. 40A-41, unless the owner of the property initiates an action for injunctive relief.~~
8 G.S. 40A-41."

9
10 **PART 27. DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL**
11 **RESOURCES**

12
13 Requested by: Senator Martin of Pitt

14 **AGRICULTURE COST SHARE FUNDS FOR ANIMAL OPERATIONS**
15 **LOCATED IN A RIVER BASIN OTHER THAN THE NEUSE RIVER BASIN**

16 Sec. 27. Of the funds appropriated in this act to the Department of
17 Environment, Health, and Natural Resources, Division of Soil and Water Conservation,
18 for the Agriculture Cost Share Program for Nonpoint Source Pollution Control, the sum
19 of four million one hundred thousand dollars (\$4,100,000) for the 1996-97 fiscal year
20 shall be used to assist existing animal operations in obtaining approved animal waste
21 management plans for those animal operations located, in whole or in part, in a county in
22 one of the State's 17 river basins other than the Neuse River Basin and shall be used in
23 accordance with G.S. 143-215.74(b), as amended by this act. When implementing this
24 section, the Department shall cooperate with the Cooperative Extension Service, the
25 Natural Resource Conservation Service of the United States Department of Agriculture,
26 and the local Soil and Water Conservation Districts. Any of these funds remaining at the
27 end of the 1996-97 fiscal year shall not revert, but shall remain available for use pursuant
28 to this section.

29
30 Requested by: Senator Martin of Pitt

31 **AGRICULTURE COST SHARE FUNDS FOR AGRICULTURE OPERATIONS**
32 **LOCATED IN THE NEUSE RIVER BASIN**

33 Sec. 27.1. Of the funds appropriated in this act to the Department of
34 Environment, Health, and Natural Resources, Division of Soil and Water Conservation,
35 for the Agriculture Cost Share Program for Nonpoint Source Pollution Control, the sum
36 of four million dollars (\$4,000,000) for the 1996-97 fiscal year shall be used to assist
37 existing animal operations in obtaining approved animal waste management plans and
38 farm operations in installing best management practices for those agriculture operations
39 located, in whole or in part, in a county in the Neuse River Basin and shall be used in
40 accordance with G.S. 143-215.74(b), as amended by this act. When implementing this
41 section, the Department shall cooperate with the Cooperative Extension Service, the
42 Natural Resource Conservation Service of the United States Department of Agriculture,
43 and the local Soil and Water Conservation Districts. Any of these funds remaining at the

1 end of the 1996-97 fiscal year shall not revert, but shall remain available for use pursuant
2 to this section.

3
4 Requested by: Senator Martin of Pitt

5 **STATEWIDE TECHNICAL ASSISTANCE FOR ANIMAL WASTE**
6 **MANAGEMENT PLANS**

7 Sec. 27.2. Of the funds appropriated in this act to the Department of
8 Environment, Health, and Natural Resources, Division of Soil and Water Conservation,
9 the sum of one million one hundred sixty-seven thousand five hundred dollars
10 (\$1,167,500) for the 1996-97 fiscal year shall be used to provide technical assistance to
11 operators in the process of obtaining approved animal waste management plans for
12 animal operations. When implementing this section, the Department shall cooperate with
13 the Cooperative Extension Service, the Natural Resource Conservation Service of the
14 United States Department of Agriculture, and the local Soil and Water Conservation
15 Districts. Any of these funds remaining at the end of the 1996-97 fiscal year shall not
16 revert, but shall remain available for use pursuant to this section.

17
18 Requested by: Senator Martin of Pitt

19 **ODOR CONTROL TECHNOLOGY STUDY**

20 Sec. 27.3. Of the funds appropriated to the Department of Environment,
21 Health, and Natural Resources in this act, the sum of six hundred thousand dollars
22 (\$600,000) for the 1996-97 fiscal year shall be transferred to the Board of Governors of
23 The University of North Carolina for the North Carolina Agricultural Research Service at
24 North Carolina State University to conduct research into economically feasible odor
25 control technologies and to provide detailed economic analysis of odor management
26 alternatives; provided these funds are matched with an equal sum from private sources.
27 No later than January 1, 1997, the Board of Governors shall report to the Environmental
28 Review Commission and the Fiscal Research Division on progress under the research,
29 including any findings and recommendations at that time.

30
31 Requested by: Senator Martin of Pitt

32 **WETLANDS RESTORATION PROGRAM/FUNDS**

33 Sec. 27.4. (a) Article 21 of Chapter 143 of the General Statutes is amended by
34 adding the following new sections to read:

35 **"§ 143-214.8. Wetlands Restoration Program: established.**

36 The Wetlands Restoration Program is established within the Department of
37 Environment, Health, and Natural Resources. The Wetlands Restoration Program shall be
38 developed by the Department as a nonregulatory statewide wetlands restoration program
39 for the acquisition, maintenance, restoration, enhancement, and creation of wetland and
40 riparian resources that contribute to the protection and improvement of water quality,
41 flood prevention, fisheries, wildlife habitat, and recreational opportunities. The Wetlands
42 Restoration Program shall consist of the following components:

- 43 (1) Restoration and perpetual maintenance of wetlands.

- 1 (2) Development of restoration plans.
- 2 (3) Landowner contact and land acquisition.
- 3 (4) Evaluation of site plans and engineering studies.
- 4 (5) Oversight of construction and monitoring of restoration sites.
- 5 (6) Land ownership and management.
- 6 (7) Mapping, site identification, and assessment of wetlands functions.
- 7 (8) Oversight of private wetland mitigation banks to facilitate the
8 components of the Wetlands Restoration Program.

9 **"§ 143-214.9. Wetlands Restoration Program: purposes.**

10 The purposes of the program are as follows:

- 11 (1) To restore wetlands functions and values across the State to replace
12 critical functions lost through historic wetlands conversion and through
13 current and future permitted impacts. It is not the policy of the State to
14 destroy upland habitats unless it would further the purposes of the
15 Wetlands Restoration Program.
- 16 (2) To provide a consistent and simplified approach to address mitigation
17 requirements associated with permits or authorizations issued by the
18 United States Army Corps of Engineers under 33 U.S.C. § 1344.
- 19 (3) To streamline the wetlands permitting process, minimize delays in
20 permit decisions, and decrease the burden of permit applicants of
21 planning and performing compensatory mitigation for wetlands losses.
- 22 (4) To increase the ecological effectiveness of compensatory mitigation.
- 23 (5) To achieve a net increase in wetland acres, functions, and values in each
24 major river basin.
- 25 (6) To foster a comprehensive approach to environmental protection.

26 **"§ 143-214.10. Wetlands Restoration Program: development and implementation**
27 **of basinwide restoration plans.**

28 Develop Basinwide Restoration Plans. – The Department shall develop basinwide
29 plans for wetlands and riparian area restoration with the goal of protecting and enhancing
30 water quality, flood prevention, fisheries, wildlife habitat, and recreational opportunities
31 within each of the 17 major river basins in the State. Beginning July 1, 1997, the
32 Department shall develop and begin implementing a basinwide restoration plan for each
33 of the 17 river basins in the State in accordance with the basinwide schedule currently
34 established by the Division of Water Quality.

35 **"§ 143-214.11. Wetlands Restoration Program: compensatory mitigation.**

36 (a) Definition. – For purposes of this section, the term 'compensatory mitigation'
37 means the restoration, creation, enhancement, or preservation of wetlands or other areas
38 required as a condition of a section 404 permit issued by the United States Army Corps of
39 Engineers.

40 (b) Department of Environment, Health, and Natural Resources to Coordinate
41 Compensatory Mitigation. – All compensatory mitigation required by permits or
42 authorizations issued by the United States Army Corps of Engineers under 33 U.S.C. §
43 1344 shall be coordinated by the Department consistent with the basinwide plans for

1 wetlands restoration and rules developed by the Environmental Management
2 Commission. All compensatory wetlands mitigation, whether performed by the
3 Department or by permit applicants, shall be consistent with the basinwide restoration
4 plans.

5 (c) Mitigation Emphasis on Replacing Ecological Function Within Same River
6 Basin. – The emphasis of mitigation is on replacing functions within the same river basin
7 unless it is demonstrated that restoration of other areas would be more beneficial to the
8 overall purposes of the Wetlands Restoration Program.

9 (d) Compensatory Mitigation Options Available to Applicant. – An applicant may
10 satisfy compensatory wetlands mitigation requirements by the following actions, if those
11 actions are consistent with the basinwide restoration plans and also meet or exceed the
12 requirements of the United State Army Corps of Engineers:

13 (1) Payment of a fee established by the Department into the Wetlands
14 Restoration Fund established in G.S. 143-214.6.

15 (2) Donation of land to the Wetlands Restoration Program or to other public
16 or private nonprofit conservation organizations as approved by the
17 Department.

18 (3) Participation in a private wetlands mitigation bank.

19 (4) Preparing and implementing a wetlands restoration plan.

20 (e) Payment Schedule. – A standardized schedule of per-acre payment amounts
21 shall be established by the Environmental Management Commission. The monetary
22 payment shall be based on the ecological functions and values of wetlands permitted to
23 be lost and on the cost of restoring or creating wetlands capable of performing the same
24 or similar functions, including directly related costs of wetlands restoration planning,
25 long-term monitoring, and maintenance of restored areas.

26 (f) Mitigation Banks. – State agencies and private mitigation banking companies
27 shall demonstrate that adequate, dedicated financial surety exists to provide for the
28 perpetual land management and hydrological maintenance of lands acquired by the State
29 as mitigation banks, or proposed to the State as privately operated and permitted
30 mitigation banks.

31 **"§ 143-214.12. Wetlands Restoration Program: Wetlands Restoration Fund.**

32 (a) Wetlands Restoration Fund. – The Wetlands Restoration Fund is established
33 as a nonreverting fund within the Department. The Fund shall be treated as a special trust
34 fund and shall be credited with interest by the State Treasurer pursuant to G.S. 147-69.2
35 and G.S. 147-69.3. The Wetlands Restoration Fund shall provide a repository for
36 monetary contributions and donations or dedications of interests in real property to
37 promote projects for the restoration, enhancement, preservation, or creation of wetlands
38 and riparian areas and for payments made in lieu of compensatory mitigation as described
39 in subsection (b) of this section. No funds shall be expended from this Fund for any
40 purpose other than those directly contributing to the acquisition, perpetual maintenance,
41 enhancement, restoration, or creation of wetlands and riparian areas in accordance with
42 the basinwide plan as described in subsection (a) of this section.

1 (b) Authorized Methods of Payment. – A person subject to a permit or
2 authorization issued by the United States Army Corps of Engineers under 33 U.S.C. §
3 1344, may contribute to the Wetlands Restoration Program, to comply with conditions to,
4 or terms of, the permit or authorization, if participation in the Wetlands Restoration
5 Program will meet the mitigation requirements of the United States Army Corps of
6 Engineers. The Department shall, at the discretion of the applicant, accept payment into
7 the Wetlands Restoration Fund in lieu of other compensatory mitigation requirements of
8 any authorizations issued by the United States Army Corps of Engineers under 33 U.S.C.
9 § 1344 if the contributions will meet the mitigation requirements of the United States
10 Army Corps of Engineers. Payment may be made in the form of monetary contributions
11 according to a fee schedule established by the Environmental Management Commission
12 or in the form of donations of real property provided that the property is approved by the
13 Department as a suitable site consistent with the basinwide wetlands restoration plan.

14 (c) Accounting of Payments. – The Department shall provide an itemized
15 statement that accounts for each payment into the Fund. The statement shall include the
16 expenses and activities financed by the payment.

17 **"§ 143-214.13. Wetlands Restoration Program: reporting requirement.**

18 The Department of Environment, Health, and Natural Resources shall report annually
19 to the Environmental Review Commission regarding its progress in implementing the
20 Wetlands Restoration Program and its use of the funds in the Wetlands Restoration Fund.
21 The report shall document statewide wetlands losses and gains and compensatory
22 mitigation performed under G.S. 143-214.8 through G.S. 143-214.12. The report shall
23 also provide an accounting of receipts and disbursements of the Wetlands Restoration
24 Fund and analysis of the per-acre cost of wetlands restoration. The Department shall also
25 send a copy of its report to the Fiscal Research Division of the General Assembly."

26 (b) G.S. 143B-282(a)(1) is amended by adding the following:

27 "u. To administer the State's authority under 33 USC § 1341 of the
28 federal Clean Water Act."

29 (c) The Department of Environment, Health, and Natural Resources is directed
30 to negotiate and enter into a Memorandum of Agreement with the United States Army
31 Corps of Engineers regarding the restoration, creation, enhancement, and preservation of
32 wetlands and the compensatory mitigation required of permit applicants under 33 U.S.C.
33 § 1344. The purpose of the Memorandum of Agreement is to ensure that the State's
34 implementation of the Wetlands Restoration Program with regard to mitigation of
35 wetlands satisfies the United States Army Corps of Engineers and that the standards
36 developed by the State to which the State's and other mitigation banks must adhere is
37 acceptable to the Corps for purposes of section 404 mitigation requirements.

38 (d) Of the funds appropriated to the Department of Environment, Health, and
39 Natural Resources for the 1996-97 fiscal year the sum of two million dollars (\$2,000,000)
40 in recurring funds shall be credited to the Wetlands Restoration Fund.

41 (e) Of the funds appropriated to the Department of Environment, Health, and
42 Natural Resources, the sum of five hundred thousand dollars (\$500,000) in recurring

1 funds for the 1996-97 fiscal year shall be allocated to support eight staff positions and for
2 administrative and other expenses to implement the Wetlands Restoration Program.

3
4 Requested by: Senator Martin of Pitt

5 **STUDY GROUNDWATER IMPACTS OF LAGOONS**

6 Sec. 27.7. Of the funds appropriated to the Department of Environment,
7 Health, and Natural Resources in this act, the sum of four hundred thousand dollars
8 (\$400,000) for the 1996-97 fiscal year shall be transferred to the Board of Governors of
9 The University of North Carolina to be used by the North Carolina Agricultural Research
10 Service at North Carolina State University to design and implement a scientifically based
11 study for the purpose of determining the extent to which animal waste lagoons pose a
12 threat, if any, to the groundwater of the State. Lagoons that are representative of soil
13 types and hydrologic conditions in North Carolina shall be selected for this study. No
14 later than January 1, 1997, the Board of Governors of The University of North Carolina
15 shall report to the Environmental Review Commission and the Fiscal Research Division
16 on progress under the research, including any findings and recommendations at that time.

17
18 Requested by: Senator Martin of Pitt

19 **LOWER NEUSE RIVER BASIN ASSOCIATION FUNDS**

20 Sec. 27.8. (a) Of the funds appropriated by this act to the Lower Neuse River
21 Basin Association for the 1996-97 fiscal year, the sum of two million dollars
22 (\$2,000,000) shall be allocated as grants to local government units in the Neuse River
23 Basin to assist those local government units in fulfilling their obligations under the Neuse
24 River Nutrient Sensitive Waters Management Strategy plan adopted by the
25 Environmental Management Commission. The funds are contingent upon the adoption of
26 the plan by the Environmental Management Commission. If the Environmental
27 Management Commission fails to adopt the plan by June 30, 1997, then the funds shall
28 revert to the General Fund.

29 (b) The Lower Neuse River Basin Association shall report by October 15, 1996,
30 and quarterly thereafter to the Environmental Review Commission regarding the grants
31 awarded and the effectiveness of the projects funded by those grants in reducing the
32 pollution in the Neuse River Basin. The Lower Neuse River Basin Association shall also
33 send a written copy of its report to the Fiscal Research Division of the General Assembly.

34
35 Requested by: Senator Martin of Pitt

36 **STUDY OF ATMOSPHERIC DEPOSITION OF NITROGEN IN NEUSE**
37 **ESTUARY**

38 Sec. 27.9. Of the funds appropriated to the Department of Environment,
39 Health, and Natural Resources in this act, the sum of four hundred fifty thousand dollars
40 (\$450,000) for the 1996-97 fiscal year shall be transferred to the Board of Governors of
41 The University of North Carolina to be used to contract with a research institution to
42 research and perform computer modelling to identify the amount of atmospheric nitrogen
43 reaching the Neuse estuary, to enable the development of strategies to reduce the most

1 significant sources of nitrogen, and to improve water quality. If the expertise required for
2 this research is available at a research institution in the State, the Board of Governors
3 shall contract with a research institution in the State. No later than January 1, 1997, the
4 Board of Governors shall report to the Environmental Review Commission and the Fiscal
5 Research Division on progress under the research, including any findings and
6 recommendations at that time.

7
8 Requested by: Senator Martin of Pitt

9 **TRANSFER THE GEODETIC SURVEY SECTION TO THE OFFICE OF STATE**
10 **PLANNING**

11 Sec. 27.10. The 22 positions, support, and equipment in the Geodetic Survey
12 Section of the Division of Land Resources, Department of Environment, Health, and
13 Natural Resources, shall be moved to the Office of State Planning in the Office of the
14 Governor.

15
16 Requested by: Senator Martin of Pitt

17 **HAZARDOUS WASTE REPORTS**

18 Sec. 27.11. Beginning in 1997, the Department of Environment, Health, and
19 Natural Resources shall report on the generation, storage, treatment, and disposal of
20 hazardous waste in North Carolina no more often than it is required to report under
21 federal law or federal regulation.

22
23 Requested by: Senator Martin of Pitt

24 **DRINKING WATER WAIVER PROGRAM**

25 Sec. 27.12. The Department of Environment, Health, and Natural Resources,
26 Division of Environmental Health, shall establish a drinking water waiver program that
27 will enable the Division to seek and qualify for additional waivers from the drinking
28 water regulations of the United States Environmental Protection Agency. The program
29 shall include, but not be limited to, the collection and study of data on the State's drinking
30 water testing program to determine which contaminants do not present a significant
31 health risk and which water systems are not susceptible to particular contaminants. The
32 Division shall report its progress in establishing and implementing the drinking water
33 waiver program not later than December 15, 1996, to the Fiscal Research Division, the
34 Environmental Review Commission, and the Legislative Research Commission Study
35 Committee on Water Issues.

36
37 Requested by: Senator Martin of Pitt

38 **RESERVE FOR PERMITTING AND INSPECTING ANIMAL WASTE**
39 **MANAGEMENT SYSTEMS**

40 Sec. 27.14. (a) Of the funds appropriated in this act to the Department of
41 Environment, Health, and Natural Resources, the sum of one million eight hundred fifty
42 thousand seven hundred sixty-six dollars (\$1,850,766) shall be placed in a reserve to be
43 used to establish and support positions to conduct permitting, inspection, and

1 enforcement activities for animal waste management systems. These funds shall be used
2 as follows:

- 3 (1) \$749,473 in recurring funds and \$77,000 in nonrecurring funds shall be
4 used to establish and support 14 positions in the Division of Soil and
5 Water Conservation; and
6 (2) \$891,293 in recurring funds and \$133,000 in nonrecurring funds shall
7 be used to establish and support 18 positions in the Division of Water
8 Quality.

9 When implementing this section, the Department shall cooperate with the Cooperative
10 Extension Service, the Natural Resources Conservation Service of the United States
11 Department of Agriculture, and the local Soil and Water Conservation Districts.

12 (b) No later than October 15, 1996, and quarterly thereafter, the Department of
13 Environment, Health, and Natural Resources shall submit status reports to the
14 Environmental Review Commission and the Fiscal Research Division. Each report shall
15 include, but not be limited to:

- 16 (1) The number of permits for animal waste management systems, itemized
17 by type of animal subject to such permits, issued since the last report
18 and a total for that calendar year.
19 (2) The number of operations reviews of animal waste management systems
20 that the Division of Soil and Water Conservation has conducted since
21 the last report and a total for that calendar year.
22 (3) The number of reinspections associated with operations reviews
23 conducted by the Division of Soil and Water Conservation since the last
24 report and a total for that calendar year.
25 (4) The number of compliance inspections of animal waste management
26 systems that the Division of Water Quality has conducted since the last
27 report and a total for that calendar year.
28 (5) The number of follow-up inspections associated with compliance
29 inspections conducted by the Division of Water Quality since the last
30 report and a total for that calendar year.
31 (6) The average length of time for each category of reviews and inspections
32 under subdivisions (2) through (4) of this subsection.
33 (7) The number of violations found during each category of review and
34 inspection under subdivisions (2) through (4) of this subsection, the
35 status of enforcement actions taken and pending, and the penalties
36 imposed, collected, and in the process of being negotiated for each such
37 violation.

38 (c) The information to be included in the reports pursuant to subsection (b) of this
39 section shall be itemized by each regional office of the Department, with totals for the
40 State indicated.

41 (d) Fees collected pursuant to G.S. 143-215.10G shall not be used by the
42 department to cover the cost of this program, but shall be credited to the General Fund as
43 nontax revenue.

1
2 Requested by: Senator Martin of Pitt

3 **HEALTHY START FOUNDATION FUNDS**

4 Sec. 27.15. Section 26.4 of Chapter 507 of the 1995 Session Laws reads as
5 rewritten:

6 "Sec. 26.4. Of the funds appropriated in this act to the Department of Environment,
7 Health, and Natural Resources, the sum of ~~two hundred six hundred fifty thousand~~
8 ~~(\$200,000) (\$650,000)~~ for the ~~1995-96-1996-97~~ fiscal year shall be allocated to the North
9 Carolina Healthy Start ~~Foundation to support the programs and activities of the~~
10 ~~Governor's Commission on Reduction of Infant Mortality. Foundation.~~ Funds allocated
11 pursuant to this section shall be expended first to support statewide planning, promotion,
12 and coordination for the First Step Campaign. Funds remaining after allocation for First
13 Step shall be used to support other programs and ~~activities.~~ activities aimed at reducing
14 infant mortality. The Healthy Start Foundation shall report on all of its programs to the
15 Joint Legislative Commission on Governmental Operations on or before March 1, ~~1996.~~
16 1997. The report shall include information on the Foundation's activities and
17 accomplishments during the past fiscal year, a list of the groups, organizations,
18 communities, and other recipients of assistance from the Foundation in the last 12
19 months, itemized expenditures during the past fiscal year with sources of funding,
20 planned activities, and accomplishments for at least the next 12 months, and itemized
21 anticipated expenditures with sources of funding for the next 12 months."
22

23 Requested by: Senator Martin of Pitt

24 **BEAVER DAMAGE CONTROL FUNDS**

25 Sec. 27.16. (a) Subsection (b) of Section 69 of Chapter 1044 of the 1991 Session
26 Laws, as amended by Section 111 of Chapter 561 of the 1993 Session Laws, Section 27.3
27 of Chapter 769 of the 1993 Session Laws, and Section 26.6 of Chapter 507 of the 1995
28 Session Laws, reads as rewritten:

29 "(b) The Beaver Damage Control Advisory Board shall develop a ~~pilot~~ program to
30 control beaver damage on private and public lands. Anson, Bladen, Brunswick, Carteret,
31 Chatham, Chowan, Craven, Columbus, Cumberland, Duplin, Edgecombe, Franklin,
32 Granville, Greene, Halifax, Harnett, Hertford, Johnston, Jones, Lee, Lenoir, Lincoln,
33 Martin, Nash, Onslow, Pamlico, Pender, Pitt, Robeson, Sampson, Scotland, Vance,
34 Warren, Washington, Wayne, and Wilson Counties shall participate in the ~~pilot~~ program.
35 The Beaver Damage Control Advisory Board shall act in an advisory capacity to the
36 Wildlife Resources Commission in the implementation of the program. In developing the
37 program, the Board shall:

- 38 (1) Orient the program primarily toward public health and safety and
39 toward landowner assistance, providing some relief to landowners
40 through beaver control and management rather than eradication;
41 (2) Develop a priority system for responding to complaints about beaver
42 damage;

- 1 (3) Develop a system for documenting all activities associated with beaver
2 damage control, so as to facilitate evaluation of the program;
- 3 (4) Provide educational activities as a part of the program, such as printed
4 materials, on-site instructions, and local workshops;
- 5 (5) Provide for the hiring of personnel necessary to implement beaver
6 damage control activities, administer the ~~pilot~~ program, and set salaries
7 of personnel;
- 8 (6) Evaluate the costs and benefits of the program that might be applicable
9 elsewhere in North Carolina.

10 No later than ~~September 30, 1994 and again upon the conclusion of the pilot program~~
11 ~~on June 30, 1996, January 15, 1997,~~ the Board shall issue a report to the Wildlife
12 Resources Commission on the program to date, including recommendations on the
13 feasibility of continuing the program in participating counties and the desirability of
14 expanding the program into other counties. The Wildlife Resources Commission shall
15 prepare a plan to implement a statewide program to control beaver damage on private and
16 public lands. No later than ~~January 1, 1995, March 15, 1997,~~ the Wildlife Resources
17 Commission shall present its plan in a report to the House Appropriations Subcommittee
18 on Natural and Economic ~~Resources and Resources,~~ the Senate Appropriations
19 Committee on Natural and Economic ~~Resources. Resources,~~ and the Fiscal Research
20 Division."

21 (b) Subsection (c) of Section 69 of Chapter 1044 of the 1991 Session Laws reads
22 as rewritten:

23 "(c) The Wildlife Resources Commission shall implement the ~~pilot~~ program, and
24 may enter a cooperative agreement with the Animal Damage Control Division of the
25 Animal and Plant Health Inspection Service, United States Department of Agriculture, to
26 accomplish the ~~pilot~~ program."

27 (c) Subsection (h) of Section 69 of Chapter 1044 of the 1991 Session Laws, as
28 amended by Section 111 of Chapter 561 of the 1993 Session Laws, Section 27.3 of
29 Chapter 769 of the 1993 Session Laws, and Section 26.6 of Chapter 507 of the 1995
30 Session Laws, reads as rewritten:

31 "(h) Subsections (a) through (d) of this section expire June 30, ~~1996-1997.~~"

32 (d) Subsection (d) of Section 26.6 of Chapter 507 of the 1995 Session Laws reads
33 as rewritten:

34 "(d) Of the funds appropriated from the General Fund to the Wildlife Resources
35 Commission for the 1995-96 fiscal ~~year, year~~ and the 1996-97 fiscal year, there is
36 allocated the sum of three hundred seventy-two thousand six hundred ninety dollars
37 (\$372,690) for the 1995-96 fiscal year and the sum of four hundred fifty thousand dollars
38 (\$450,000) for the 1996-97 fiscal year to provide the State share necessary to continue
39 the beaver damage control ~~pilot~~ program established by Section 69 of Chapter 1044 of
40 the 1991 Session Laws, as amended by Section 111 of Chapter 561 of the 1993 Session
41 Laws and Section 27.3 of the 1993 Session Laws, in Anson, Bladen, Brunswick, Carteret,
42 Chatham, Chowan, Craven, Columbus, Cumberland, Duplin, Edgecombe, Franklin,
43 Granville, Greene, Halifax, Harnett, Hertford, Johnston, Jones, Lee, Lenoir, Lincoln,

1 Martin, Nash, Onslow, Pamlico, Pender, Pitt, Robeson, Sampson, Scotland, Vance,
2 Warren, Washington, Wayne, and Wilson Counties, provided the sum of twenty-five
3 thousand dollars (\$25,000) in federal funds is available in each fiscal year to provide the
4 federal share. These funds shall be matched by four thousand dollars (\$4,000) of local
5 funds in each fiscal year from each of the 27-participating counties. Counties
6 participating in this program shall make a commitment of their local matching funds to
7 the Wildlife Resources Commission no later than September 30 of that fiscal year."
8

9 Requested by: Senator Martin of Pitt

10 **1995-96 BEAVER DAMAGE CONTROL FUNDS REVERT**

11 Sec. 27.16A. The sum of one hundred fifty thousand dollars (\$150,000) that
12 was appropriated to the Wildlife Resources Commission for the 1995-96 fiscal year to
13 provide the State share for beaver damage control pursuant to Section 27.3 of Chapter
14 769 of the 1993 Session Laws and that was designated as recurring funds shall revert to
15 the General Fund on June 30, 1996.
16

17 Requested by: Senator Martin of Pitt

18 **PILOT PRIVATIZATION PROJECT FOR CONSTRUCTION OF FORESTRY** 19 **BUILDINGS**

20 Sec. 27.18. Of the funds appropriated in this act to the Department of
21 Environment, Health, and Natural Resources, the sum of one hundred fifty thousand
22 dollars (\$150,000) for the 1996-97 fiscal year shall be used for a pilot project whereby
23 the Department shall enter into a contract for the construction of a forestry headquarters
24 building. It is the intent of the General Assembly that the General Assembly shall not
25 appropriate additional funds for this pilot project and that the county in which the forestry
26 headquarters building is to be located shall be responsible for all costs related to the
27 construction of this building in excess of one hundred fifty thousand dollars (\$150,000).
28 No later than December 15, 1996, and again no later than April 15, 1997, the Department
29 shall report to the General Assembly and the Fiscal Research Division on the progress of
30 this pilot project and shall include in both reports the Department's findings and
31 recommendations on the desirability and feasibility of expanding this project to the
32 construction of forestry buildings in other counties.
33

34 Requested by: Senator Martin of Pitt

35 **FOREST RESOURCES NURSERY PROGRAM FUNDS**

36 Sec. 27.19. The Division of Forest Resources, Department of Environment,
37 Health, and Natural Resources, may retain and use any funds derived from the taking of
38 nursery acreage at Claridge State Forest Nursery near Goldsboro in Wayne County due to
39 the construction of the Highway 70 Bypass. These funds shall remain in a nonreverting
40 fund in the Department to be used to cover the cost associated with relocating nursery
41 fields and seed orchards.
42

43 Requested by: Senators Perdue, Martin of Pitt

MARINE FISHERIES DOCK MAY BE USED BY OTHER AGENCIES

Sec. 27.20. The Division of Marine Fisheries' Morehead City Dock Facility shall be available for use by the University of North Carolina Institute of Marine Sciences, the North Carolina Sea Grant College Program, and Carteret Community College for their programs and activities.

Requested by: Senator Martin of Pitt

ACCOUNTABILITY FOR CERTAIN STATE AGRICULTURE COST SHARE FUNDING

Sec. 27.21. (a) G.S. 143-215.74(b) reads as rewritten:

"(b) The program shall be subject to the following requirements and limitations:

- (1) The purpose of the program shall be to reduce the input of agricultural nonpoint source pollution into the water courses of the State.
- (2) The program shall initially include the present 16 nutrient sensitive watershed counties and 17 additional counties.
- (3) ~~Priority~~—Subject to subdivision (7) of this subsection, priority designations for inclusions in the program shall be under the authority of the Soil and Water Conservation Commission and the Commission. The Soil and Water Conservation Commission shall retain the authority to allocate the cost share funds.
- (4) Areas shall be included in the program as the funds are appropriated and the technical assistance becomes available from the local Soil and Water Conservation District.
- (5) Funding may be provided to assist practices including conservation tillage, diversions, filter strips, field borders, critical area plantings, sediment control structures, sod-based rotations, grassed waterways, strip-cropping, terraces, cropland conversion to permanent vegetation, grade control structures, water control structures, closure of lagoons, emergency spillways, riparian buffers or equivalent controls, odor control best management practices, insect control best management practices, and animal waste management systems and application. Funding for animal waste management shall be allocated for practices in river basins such that the funds will have the greatest impact in improving water quality.
- (6) State funding shall be limited to seventy-five percent (75%) of the average cost for each practice with the assisted farmer providing twenty-five percent (25%) of the cost (which may include in-kind support) with a maximum of seventy-five thousand dollars (\$75,000) per year to each applicant.
- (7) Priority designation for inclusion in the program for State funding shall be given to projects that improve water quality. To be eligible for cost share funds under this subdivision, a project shall be evaluated before

1 The Adopt-A-Beach Program is established within the Department of Environment,
2 Health, and Natural Resources. The purpose of the Program is twofold: (i) to educate
3 citizens and make them more aware of the need to keep the State's coastline clean and
4 free of trash, and (ii) to generate data on the volume and contents of beach pollution.

5 **"§ 143-662. Adopt-A-Beach Program; pilot program; expansion of program**
6 **reporting requirement.**

7 (a) Initially, the Department shall select five improved ocean accesses and two
8 sound-side accesses to be cleaned up and maintained on a monthly basis. Each access
9 shall be assigned by the Department to an organization or business applying to the
10 Department to participate in the Program. Participants in the Program shall be
11 recognized at their selected access by the placement of an 8" x10" sign bearing the Adopt-
12 A-Beach Program name, sponsor, and participant. The Program shall be expanded to
13 accommodate increased participation as appropriate.

14 (b) The Department shall report to the Environmental Review Commission by
15 March 15, 1997, and annually thereafter regarding its progress in implementing the
16 Program.

17 **"§ 143-663. Rule-making authority.**

18 The Department may adopt rules to implement this Article."

19 (b) Of the funds appropriated by this act for the 1996-97 fiscal year to the
20 Department of Environment, Health, and Natural Resources, the sum of thirty thousand
21 dollars (\$30,000) shall be allocated to implement this section.

22
23 Requested by: Senator Martin of Pitt

24 **CITIZENS MONITORING PROGRAM**

25 Sec. 27.24. (a) Article 21 of Chapter 143 of the General Statutes is amended by
26 adding a new section to read:

27 **"§ 143-215A. Citizen Water Quality Monitoring Program.**

28 The Department shall establish the Citizen Water Quality Monitoring Program to
29 provide an avenue for individuals to play a role in and to take personal responsibility for
30 protecting the State's water quality. The goals of the Citizen Water Quality Monitoring
31 Program are to coordinate monitoring activities among volunteers by river basins; to
32 provide adequate training of volunteers and quality assurance of all data collected; to
33 establish a comprehensive data collection system that supplements the State's data; to
34 incorporate the data collected by volunteers into the State's overall management of water
35 quality; and to provide access to the data to the public through a centralized database
36 located in the Center for Marine Sciences and Technology."

37 (b) Of the funds appropriated in this act to the Department of Environment,
38 Health, and Natural Resources for the 1996-97 fiscal year, the sum of four hundred
39 thousand dollars (\$400,000) in recurring funds shall be allocated by the Department of
40 Environment, Health, and Natural Resources to implement and cover operating costs of
41 the Citizen Water Quality Monitoring Program and to provide three staff positions for the
42 Citizen Water Quality Monitoring Program.

1 Requested by: Senator Martin of Pitt

2 **WATER RESOURCES DEVELOPMENT PROJECTS FUNDS**

3 Sec. 27.25. (a) Of the funds appropriated in this act to the Department of
4 Environment, Health, and Natural Resources for the 1996-97 fiscal year, the sum of eight
5 million seven hundred five thousand dollars (\$8,705,000) shall be used for water
6 resources development projects. The Department shall allocate funds for the following
7 projects whose estimated costs are as indicated:

8	(1)	Jordan Lake Water Supply Repayment	\$130,000
9	(2)	Wilmington Harbor Maintenance Dredging	575,000
10	(3)	Morehead City Harbor Maintenance	50,000
11		Dredging	
12	(4)	Wanchese Channel Maintenance Dredging	100,000
13	(5)	Aquatic Plant Control (statewide,	200,000
14		including Lake Gaston)	
15	(6)	Wilmington Harbor Anchorage Basin Widener	400,000
16	(7)	Cape Fear - Northeast Cape Fear Deepening	530,000
17	(8)	North & Manteo Channel Maintenance	400,000
18		Dredging	
19	(9)	State - Local Projects	380,000
20	(10)	New Hanover County Spoil Disposal	125,000
21	(11)	Beaufort Harbor	80,000
22	(12)	Rollinson Channel Maintenance, Dare County	400,000
23	(13)	Far Creek Channel Maintenance, Hyde County	280,000
24	(14)	Currituck Sound Flow Study	100,000
25	(15)	Emergency Flood Control Projects	75,000
26		(Section 14)	
27	(16)	Corps of Engineers Feasibility Studies	100,000
28	(17)	Planning Assistance to Communities	75,000
29	(18)	Walter Slough Dredging	500,000
30	(19)	Whittaker Creek Canal Dredging	425,000
31	(20)	Carolina Beach South (Kure Beach)	
32		Beach Protection	3,580,000
33	(21)	Dare County Beaches Feasibility Study	<u>200,000</u>
34		TOTAL	\$8,705,000

35 (b) Where the actual costs are different from the estimated costs under subsection
36 (a) of this section, the Department may adjust the allocations among projects as needed.
37 If any projects listed in subsection (a) of this section are delayed and the budgeted State
38 funds cannot be used during the 1996-97 fiscal year, or if the projects listed in subsection
39 (a) of this section are accomplished at a lower cost, the Department may use the resulting
40 fund availability to fund any of the following:

- 41 (1) Corps of Engineers project feasibility studies.
- 42 (2) Corps of Engineers projects whose schedules have advanced and require
- 43 State matching funds in fiscal year 1996-97.

1 (3) State-local Water Resources Development Projects.
2 Funds not expended or encumbered for these purposes shall revert to the
3 General Fund at the end of the 1997-98 fiscal year.

4 (c) The Department shall make quarterly reports on the use of these funds to the
5 Joint Legislative Commission on Governmental Operations, the Fiscal Research
6 Division, and the Office of State Budget and Management. Each report shall include all
7 of the following:

- 8 (1) All projects listed in this section.
- 9 (2) The estimated cost of each project.
- 10 (3) The date that work on each project began or is expected to begin.
- 11 (4) The date that work on each project was completed or is expected to be
12 completed.
- 13 (5) The actual cost of each project.

14 The quarterly reports shall also show those projects advanced in schedule,
15 those projects delayed in schedule, and an estimate of the amount of funds expected to
16 revert to the General Fund.

17
18 Requested by: Senator Martin of Pitt

19 **STRAIGHT PIPE ELIMINATION AMNESTY PROGRAM**

20 Sec. 27.26. (a) The Department of Environment, Health, and Natural
21 Resources shall establish a program for the elimination of domestic sewage or wastewater
22 discharges, both direct (straight pipes) and from overland flow of failing septic systems.
23 The initial focus of the program shall include three components: (i) the identification and
24 elimination of domestic sewage discharges into streams proposed to be used or currently
25 used for public water supplies, (ii) an amnesty period to end December 31, 1997, during
26 which violations of State rules and laws regarding domestic sewage and wastewater
27 discharges identified as a result of this program may be reported and addressed without
28 incurring legal consequences, and (iii) a public education effort regarding the program
29 and the amnesty period.

30 (b) Of the funds appropriated in this act to the Department of Environment,
31 Health, and Natural Resources, the sum of one hundred seventeen thousand five hundred
32 dollars (\$117,500) in recurring funds and the sum of twelve thousand five hundred
33 dollars (\$12,500) in nonrecurring funds shall be allocated for two staff positions with the
34 responsibility for carrying out the program developed by the Department of Environment,
35 Health, and Natural Resources pursuant to this section and for other operating costs of
36 implementing this section.

37
38 Requested by: Senator Odom

39 **WATER QUALITY PROTECTION**

40 Sec. 27.27. (a) G.S. 143-214.7 is amended by adding a new subsection to read:

41 "(d) For purposes of this subsection, 'nutrient sensitive waters (NSW)' means any
42 waters of the State that have been classified as nutrient sensitive by the Commission in
43 rules adopted pursuant to G.S. 143-214.1. The Commission shall adopt rules to protect

1 and restore impaired water quality in nutrient sensitive waters and shall give priority to
2 site-specific solutions. In developing these rules, the Commission shall incorporate
3 regional variations in soil types and in topography. If the Commission adopts
4 requirements for riparian buffers, the Commission shall establish a matrix of minimum
5 forested or equivalent riparian buffers. Buffers may be used to filter pollutants including
6 sediment, nutrients, and pesticides in surface water runoff and subsurface flows, subject
7 to the following considerations:

8 (1) Riparian buffers may be modified based on impacts on existing
9 development, crop allotments, maintenance of drainage features and de
10 minimis activities which would not otherwise compromise the integrity
11 of the water quality, and may include alternatives such as
12 implementation of best management practices or nutrient management
13 plans, pursuant to rules adopted by the Soil and Water Commission,
14 designed to reduce water pollution and protect water quality. Provided
15 however, the Department of Agriculture shall have at least 60 days to
16 review, comment, and make recommendations on any proposed rules
17 pertaining to buffers affecting farm land before the rules become
18 effective.

19 (2) Riparian buffers shall not be required along ditches unless the ditch
20 discharges or overflows directly into a perennial water body of the State
21 designated as a solid blue line on U.S. Geological Survey Topographic
22 Maps.

23 (3) Regional alternatives to the buffer requirement shall be developed in
24 cooperation with the Directors of the Division of Water Quality and the
25 Division of Soil and Water of the Department, and in cooperation with
26 the Natural Resources Conservation Service to provide additional
27 options for landowners in lieu of or in conjunction with site-specific
28 riparian buffers.

29 (4) A procedure shall be developed whereby a landowner may seek a
30 determination on a site-specific basis that alternative buffers or other
31 appropriate water quality management measures will provide an
32 equivalent or greater protection and restoration of water quality.

33 (5) A procedure shall be developed whereby a landowner may, on a site-
34 specific basis, provide alternative buffers or other appropriate water
35 quality management measures that will provide an equivalent or greater
36 protection and restoration of water quality. These alternative measures
37 shall be approved by the Department unless it can demonstrate such
38 alternative measures do not provide equivalent water quality protection.

39 Nothing in this subsection shall be construed to authorize the Commission to adopt
40 requirements for mandatory riparian buffers."

41 (b) A unit of local government may submit a written request to the Department to
42 implement and manage the riparian buffer requirements within their jurisdiction subject
43 to terms provided by the Department.

1 (c) Of the funds appropriated by this act to the Department of Environment,
2 Health, and Natural Resources, the sum of twenty-five thousand dollars (\$25,000) shall
3 be allocated to the Board of Governors of The University of North Carolina for the Sea
4 Grant College Program of North Carolina State University to be used as matching funds
5 to develop a matrix to determine appropriate buffers to protect water quality in the Neuse
6 River Basin.

7 (d) This section constitutes a recent act of the General Assembly within the
8 meaning of G.S. 150B-21.1. The Environmental Management Commission may adopt
9 temporary rules to implement the provisions of this section.

10
11 Requested by: Senator Martin of Pitt

12 **CLEAN WATER MANAGEMENT TRUST FUND**

13 Sec. 27.28. (a) Chapter 113 of the General Statutes is amended by adding a
14 new Article to read:

15 **"ARTICLE 13A.**

16 **"CLEAN WATER MANAGEMENT TRUST FUND.**

17 **"§ 113-145.1. Purpose.**

18 The General Assembly recognizes that a critical need exists in this State to clean up
19 pollution in the State's surface waters and to protect and conserve those waters that are
20 not yet polluted. The task of cleaning up polluted waters and protecting the State's water
21 resources is multifaceted and requires different approaches that take into account the
22 problems, the type of pollution, the geographical area, and the recognition that the
23 hydrological and ecological values of each resource sought to be upgraded, conserved,
24 and protected are unique.

25 It is the intent of the General Assembly that moneys from the Fund created under this
26 Article shall be used to help finance projects that specifically address water pollution
27 problems and focus on upgrading surface waters, eliminating pollution, and protecting
28 and conserving unpolluted surface waters, including urban drinking water supplies. It is
29 the further intent of the General Assembly that moneys from the Fund also be used to
30 build a network of riparian buffers and greenways for environmental, educational, and
31 recreational benefits. While the purpose of this Article is to focus on the cleanup and
32 prevention of pollution of the State's surface waters and the establishment of a network of
33 riparian buffers and greenways, the General Assembly believes that the results of these
34 efforts will also be beneficial to wildlife and marine fisheries habitats.

35 **"§ 113-145.2. Definitions.**

36 As used in this Article:

- 37 (1) Council. – The advisory council for the Clean Water Management Trust
38 Fund.
- 39 (2) Economically Distressed Units of Local Government. – Counties
40 designated as economically distressed by the Secretary of Commerce
41 under G.S. 143B-437A and any cities located in those counties.
- 42 (3) Fund. – The Clean Water Management Trust Fund created pursuant to
43 this Article.

1 (4) Land. – Real property and any interest in, easement in, or restriction on
2 real property.

3 (5) Trustees. – The trustees of the Clean Water Management Trust Fund.

4 **"§ 113-145.3. Clean Water Management Trust Fund: established.**

5 (a) Fund Established. – There is established a Clean Water Management Trust
6 Fund in the State Treasurer's Office that shall be used to finance projects to clean up or
7 prevent surface water pollution in accordance with this Article.

8 (b) Fund Earnings, Assets, and Balances. – The State Treasurer shall hold the
9 Fund separate and apart from all other moneys, funds, and accounts. Investment earnings
10 credited to the assets of the Fund shall become part of the Fund. Any balance remaining
11 in the Fund at the end of any fiscal year shall be carried forward in the Fund for the next
12 succeeding fiscal year. Payments from the Fund shall be made on the warrant of the
13 Chair of the Board of Trustees.

14 (c) Fund Purposes. – Moneys from the Fund may be used for any of the following
15 purposes:

16 (1) To acquire land for riparian buffers for the purposes of providing
17 environmental protection for surface waters and urban drinking water
18 supplies and establishing a network of riparian greenways for
19 environmental, educational, and recreational uses.

20 (2) To acquire conservation easements or other interests in real property for
21 the purpose of protecting and conserving surface waters and urban
22 drinking water supplies.

23 (3) To coordinate with other public programs involved with lands adjoining
24 water bodies to gain the most public benefit while protecting and
25 improving water quality.

26 (4) To restore previously degraded lands to reestablish their ability to
27 protect water quality.

28 (5) To repair failing waste treatment systems if: (i) an application has first
29 been submitted to receive a loan or grant from the Clean Water
30 Revolving Loan and Grant Fund and the application was denied during
31 the latest review cycle; (ii) the repair is a reasonable remedy for
32 resolving an existing waste treatment problem; and (iii) the repair is not
33 for the purpose of expanding the system to accommodate future
34 anticipated growth of a community. Priority shall be given to
35 economically distressed units of local government.

36 (6) To repair and eliminate failing septic tank systems, to eliminate illegal
37 drainage connections, and to expand waste treatment systems if the
38 system is being expanded as a remedy to eliminate failing septic tank
39 systems or illegal drainage connections. Priority shall be given to
40 economically distressed units of local government.

41 (7) To improve stormwater controls and management practices.

42 (8) To facilitate planning that targets reductions in surface water pollution.

43 (9) To fund operating expenses of the Board of Trustees and its staff.

1 (d) Limit on Operating and Administrative Expenses. – No more than two percent
2 (2%) of the annual balance of the Fund on July 1 or a total sum of six hundred thousand
3 dollars (\$600,000), whichever is less, may be used each fiscal year for administrative and
4 operating expenses of the Board of Trustees and its staff.

5 **"§ 113-145.4. Clean Water Management Trust Fund: eligibility for grants;
6 matching funds or property requirement.**

7 (a) Eligible Grant Applicants. – Any of the following are eligible to apply for a
8 grant from the Fund for the purpose of protecting and enhancing water quality:

9 (1) A State agency.

10 (2) A local government or other political subdivision of the State or a
11 combination of such entities.

12 (3) A nonprofit corporation whose primary purpose is the conservation,
13 preservation, and restoration of our State's environmental and natural
14 resources.

15 (b) Grant Matching Requirement. – The Board of Trustees shall establish
16 matching requirements for grants awarded under this Article. The Board of Trustees may
17 require a match of up to twenty percent (20%) of the amount of the grant awarded. This
18 requirement may be satisfied by the donation of land to a public or private nonprofit
19 conservation organization as approved by the Board of Trustees. The Board of Trustees
20 may also waive the requirement to match a grant pursuant to guidelines adopted by the
21 Board of Trustees.

22 **"§ 113-145.5. Clean Water Management Trust Fund: Board of Trustees
23 established; membership qualifications; vacancies; meetings and meeting
24 facilities.**

25 (a) Board of Trustees Established. – There is established the Clean Water
26 Management Trust Fund Board of Trustees. The Clean Water Management Trust Fund
27 Board of Trustees shall be independent, but for administrative purposes shall be located
28 under the Department of Environment, Health, and Natural Resources.

29 (b) Membership. – The Clean Water Management Trust Fund Board of Trustees
30 shall be composed of 18 members. Six members shall be appointed by the Governor, six
31 by the General Assembly upon the recommendation of the President Pro Tempore of the
32 Senate in accordance with G.S. 120-121, and six by the General Assembly upon the
33 recommendation of the Speaker of the House of Representatives in accordance with G.S.
34 120-121. The office of Trustee is declared to be an office that may be held concurrently
35 with any other executive or appointive office, under the authority of Article VI, Section
36 9, of the North Carolina Constitution.

37 Persons appointed shall be knowledgeable in one of the following areas:

38 (1) Acquisition and management of natural areas.

39 (2) Conservation and restoration of water quality.

40 (3) Wildlife and fisheries habitats and resources.

41 (4) Environmental management.

42 (c) Initial Appointments. – Each appointing officer shall designate two of the
43 officer's initial appointments to serve two-year terms, two to serve four-year terms, and

1 two to serve six-year terms. Thereafter, all appointments shall be for four years, subject
2 to reappointment. All initial appointments shall be made on or before January 1, 1997.
3 The Governor shall appoint one Trustee to serve as Chair of the Board.

4 (d) Vacancies. – If a vacancy occurs, other than by the expiration of term, of a
5 member subject to appointment by the General Assembly upon the recommendation of
6 the Speaker of the House of Representatives or the President Pro Tempore of the Senate,
7 the vacancy shall be filled in accordance with G.S. 120-122. All other vacancies shall be
8 filled by the appointing official in the original manner.

9 (e) Frequency of Meetings. – The Trustees shall meet at least twice each year and
10 may hold special meetings at the call of the Chair or a majority of the members.

11 (f) Per Diem and Expenses. – The Trustees shall receive per diem and necessary
12 travel and subsistence expenses in accordance with the provisions of G.S. 138-5. Per
13 diem, subsistence, and travel expenses of the Trustees shall be paid from the Fund.

14 (g) Meeting Facilities. – The Secretary of the Department of Environment, Health,
15 and Natural Resources shall provide meeting facilities for the Board of Trustees and its
16 staff as requested by the Chair.

17 **"§ 113-145.6. Clean Water Management Trust Fund Board of Trustees: powers**
18 **and duties.**

19 (a) Allocate Grant Funds. – The Trustees shall allocate moneys from the Fund as
20 grants. A grant may be awarded only for a project or activity that satisfies the criteria and
21 furtheres the purposes of this Article.

22 (b) Develop Grant Criteria. – The Trustees shall develop criteria for awarding
23 grants under this Article. The criteria developed shall include consideration of the
24 following:

25 (1) The significant enhancement and conservation of water quality in the
26 State.

27 (2) The objectives of the basinwide management plans for the State's river
28 basins and watersheds.

29 (3) The promotion of regional integrated ecological networks insofar as
30 they affect water quality.

31 (4) The specific areas targeted as being environmentally sensitive.

32 (5) The geographic distribution of funds as appropriate.

33 (6) The preservation of water resources with significant recreational or
34 economic value and uses.

35 (7) The development of a network of riparian buffer-greenways bordering
36 and connecting the State's waterways that will serve environmental,
37 educational, and recreational uses.

38 (c) Develop Additional Guidelines. – The Trustees may develop guidelines in
39 addition to the grant criteria consistent with and as necessary to implement this Article.

40 (d) Acquisition of Land. – The Trustees may acquire land by purchase,
41 negotiation, gift, or devise. Any acquisition of land by the Trustees must be reviewed
42 and approved by the Council of State and the deed for the land subject to approval of the
43 Attorney General before the acquisition can become effective. In determining whether to

1 acquire land as permitted by this Article, the Trustees shall consider whether the
2 acquisition furthers the purposes of this Article and may also consider recommendations
3 from the Council. Nothing in this section shall allow the Trustees to acquire land under
4 the right of eminent domain.

5 (e) Exchange of Land. – The Trustees may exchange any land they acquire in
6 carrying out the powers conferred on the Trustees by this Article.

7 (f) Land Management. – The Trustees may designate managers or managing
8 agencies of the lands acquired under this Article.

9 (g) Tax Credit Certification. – The Trustees shall develop guidelines to determine
10 whether land donated for a tax credit under G.S. 105-130.34 or G.S. 105-151.12 are
11 suitable for one of the purposes under this Article and may be certified for a tax credit.

12 **"§ 113-145.7. Clean Water Management Trust Fund: Executive Director and staff.**

13 The Clean Water Management Trust Fund Board of Trustees, as soon as practicable
14 after its organization, shall select and appoint a competent person in accordance with this
15 section as Executive Director of the Clean Water Management Trust Fund Board of
16 Trustees. The Executive Director shall be charged with the supervision of all activities
17 under the jurisdiction of the Trustees and shall serve as the chief administrative officer of
18 the Trustees. Subject to the approval of the Trustees and the Director of the Budget, the
19 Executive Director may employ such clerical and other assistants as may be deemed
20 necessary.

21 The person selected as Executive Director shall have had training and experience in
22 conservation, protection, and management of surface water resources. The salary of the
23 Executive Director shall be fixed by the Trustees, and the Executive Director shall be
24 allowed travel and subsistence expenses in accordance with G.S. 138-6. The Executive
25 Director's salary and expenses shall be paid from the Fund. The term of office of the
26 Executive Director shall be at the pleasure of the Trustees.

27 **"§ 113-145.8. Clean Water Management Trust Fund: Advisory Council.**

28 There is established the Clean Water Management Trust Fund Advisory Council. The
29 Council shall advise the Trustees with regard to allocations made from the Fund, and
30 other issues as requested by the Trustees. The Council shall be composed of the
31 following or its designees:

32 (1) Commissioner of Agriculture.

33 (2) Chair of the Wildlife Resources Commission.

34 (3) Secretary of the Department of Environment, Health, and Natural
35 Resources.

36 (4) Secretary of the Department of Commerce."

37 (b) Article 1 of Chapter 143 of the General Statutes is amended by adding a
38 new section to read:

39 **"§ 143-15.3B. The Clean Water Management Trust Fund.**

40 (a) The Clean Water Management Trust Fund is established in G.S. 113-145.3.
41 The State Controller shall reserve to the Clean Water Management Trust Fund six and
42 one-half percent (6.5%) of any unreserved credit balance remaining in the General Fund
43 at the end of each fiscal year. As used in this section, the term 'unreserved credit balance'

1 means the credit balance amount, as determined on a cash basis, before funds are
2 reserved by the State Controller to the Savings Reserve Account, the Repairs and
3 Renovations Reserve Account, or the Clean Water Management Trust Fund pursuant to
4 this section, G.S. 143-15.3, and G.S. 143-15.3A.

5 (b) The funds in the Clean Water Management Trust Fund shall be used only in
6 accordance with Article 13A of Chapter 113 of the General Statutes."

7 (c) The Chair of the Board of Trustees of the Clean Water Management Trust
8 Fund shall report to the Environmental Review Commission beginning November 1,
9 1996, and annually thereafter on implementation of this section. A written copy of the
10 report shall also be sent to the Fiscal Research Division of the General Assembly
11 beginning November 1, 1996, and annually thereafter on implementation of this section.

12 (d) The Board of Trustees may adopt temporary rules to implement this section.

13 (e) This section becomes effective June 30, 1996.

14
15 Requested by: Senator Martin of Pitt

16 ABOVEGROUND STORAGE TANKS INSPECTION AND MONITORING

17 Sec. 27.29. (a) Of the funds appropriated to the Department of Environment,
18 Health, and Natural Resources in this act for the 1996-97 fiscal year, the sum of two
19 hundred thousand dollars (\$200,000) shall be used to continue to conduct periodic
20 inspections at major oil terminal facilities, as defined in G.S. 143-215.77, in Mecklenburg
21 County and the equipment at these facilities to determine whether oil or any other
22 hazardous substance is being discharged into the environment and, at the facility and in
23 the area surrounding the facility, to monitor the quality of the air, water, and soil and
24 analyze air, water, and soil samples to determine the presence of toxic emissions, water
25 quality degradation, or soil contamination.

26 (b) Beginning October 1, 1996, and quarterly thereafter, the Department of
27 Environment, Health, and Natural Resources shall submit a report of its inspection and
28 monitoring activities pursuant to subsection (a) of this section to the Environmental
29 Review Commission.

30
31 Requested by: Senator Plyler

32 RESIDENTIAL LEAD HAZARD MANAGEMENT PROGRAM

33 Sec. 27.30. (a) G. S. 130A-131.5 reads as rewritten:

34 "§ 130A-131.5. Commission to adopt rules.

35 (a) For the protection of the public health, the Commission shall adopt rules for
36 the prevention and control of lead poisoning in children. The rules shall include
37 provisions for:

- 38 (1) Reporting by laboratories of elevated blood lead levels in children less
39 than six years of age; the rules shall specify the public health agency to
40 which reports shall be made, and shall establish when a blood lead level
41 is considered to be elevated. The rules shall further provide the specific
42 information to be included in the reports, the time limits for reporting,
43 and the form in which reports shall be submitted;

- 1 (2) Investigation by the Department to determine the source of elevated
2 blood lead levels;
- 3 (3) Identification of lead poisoning hazards;
- 4 (4) Examination and testing of children less than six years of age who are
5 reasonably suspected of having elevated blood lead levels; ~~and~~
- 6 (5) Abatement of lead poisoning hazards in dwellings, schools and day care
7 facilities determined by the Department to be a potential source of an
8 elevated blood lead level in a child less than six years of ~~age- age~~; ~~and~~
- 9 (6) Establishing the training and other qualifications a person must have to
10 perform any of the residential lead abatements listed below, and
11 establishing the procedure for the Department to certify persons who
12 meet these requirements:
- 13 a. Abatements ordered by the Department pursuant to this section.
- 14 b. Abatements funded by or through the North Carolina Department
15 of Commerce and the North Carolina Housing Finance Agency.
- 16 c. Inspections, risk assessments or abatements performed by
17 persons who, through their company name, promotional
18 literature, or otherwise advertise or hold themselves out to be
19 lead abatement professionals; and
- 20 d. Residential inspections, risk assessments or abatements
21 performed pursuant to federal regulations.
- 22 (b) Abatement orders issued by the Department pursuant to this section shall
23 require elimination of the lead poisoning hazard. Removal of children from the dwelling,
24 school, or day care facility shall not constitute abatement if the property continues to be
25 used for a dwelling, school, or day care facility.
- 26 (c) It is unlawful for a person to perform a lead abatement listed in subdivision
27 (a)(6) of this section unless the person is certified by the Department."
- 28 (b) G. S. 130A-131.5(c), as enacted by subsection (a) of this section, becomes
29 effective January 1, 1997, and applies to lead abatements begun on or after that date.
- 30 (c) This section is effective upon ratification.
- 31

32 Requested by: Senator Martin of Pitt

33 WASTEWATER SYSTEM IMPROVEMENT PERMITS

34 Sec. 27.31. (a) G.S. 130A-334(13a) reads as rewritten:

35 "(13a) 'Site plan' means a drawing that shows the existing and proposed
36 property lines with dimensions, the location of the facility and
37 appurtenances, the site for the proposed wastewater system, and the
38 location of water supplies and surface waters."

39 (b) G.S. 130A-335(f) reads as rewritten:

40 "(f) The rules of the Commission and the rules of the local board of health shall
41 classify systems of wastewater collection, treatment and disposal according to size, type
42 of treatment and any other appropriate factors. The rules shall provide construction
43 requirements, including pretreatment and system control requirements, standards for

1 operation, maintenance, monitoring, reporting, and ownership requirements for each
2 classification of systems of wastewater collection, treatment and disposal in order to
3 prevent, as far as reasonably possible, any contamination of the land, groundwater and
4 surface waters. The Department and local health departments may impose conditions on
5 the issuance of permits and may revoke the permits for failure of the system to satisfy the
6 conditions, the rules or this Article. Permits other than improvement permits shall be
7 valid for a period prescribed by rule. Improvement permits shall be valid upon a showing
8 satisfactory to the Department or the local health department that the site and soil
9 conditions are unaltered, that the facility, design wastewater flow, and wastewater
10 characteristics are not increased, and that a wastewater system can be installed that meets
11 the permitting requirements in effect on the date the improvement permit was issued.
12 Improvement permits for which a plat is provided shall be valid without expiration.
13 Improvement permits for which a site plan is provided shall be valid for five years. ~~A~~
14 ~~statement~~The period of time for which the permit is valid and a statement that the permit
15 is subject to revocation if the site plan or plat, whichever is applicable, or the intended
16 use changes shall be displayed prominently on both the application form for the permit
17 ~~and the permit that states that the permit is subject to revocation if site plans or the~~
18 ~~intended use change permit."~~

19 ♦(c) G.S. 130A-336(a) reads as rewritten:

20 "(a) Any proposed site for a residence, place of business, or place of public
21 assembly in an area not served by an approved wastewater system shall be evaluated by
22 the local health department in accordance with rules adopted pursuant to this Article. An
23 improvement permit shall be issued in compliance with the rules adopted pursuant to this
24 Article. An improvement permit shall include:

- 25 (1) For permits that are valid without expiration, a plat or, for permits that
26 are valid for five years, a site plan.
- 27 (2) A description of the facility the proposed site is to serve.
- 28 (3) The proposed wastewater ~~system~~and its location.
- 29 (4) The conditions for any site modifications.
- 30 (5) Any other information required by the rules of the Commission.

31 The improvement permit shall not be affected by change in ownership of the site for the
32 wastewater system provided both the site for the wastewater system and the facility the
33 system serves are unchanged and remain under the ownership or control of the person
34 owning the facility. No person shall commence or assist in the construction, location, or
35 relocation of a residence, place of business, or place of public assembly in an area not
36 served by an approved wastewater system unless an improvement permit and an
37 authorization for wastewater system construction are obtained from the local health
38 department. This requirement shall not apply to a manufactured residence exhibited for
39 sale or stored for later sale and intended to be located at another site after sale."

40 (d) G.S. 130A-336(b) reads as rewritten:

41 "(b) The local health department shall issue an authorization for wastewater system
42 construction authorizing work to proceed and the installation or repair of a wastewater
43 system when it has determined after a field investigation that the system can be installed

1 and operated in compliance with this Article and rules adopted pursuant to this Article.
2 This authorization for wastewater system construction shall be valid for a period of ~~five~~
3 years equal to the period of validity of the improvement permit, not to exceed five years,
4 and may be issued at the same time the improvement permit is issued. No person shall
5 commence or assist in the installation, construction, or repair of a wastewater system
6 unless an improvement permit and an authorization for wastewater system construction
7 have been obtained from the Department or the local health department. No improvement
8 permit or authorization for wastewater system construction shall be required for
9 maintenance of a wastewater system. The Department and the local health department
10 may impose conditions on the issuance of an improvement permit and an authorization
11 for wastewater system construction."

12 (e) This section becomes effective upon the ratification date of this act and
13 applies to all applications for permits filed on or after that date.

14
15 Requested by: Senator Martin of Pitt

16 ENVIRONMENTAL REPORTS

17 Sec. 27.32. (a) The Department of Environment, Health, and Natural
18 Resources shall report to the Environmental Review Commission, the Joint Legislative
19 Commission on Governmental Operations, the Scientific Advisory Council on Water
20 Resources and Coastal Fisheries Management, and the Fiscal Research Division on
21 January 1, 1997, and July 1, 1997, on:

- 22 (1) Actions taken to reorganize the Department to make the Department
23 operate more efficiently and effectively.
- 24 (2) Actions taken by the Environmental Management Commission, the
25 Coastal Resources Commission, and the Marine Fisheries Commission
26 to enhance communication, and to develop a strategic plan to coordinate
27 and consolidate activities.
- 28 (3) Progress made to implement initiatives to protect and restore impaired
29 water quality in the Neuse River Basin and in nutrient sensitive waters
30 including a report on implementation of the animal waste management
31 system permits.

32 (b) The Primary Investigator or Researcher receiving funding from the State
33 shall report to the Environmental Review Commission, the Joint Legislative Commission
34 on Governmental Operations, the Scientific Advisory Council on Water Resources and
35 Coastal Fisheries Management, and the Fiscal Research Division on January 1, 1997, and
36 July 1, 1997, on preliminary and final results of research projects and studies on:

- 37 (1) Development of a matrix of riparian buffers;
- 38 (2) Odor control technology;
- 39 (3) Sources of nitrogen through isotope markers;
- 40 (4) Groundwater impacts of lagoons;
- 41 (5) Atmospheric deposition of nitrogen in the Neuse Estuary; and
- 42 (6) Alternative animal waste technologies.

1 Requested by: Senator Perdue

2 **CORE SOUND/DESCRIPTION OF AREA A FOR SHELLFISH LEASE**
3 **MORATORIUM.**

4 Sec. 27.33. Section 3 of Chapter 547 of the 1995 Session Laws (1996 Regular
5 Session) as amended by Section 1 of Chapter 633 of the 1995 Session Laws (1996
6 Regular Session) reads as rewritten:

7 "Sec. 3. Notwithstanding G.S. 113-202, a moratorium on new shellfish cultivation
8 leases shall be imposed in the remaining area of Core Sound not described in Section 1 of
9 this act. During the moratorium, a comprehensive study of the shellfish lease program
10 shall be conducted. The moratorium established under this section covers that part of
11 Core Sound bounded by a line beginning at a point on Cedar Island at 35°00'39"N -
12 76°17'48"W, thence 109°(M) to a point in Core Sound 35°00'00"N - 76°12'42"W,
13 thence 229°(M) to Marker No. 37 located 0.9 miles off Bells Point at 34°43'30"N -
14 76°29'00"W, thence 207°(M) to the Cape Lookout Lighthouse at 34°37'24"N -
15 76°31'30"W, thence 12°(M) to a point at Marshallberg at 34°43'07"N - 76°31'12"W,
16 thence following the shoreline in a northerly direction to the point of beginning except
17 that the highway bridges at Salters Creek, Thorofare Bay, and the Rumley Bay ditch shall
18 be considered shoreline. The moratorium shall expire July 1, 1997."

19

20 Requested by: Senator Martin of Pitt

21 **ENVIRONMENTAL TECHNICAL CORRECTIONS**

22 Sec. 27.34. (a) G.S. 143-215.10A, as enacted by Chapter 626 of the 1995
23 Session Laws (1996 Reg. Sess.), reads as rewritten:

24 **"§ 143-215.10A. Legislative findings and intent.**

25 The General Assembly finds that animal operations provide significant economic and
26 other benefits to this State. The growth of animal operations in recent years has increased
27 the importance of good animal waste management practices to protect water quality. It is
28 critical that the State balance growth with prudent environmental safeguards. It is the
29 intention of the State to promote a cooperative and coordinated approach to animal waste
30 management among the agencies of the State with a primary emphasis on technical
31 assistance to farmers. To this end, the General Assembly intends to establish a permitting
32 program for animal waste management systems that will protect water quality and
33 promote innovative systems and practices while minimizing the regulatory burden.
34 Technical assistance, through operations reviews, will be provided by the Division of Soil
35 and Water Conservation. Permitting, inspection, and enforcement will be vested in the
36 Division of ~~Environmental Management~~ Water Quality."

37 (b) G.S. 143-215.10B(4), as enacted by Chapter 626 of the 1995 Session Laws
38 (1996 Reg. Sess.), reads as rewritten:

39 "(4) 'Division' means the Division of ~~Environmental Management~~ Water
40 Quality of the Department."

41 (c) G.S. 90A-47.3(b), as enacted by Chapter 626 of the 1995 Session Laws
42 (1996 Reg. Sess.), reads as rewritten:

1 "(b) The Commission, in cooperation with the Division of ~~Environmental~~
2 ~~Management—Water Quality~~ of the Department of Environment, Health, and Natural
3 Resources, and the Cooperative Extension Service, shall develop and administer a
4 training program for animal waste management system operators in charge. An applicant
5 for initial certification shall complete 10 hours of classroom instruction prior to taking the
6 examination. In order to remain certified, an animal waste management system operator
7 in charge shall complete six hours of approved additional training during each three-year
8 period following initial certification. A certified animal waste management system
9 operator in charge who fails to complete approved additional training within 30 days of
10 the end of the three-year period shall take and pass the examination for certification in
11 order to renew the certificate."

12 (d) G.S. 106-805(5), as enacted by Chapter 626 of the 1995 Session Laws
13 (1996 Reg. Sess.), reads as rewritten:

14 "(5) Information informing the adjoining property owners and the property
15 owners who own property located across a public road, street, or
16 highway from the swine farm that they may submit written comments to
17 the Division of ~~Environmental Management—Water Quality~~, Department
18 of Environment, Health, and Natural Resources."

19 (e) Subsection (b) of Section 17 of Chapter 626 of the 1995 Session Laws
20 (1996 Reg. Sess.) reads as rewritten:

21 "(b) The interagency group shall consist of two representatives from each of the
22 following State agencies: the Division of Soil and Water Conservation, Department of
23 Environment, Health, and Natural Resources; the Division of ~~Environmental~~
24 ~~Management—Water Quality~~, Department of Environment, Health, and Natural
25 Resources; the Department of Agriculture; and the Cooperative Extension Service. The
26 General Assembly encourages the Natural Resources Conservation Service, United States
27 Department of Agriculture, to provide two representatives from its agency to participate
28 fully as members of the interagency group. The interagency group shall remain in
29 existence until such time after December 31, 1997, that the Secretary of Environment,
30 Health, and Natural Resources determines the interagency group is no longer needed to
31 resolve issues related to certifying animal waste management plans."

32 (f) Section 18 of Chapter 743 of the 1995 Session Laws (1996 Reg. Sess.)
33 reads as rewritten:

34 "Sec. 18. G.S. ~~143-215.114(g)~~ 143-215.114A(g) is repealed."

35 (g) This section becomes effective 1 July 1996.

36
37 Requested by: Senator Martin of Pitt

38 **STUDY ALTERNATIVE ANIMAL WASTE TECHNOLOGIES**

39 Sec. 27.35. Of the funds appropriated to the Department of Environment,
40 Health, and Natural Resources in this act, the sum of five hundred thousand dollars
41 (\$500,000) for the 1996-97 fiscal year shall be transferred to the Board of Governors of
42 The University of North Carolina for the North Carolina Agricultural Research Service at
43 North Carolina State University to serve as focal points for experimentation with and

1 testing of alternative animal waste disposal technologies for use in agriculture. No later
 2 than January 1, 1997, the Board of Governors shall report to the Environmental Review
 3 Commission and the Fiscal Research Division on progress under the research, including
 4 any findings and recommendations at that time.

5
 6 Requested by: Senator Odom

7 **ENSURE LEGISLATIVE REVIEW OF RULES**

8 Sec. 27.36. G.S. 150B-21.3(c) does not apply to a rule that changes the
 9 substance of 15A NCAC 13B .1627.

10
 11 Requested by: Senators Martin of Pitt and Odom

12
 13 **OPERATION OF PERMIT INFORMATION CENTER**

14 Sec. 27.37. The Department of Environment, Health, and Natural Resources
 15 may operate the Permit Information Center in order to improve permit applications,
 16 guidance materials, applicant and citizen training, and other purposes."

17
 18 **PART 28. SALARIES AND BENEFITS**

19
 20 Requested by: Senators Plyler, Perdue, Odom

21 **GOVERNOR AND COUNCIL OF STATE**

22 Sec. 28. (a) Effective October 1, 1996, G.S. 147-11(a) reads as rewritten:
 23 "(a) The salary of the Governor shall be ~~ninety-eight thousand five hundred~~
 24 ~~seventy-six dollars (\$98,576)~~ one hundred three thousand five hundred five dollars
 25 (\$103,505) annually, payable monthly."

26 (b) Effective October 1, 1996, Section 7.1(b) of Chapter 507 of the 1995 Session
 27 Laws reads as rewritten:

28 "(b) The annual salaries for the members of the Council of State, payable monthly,
 29 for the ~~1995-96 and~~ 1996-97 fiscal years-year, beginning October 1, 1996, are:

<u>Council</u>	<u>of</u>	<u>State</u>	
<u>Annual Salary</u>			
Lieutenant Governor		\$87,000	<u>\$91,350</u>
Attorney General		87,000	<u>91,350</u>
Secretary of State		87,000	<u>91,350</u>
State Treasurer		87,000	<u>91,350</u>
State Auditor		87,000	<u>91,350</u>
Superintendent of Public Instruction		87,000	<u>91,350</u>
Agriculture Commissioner		87,000	<u>91,350</u>
Insurance Commissioner		87,000	<u>91,350</u>
Labor Commissioner		87,000	<u>91,350"</u>

1 Requested by: Senators Plyler, Perdue, Odom

2 **NONELECTED DEPARTMENT HEADS**

3 Sec. 28.1. Effective October 1, 1996, Section 7.2 of Chapter 507 of the 1995
4 Session Laws reads as rewritten:

5 "Sec. 7.2. In accordance with G.S. 143B-9, the maximum annual salaries, payable
6 monthly, for the nonelected heads of the principal State departments for the ~~1995-96 and~~
7 1996-97 fiscal years-year, beginning October 1, 1996, are:

8	9 <u>Nonelected Department Heads</u>		10 <u>Annual Salary</u>
11	Secretary of Administration	\$85,000	<u>\$89,250</u>
12	Secretary of Correction	85,000	<u>89,250</u>
13	Secretary of Cultural Resources	85,000	<u>89,250</u>
14	Secretary of Commerce	85,000	<u>89,250</u>
15	Secretary of Environment, Health, 16 and Natural Resources	85,000	<u>89,250</u>
17	Secretary of Human Resources	85,000	<u>89,250</u>
18	Secretary of Revenue	85,000	<u>89,250</u>
19	Secretary of Transportation	85,000	<u>89,250</u>
20	Secretary of Crime Control and Public Safety	85,000	<u>89,250"</u>

21
22 Requested by: Senators Plyler, Perdue, Odom

23 **CERTAIN EXECUTIVE BRANCH OFFICIALS**

24 Sec. 28.2. (a) Effective October 1, 1996, Section 7.3 of Chapter 507 of the
25 1995 Session Laws reads as rewritten:

26 "Sec. 7.3. The annual salaries, payable monthly, for the ~~1995-96 and~~ 1996-97 fiscal
27 years-year, beginning October 1, 1996, for the following executive branch officials are:

28	29 <u>Executive Branch Officials</u>		30 <u>Annual Salary</u>
31	Chairman, Alcoholic Beverage Control 32 Commission	\$ 77,365	<u>\$81,233</u>
33	State Controller		108,271
34	Commissioner of Motor Vehicles	77,365	<u>81,233</u>
35	Commissioner of Banks	77,365	<u>81,233</u>
36	Chairman, Employment Security Commission	77,365	<u>81,233</u>
37	State Personnel Director	85,000	<u>89,250</u>
38	Chairman, Parole Commission	70,643	<u>74,175</u>
39	Members of the Parole Commission	65,220	<u>68,481</u>
40	Chairman, Industrial Commission	69,510	<u>72,986</u>
41	Members of the Industrial Commission	67,817	<u>71,208</u>
42	Chairman of the Utilities Commission		81,381
43	Commissioner of the Utilities Commission		80,381

1	Executive Director, Agency for Public	
2	Telecommunications	65,220 <u>68,481</u>
3	General Manager, Ports Railway Commission	58,893 <u>61,838</u>
4	Director, Museum of Art	79,274 <u>83,238</u>
5	Executive Director, Wildlife Resources Commission	66,773 <u>70,112</u>
6	Executive Director, North Carolina Housing	
7	Finance Agency	95,746 <u>100,533</u>
8	Executive Director, North Carolina Agricultural Finance Authority	75,302 <u>79,067</u>
9	Director, Office of Administrative Hearings	76,500 <u>80,325"</u>

10 (b) Effective October 1, 1996, G.S. 62-10(h) reads as rewritten:

11 "(h) The salary of each commissioner ~~and that of the commissioner designated as~~
 12 ~~chairman shall be set by the General Assembly in the Current Operations Appropriations~~
 13 ~~Act. shall be the same as that fixed from time to time for judges of the superior court~~
 14 except that the commissioner designated as chairman shall receive one thousand dollars
 15 (\$1,000) additional per annum. In lieu of merit and other increment raises paid to regular
 16 State employees, each commissioner, including the commissioner designated as
 17 chairman, shall receive as longevity pay an amount equal to four and eight-tenths percent
 18 (4.8%) of the annual salary set forth in the Current Operations Appropriations Act
 19 payable monthly after five years of service, and nine and six-tenths percent (9.6%) after
 20 10 years of service. 'Service' means service as a member of the Utilities Commission."

21
 22 Requested by: Senators Plyler, Perdue, Odom

23 **JUDICIAL BRANCH OFFICIALS**

24 Sec. 28.3. Effective October 1, 1996, Section 7.4 of Chapter 507 of the 1995
 25 Session Laws reads as rewritten:

26 "Sec. 7.4. (a) The annual salaries, payable monthly, for specified judicial branch
 27 officials for the ~~1995-96 and 1996-97 fiscal years~~ year, beginning October 1, 1996, are:

29	<u>Judicial Branch Officials</u>	<u>Annual Salary</u>
31	Chief Justice, Supreme Court	\$98,576 <u>\$103,505</u>
32	Associate Justice, Supreme Court	96,000 <u>100,800</u>
33	Chief Judge, Court of Appeals	93,600 <u>98,280</u>
34	Judge, Court of Appeals	92,000 <u>96,600</u>
35	Judge, Senior Regular Resident Superior Court	89,500 <u>93,975</u>
36	Judge, Superior Court	87,000 <u>91,350</u>
37	Chief Judge, District Court	79,000 <u>82,950</u>
38	Judge, District Court	76,500 <u>80,325</u>
39	District Attorney	80,600 <u>84,630</u>
40	Administrative Officer of the Courts	89,500 <u>93,975</u>
41	Assistant Administrative Officer of the Courts	75,160 <u>78,918</u>
42	Public Defender	80,600 <u>84,630</u>

43

(b) The district attorney or public defender of a judicial district, with the approval of the Administrative Officer of the Courts, shall set the salaries of assistant district attorneys or assistant public defenders, respectively, in that district such that the average salaries of assistant district attorneys or assistant public defenders in that district do not exceed ~~forty-nine thousand five hundred eighty dollars (\$49,580),~~ fifty-two thousand fifty-nine dollars (\$52,059) and the minimum salary of any assistant district attorney or assistant public defender is at least ~~twenty-five thousand three hundred twelve dollars (\$25,312) effective July 1, 1995,~~ twenty-six thousand five hundred seventy-eight dollars (\$26,578) effective October 1, 1996.

(c) The salaries in effect ~~for the 1994-95 fiscal year on September 30, 1996,~~ for permanent, full-time employees of the Judicial Department, except for those whose salaries are itemized in this Part, shall be increased by ~~two percent (2%), commencing July 1, 1995,~~ five percent (5%), commencing October 1, 1996.

(d) The salaries in effect ~~for the 1994-95 fiscal year on September 30, 1996,~~ for all permanent, part-time employees of the Judicial Department shall be increased on and after ~~July 1, 1995,~~ October 1, 1996, by pro rata amounts of the ~~two percent (2%),~~ five percent (5%)."

Requested by: Senators Plyler, Perdue, Odom

CLERKS OF SUPERIOR COURT

Sec. 28.4. Effective October 1, 1996, G.S. 7A-101(a) reads as rewritten:

"(a) The clerk of superior court is a full-time employee of the State and shall receive an annual salary, payable in equal monthly installments, based on the population of the county as determined in subsection (a1) of this section, according to the following schedule:

Population	Annual Salary
Less than 100,000	\$57,670 <u>\$60,554</u>
100,000 to 149,999	64,780 <u>68,019</u>
150,000 to 249,999	71,890 <u>75,485</u>
250,000 and above	79,000 <u>82,950.</u>

The salary schedule in this subsection is intended to represent the following percentage of the salary of a chief district court judge:

Less than 100,000	73%
100,000 to 149,999	82%
150,000 to 249,999	91%
250,000 and above	100%.

When a county changes from one population group to another, the salary of the clerk shall be changed, on July 1 of the fiscal year for which the change is reported, to the salary appropriate for the new population group, except that the salary of an incumbent clerk shall not be decreased by any change in population group during his continuance in office."

Requested by: Senators Plyler, Perdue, Odom

ASSISTANT AND DEPUTY CLERKS OF SUPERIOR COURT

Sec. 28.5. Effective October 1, 1996, G.S. 7A-102(c1) reads as rewritten:

"(c1) A full-time assistant clerk or a full-time deputy clerk, and up to one full-time deputy clerk serving as head bookkeeper per county, shall be paid an annual salary subject to the following minimum and maximum rates:

Assistant Clerks and Head Bookkeeper Annual Salary

Minimum	\$21,549	<u>\$22,626</u>
Maximum	38,154	<u>40,062</u>

Deputy Clerks Annual Salary

Minimum	\$17,229	<u>\$18,090</u>
Maximum	29,389.	<u>30,858.</u> "

Requested by: Senators Plyler, Perdue, Odom

MAGISTRATES' PAY PLAN

Sec. 28.6. (a) Effective October 1, 1996, G.S. 7A-171.1(a)(1) reads as rewritten:

"(1) A full-time magistrate shall be paid the annual salary indicated in the table set out in this subdivision. A full-time magistrate is a magistrate who is assigned to work an average of not less than 40 hours a week during the term of office. The Administrative Officer of the Courts shall designate whether a magistrate is full-time. Initial appointment shall be at the entry rate. A magistrate's salary shall increase to the next step every two years on the anniversary of the date the magistrate was originally appointed for increases to Steps 1 through 3, and every four years on the anniversary of the date the magistrate was originally appointed for increases to Steps 4 through 6.

TABLE OF SALARIES OF FULL-TIME MAGISTRATES

Step Level	Annual Salary	
Entry Rate	\$23,417	<u>\$24,588</u>
Step 1	25,767	<u>27,055</u>
Step 2	28,325	<u>29,741</u>
Step 3	31,116	<u>32,672</u>
Step 4	34,173	<u>35,882</u>
Step 5	37,533	<u>39,410</u>
Step 6	41,228.	<u>43,289.</u> "

(b) Effective October 1, 1996, G.S. 7A-171.1(a1)(1) reads as rewritten:

1 "(1) The salaries of magistrates who on June 30, 1994, were paid at a
2 salary level of less than five years of service under the table in
3 effect that date shall be as follows:

4 ~~Less than 1 year of service~~ \$18,457
5 1 or more but less than 3 years of service ~~19,406~~ 20,376
6 3 or more but less than 5 years of service ~~21,314~~ 22,380.

7 Upon completion of five years of service, those magistrates shall
8 receive the salary set as the Entry Rate in the table in subsection (a)."
9

10 Requested by: Senators Plyler, Perdue, Odom

11 **GENERAL ASSEMBLY PRINCIPAL CLERKS**

12 Sec. 28.7. Effective October 1, 1996, G.S. 120-37(c) reads as rewritten:

13 "(c) The principal clerks shall be full-time officers. Each principal clerk shall be
14 entitled to other benefits available to permanent legislative employees and shall be paid
15 an annual salary of ~~fifty-five thousand eighty dollars (\$55,080)~~ fifty-seven thousand eight
16 hundred thirty-four dollars (\$57,834) payable monthly. The Legislative Services
17 Commission shall review the salary of the principal clerks prior to submission of the
18 proposed operating budget of the General Assembly to the Governor and Advisory
19 Budget Commission and shall make appropriate recommendations for changes in those
20 salaries. Any changes enacted by the General Assembly shall be by amendment to this
21 paragraph."
22

23 Requested by: Senators Plyler, Perdue, Odom

24 **SERGEANT-AT-ARMS AND READING CLERKS**

25 Sec. 28.8. Effective October 1, 1996, G.S. 120-37(b) reads as rewritten:

26 "(b) The sergeant-at-arms and the reading clerk in each house shall be paid a salary
27 of ~~two hundred thirty seven dollars (\$237.00) per week~~, two hundred forty-nine dollars
28 (\$249.00) per week plus subsistence at the same daily rate provided for members of the
29 General Assembly, plus mileage at the rate provided for members of the General
30 Assembly for one round trip only from their homes to Raleigh and return. The sergeants-
31 at-arms shall serve during sessions of the General Assembly and at such time prior to the
32 convening of, and subsequent to adjournment or recess of, sessions as may be authorized
33 by the Legislative Services Commission. The reading clerks shall serve during sessions
34 only."
35

36 Requested by: Senators Plyler, Perdue, Odom

37 **LEGISLATIVE EMPLOYEES**

38 Sec. 28.9. Effective October 1, 1996, Section 7.11 of Chapter 507 of the 1995
39 Session Laws reads as rewritten:

40 "Sec. 7.11. The Legislative Administrative Officer shall increase the salaries of
41 nonelected employees of the General Assembly in effect for fiscal year ~~1994-95 by two~~
42 ~~percent (2%).~~ 1995-96 by five percent (5%). Nothing in this act limits any of the
43 provisions of G.S. 120-32."

1
2 Requested by: Senators Plyler, Perdue, Odom

3 **COMMUNITY COLLEGES PERSONNEL**

4 Sec. 28.10. Effective October 1, 1996, Section 7.12 of Chapter 507 of the
5 1995 Session Laws reads as rewritten:

6 "Sec. 7.12. The Director of the Budget shall transfer from the Reserve for Salary
7 Increases created in this act for fiscal year ~~1995-96-1996-97~~ funds to the Department of
8 Community Colleges necessary to provide an average annual salary increase of ~~two~~
9 ~~percent (2%), five percent (5%),~~ including funds for the employer's retirement and social
10 security contributions, commencing ~~July 1, 1995,~~ October 1, 1996, for all permanent full-
11 time community college institutional personnel supported by State funds. The State
12 Board of Community Colleges shall establish guidelines for providing their salary
13 increases to community college institutional personnel. Salary funds shall be used to
14 provide an average annual salary increase of ~~two percent (2%)~~ five percent (5%) to all
15 full-time employees and part-time employees on a pro rata basis."
16

17 Requested by: Senators Winner, Plexico, Plyler, Perdue, Odom

18 **FUNDS TO REWARD EXCELLENCE IN COMMUNITY COLLEGE**
19 **TEACHING**

20 Sec. 28.11. Effective October 1, 1996, the State Board of Community
21 Colleges shall develop policies for the distribution of a one-half percent (1/2%) salary
22 increase for teaching faculty members who have demonstrated excellence in teaching.
23

24 Requested by: Senators Winner, Plexico, Plyler, Perdue, Odom

25 **UNIVERSITY OF NORTH CAROLINA SYSTEM - EPA SALARY INCREASES**

26 Sec. 28.12. (a) The Director of the Budget shall transfer to the Board of
27 Governors of The University of North Carolina sufficient funds from the Reserve for
28 Salary Increases created in this act for fiscal year 1996-97 to provide an annual average
29 salary increase of five percent (5%), including funds for the employer's retirement and
30 social security contributions, commencing October 1, 1996, for all employees of The
31 University of North Carolina, as well as employees other than teachers of the North
32 Carolina School of Science and Mathematics, supported by State funds and whose
33 salaries are exempt from the State Personnel Act (EPA). These funds shall be allocated
34 to individuals according to the rules adopted by the Board of Governors, or the Board of
35 Trustees of the North Carolina School of Science and Mathematics, as appropriate, and
36 may not be used for any purpose other than for salary increases and necessary employer
37 contributions provided by this section.

38 (b) The Director of the Budget shall transfer to the Board of Governors of The
39 University of North Carolina sufficient funds from the Reserve for Salary Increases
40 created in this act for fiscal year 1996-97 to provide an annual average salary increase of
41 six percent (6%), including funds for the employer's retirement and social security
42 contributions, commencing October 1, 1996, for all teaching employees of the North
43 Carolina School of Science and Mathematics, supported by State funds and whose

1 salaries are exempt from the State Personnel Act (EPA). These funds shall be allocated
2 to individuals according to the rules adopted by the Board of Trustees of the North
3 Carolina School of Science and Mathematics, and may not be used for any purpose other
4 than for salary increases and necessary employer contributions provided by this section.

5
6 Requested by: Senators Plyler, Perdue, Odom

7 **MOST STATE EMPLOYEES**

8 Sec. 28.14. Section 7.14 of Chapter 507 of the 1995 Session Laws reads as
9 rewritten:

10 "Sec. 7.14. (a) The salaries in effect ~~June 30, 1995, September 30, 1996,~~ of all
11 permanent full-time State employees whose salaries are set in accordance with the State
12 Personnel Act, and who are paid from the General Fund or the Highway Fund shall be
13 increased, on or after ~~July 1, 1995, October 1, 1996,~~ unless otherwise provided by this
14 act, by two percent (2%) pursuant to the Comprehensive Compensation System set forth
15 in G.S. 126-7, as follows:

16 (1) Career growth recognition awards in the amount of two percent (2%);
17 and

18 (2) A cost-of-living adjustment in the amount of three percent (3%).

19 (b) Except as otherwise provided in this act, salaries in effect ~~June 30, 1995,~~
20 September 30, 1996, for permanent full-time State officials and persons in exempt
21 positions that are recommended by the Governor or the Governor and the Advisory
22 Budget Commission and set by the General Assembly shall be increased by ~~two percent~~
23 (2%), commencing July 1, 1995, five percent (5%), commencing October 1, 1996.

24 (c) The salaries in effect ~~June 30, 1995, September 30, 1996,~~ for all permanent
25 part-time State employees shall be increased on and after ~~July 1, 1995, October 1, 1996,~~
26 by pro rata amounts of the salary increases provided for permanent full-time employees
27 covered under subsection (a) of this section.

28 (d) The Director of the Budget may allocate out of special operating funds or from
29 other sources of the employing agency, except tax revenues, sufficient funds to allow a
30 salary increase on and after ~~July 1, 1995, October 1, 1996,~~ in accordance with subsections
31 (a), (b), or (c) of this section, including funds for the employer's retirement and social
32 security contributions, of the permanent full-time and part-time employees of the agency.

33 (e) Within regular Executive Budget Act procedures as limited by this act, all
34 State agencies and departments may increase on an equitable basis the rate of pay of
35 temporary and permanent hourly State employees, subject to availability of funds in the
36 particular agency or department, by pro rata amounts salary increase provided for
37 permanent full-time employees covered by the provisions of subsection (a) of this
38 section, commencing ~~July 1, 1995, October 1, 1996.~~

39 (f) ~~No~~ Except as provided by subsection (a) of this section, no person may
40 receive a salary increase under G.S. 126-7 during the 1995-96-1996-97 fiscal year, and no
41 State employee or officer shall receive a merit increment during the 1995-96 and 1996-
42 97 fiscal years-year except as otherwise provided by this act."

1 Requested by: Senators Plyler, Perdue, Odom

2 **ALL STATE-SUPPORTED PERSONNEL**

3 Sec. 28.15. (a) Salaries and related benefits for positions that are funded partially
4 from the General Fund or Highway Fund and partially from sources other than the
5 General Fund or Highway Fund shall be increased from the General Fund or Highway
6 Fund appropriation only to the extent of the proportionate part of the salaries paid from
7 the General Fund or Highway Fund.

8 (b) The granting of the salary increases under this act does not affect the status of
9 eligibility for salary increments for which employees may be eligible unless otherwise
10 required by this act.

11 (c) The salary increases provided in this Part are to be effective October 1, 1996,
12 do not apply to persons separated from State service due to resignation, dismissal,
13 reduction in force, death, or retirement, whose last workday is prior to October 1, 1996,
14 or to employees involved in final written disciplinary procedures. The employee shall
15 receive the increase on a current basis when the final written disciplinary procedure is
16 resolved.

17 Payroll checks issued to employees after October 1, 1996, which represent
18 payment of services provided prior to October 1, 1996, shall not be eligible for salary
19 increases provided for in this act. This subsection shall apply to all employees, subject to
20 or exempt from the State Personnel Act, paid from State funds, including public schools,
21 community colleges, and The University of North Carolina.

22 (d) The Director of the Budget shall transfer from the Reserve for Salary Increases
23 in this act for fiscal year 1996-97 all funds necessary for the salary increases provided by
24 this act, including funds for the employer's retirement and social security contributions.

25 (e) Nothing in this act authorizes the transfer of funds between the General
26 Fund and the Highway Fund for salary increases.

27

28 Requested by: Senators Plyler, Perdue, Odom

29 **TEACHER SALARY SCHEDULES**

30 Sec. 28.16. (a) Effective with the fourth payroll period of the 1996-97 fiscal year,
31 the Director of the Budget may transfer from the Reserve for Salary Increases for the
32 1996-97 fiscal year funds necessary to implement the teacher salary schedule set out in
33 subsection (b) of this section, including funds for the employer's retirement and social
34 security contributions and funds for annual longevity payments at one percent (1%) of
35 base salary for 10 to 14 years of State service, one and one-half percent (1.5%) of base
36 salary for 15 to 19 years of State service, two percent (2%) of base salary for 20 to 24
37 years of State service, and two and one-half percent (2.5%) of base salary for 25 or more
38 years of State service, commencing with the fourth payroll period of the 1996-97 fiscal
39 year, for all teachers whose salaries are supported from the State's General Fund. These
40 funds shall be allocated to individuals according to rules adopted by the State Board of
41 Education and the Superintendent of Public Instruction. The longevity payment shall be
42 paid in a lump sum once a year.

(b)(1) For the fourth through the twelfth payroll periods of the 1996-97 fiscal year, the following monthly salary schedule shall apply to certified personnel of the public schools who are classified as "A"teachers. The schedule contains 30 steps with each step corresponding to one year of teaching experience.

<u>Years of Experience</u>	<u>1996-97 Salary</u>
00	\$2,144
01	2,186
02	2,229
03	2,317
04	2,364
05	2,412
06	2,461
07	2,510
08	2,560
09	2,611
10	2,663
11	2,716
12	2,770
13	2,825
14	2,881
15	2,939
16	2,997
17	3,057
18	3,118
19	3,181
20	3,245
21	3,310
22	3,376
23	3,444
24	3,513
25	3,583
26	3,655
27	3,728
28	3,803
29	3,879
30+	3,879

(2) For the fourth through the twelfth payroll periods of the 1996-97 fiscal year, the following monthly salary schedule shall apply to certified personnel of the public schools who are classified as "G"teachers. The schedule contains 30 steps with each step corresponding to one year of teaching experience.

	<u>Years of Experience</u>	<u>1996-97 Salary</u>
1		
2		
3	00	\$2,278
4	01	2,323
5	02	2,369
6	03	2,463
7	04	2,513
8	05	2,563
9	06	2,614
10	07	2,666
11	08	2,719
12	09	2,773
13	10	2,828
14	11	2,884
15	12	2,942
16	13	3,001
17	14	3,062
18	15	3,123
19	16	3,185
20	17	3,249
21	18	3,314
22	19	3,380
23	20	3,448
24	21	3,517
25	22	3,587
26	23	3,659
27	24	3,732
28	25	3,807
29	26	3,883
30	27	3,961
31	28	4,040
32	29	4,121
33	30+	4,121

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

1 (c) Effective with the fourth payroll period of the 1996-97 fiscal year, the first step
2 of the salary schedule for school psychologists shall be equivalent to Step 5,
3 corresponding to five years of experience, on the salary schedule established in this
4 section for certified personnel of the public schools who are classified as "G"teachers.
5 Certified psychologists shall be placed on the salary schedule at an appropriate step based
6 on their years of experience. Certified psychologists shall receive longevity payments
7 based on years of State service in the same manner as teachers.

8 Certified psychologists with certification based on academic preparation at the
9 six-year degree level shall receive a salary supplement of one hundred twenty-six dollars
10 (\$126.00) per month in addition to the compensation provided for certified psychologists.
11 Certified psychologists with certification based on academic preparation at the doctoral
12 degree level shall receive a salary supplement of two hundred fifty-three dollars
13 (\$253.00) per month in addition to the compensation provided for certified psychologists.

14 (d) Effective with the fourth payroll period of the 1996-97 fiscal year, speech
15 pathologists who hold masters degrees and who are employed in the public schools as
16 speech and language specialists shall be paid on the school psychologist salary schedule.

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

23 (e) The provisions of Section 7.18 of Chapter 507 of the 1995 Session Laws
24 and the salaries, longevity, and salary supplements set by that section shall remain in
25 effect through the third payroll period of the 1996-97 fiscal year, except that teachers and
26 other employees shall not receive credit for a year of service performed during the 1995-
27 96 school year until the beginning of the fourth payroll period of the 1996-97 fiscal year.

28 (f) Certified personnel of the public schools who are: (i) classified as
29 "A"teachers; (ii) at the maximum of their pay range at the beginning of the fourth payroll
30 period of the 1996-97 fiscal year; and (iii) employed as teachers for the first four pay
31 periods of the 1996-97 school year shall receive a one-time bonus of six hundred sixty
32 dollars (\$660.00), payable at the fourth payroll period of the 1996-97 school year.
33 Certified personnel of the public schools who are: (i) classified as "G"teachers; (ii) at the
34 maximum of their pay range at the beginning of the fourth payroll period of the 1996-97
35 fiscal year; and (iii) employed as teachers for the first four pay periods of the 1996-97
36 school year shall receive a one-time bonus of seven hundred dollars (\$700.00), payable at
37 the fourth payroll period of the 1996-97 school year. Certified personnel of the public
38 schools who are: (i) certified based on academic preparation at the six-year degree level;
39 (ii) at the maximum of their pay range at the beginning of the fourth payroll period of the
40 1996-97 fiscal year; and (iii) employed as teachers for the first four pay periods of the
41 1996-97 school year shall receive a one-time bonus of seven hundred twenty-one dollars
42 (\$721.00), payable at the fourth payroll period of the 1996-97 school year. Certified
43 personnel of the public schools who are: (i) certified based on academic preparation at the

1 doctoral degree level; (ii) at the maximum of their pay range at the beginning of the
 2 fourth payroll period of the 1996-97 fiscal year; and (iii) employed as teachers for the
 3 first four pay periods of the 1996-97 school year shall receive a one-time bonus of seven
 4 hundred forty-three dollars (\$743.00), payable at the fourth payroll period of the 1996-97
 5 school year.

6 (g) Certified personnel of the public schools who are: (i) classified as
 7 psychologists with advanced degrees; (ii) at the maximum of their pay range at the
 8 beginning of the fourth payroll period of the 1996-97 fiscal year; and (iii) employed as
 9 school psychologists for the first four pay periods of the 1996-97 school year shall
 10 receive a one-time bonus of seven hundred eighty-eight dollars (\$788.00), payable at the
 11 fourth payroll period of the 1996-97 school year. Certified personnel of the public
 12 schools at who are: (i) classified as psychologists with doctoral degrees; (ii) at the
 13 maximum of their pay range at the beginning of the fourth payroll period of the 1996-97
 14 fiscal year; and (iii) employed as school psychologists for the first four pay periods of the
 15 1996-97 school year shall receive a one-time bonus of nine hundred thirty-seven dollars
 16 (\$937.00), payable at the fourth payroll period of the 1996-97 school year.

17 (h) Speech pathologists who (i) hold masters degrees; (ii) are at the maximum
 18 of their pay range at the beginning of the fourth payroll period of the 1996-97 fiscal year;
 19 and (iii) are employed as speech and language specialists for the first four pay periods of
 20 the 1996-97 school year shall receive a one-time bonus of seven hundred eighty-eight
 21 dollars (\$788.00), payable at the fourth payroll period of the 1996-97 school year.
 22 Speech pathologists who (i) hold doctoral degrees; (ii) are at the maximum of their pay
 23 range at the beginning of the fourth payroll period of the 1996-97 fiscal year; and (iii) are
 24 employed as speech and language specialists for the first four pay periods of the 1996-97
 25 school year shall receive a one-time bonus of nine hundred thirty-seven dollars (\$937.00),
 26 payable at the fourth payroll period of the 1996-97 school year.

27
 28 Requested by: Senators Plyler, Perdue, Odom

29 **SCHOOL-BASED ADMINISTRATOR SALARIES**

30 Sec. 28.17. (a) Funds appropriated to the Reserve for Salary Increases shall be used
 31 for the implementation of the salary schedule for school-based administrators as provided
 32 in this section. These funds shall be used for State-paid employees only.

33 (b) The salary schedule for school-based administrators shall apply only to
 34 principals and assistant principals. The salary schedule for the 1996-97 fiscal year,
 35 beginning with the fourth payroll period, is as follows:

36
 37
 38

39	Asst.								
40	Step	Prin.	Prin.I	Prin.II	Prin.III	Prin.IV		Prin.V	Prin.VI Prin. VII
41									
42	0	—	—	—	—	—	—	—	—
43	1	—	—	—	—	—	—	—	—

1	2	-	-	-	-	-	-	-	-	-
2	3	-	-	-	-	-	-	-	-	-
3	4	\$2,589	-	-	-	-	-	-	-	-
4	5	2,641	-	-	-	-	-	-	-	-
5	6	2,694	-	-	-	-	-	-	-	-
6	7	2,748	-	-	-	-	-	-	-	-
7	8	2,803	\$2,803	-	-	-	-	-	-	-
8	9	2,859	2,859	-	-	-	-	-	-	-
9	10	2,916	2,916	\$2,974	-	-	-	-	-	-
10	11	2,974	2,974	3,033	-	-	-	-	-	-
11	12	3,033	3,033	3,094	\$3,156	-	-	-	-	-
12	13	3,094	3,094	3,156	3,219	\$3,283	-	-	-	-
13	14	3,156	3,156	3,219	3,283	3,349	\$3,416	-	-	-
14	15	3,219	3,219	3,283	3,349	3,416	3,484	-	-	-
15	16	3,283	3,283	3,349	3,416	3,484	3,554	\$3,625	-	-
16	17	3,349	3,349	3,416	3,484	3,554	3,625	3,698	\$3,772	-
17	18	3,416	3,416	3,484	3,554	3,625	3,698	3,772	3,847	3,924
18	19	3,484	3,484	3,554	3,625	3,698	3,772	3,847	3,924	4,002
19	20	3,554	3,554	3,625	3,698	3,772	3,847	3,924	4,002	4,082
20	21	3,625	3,625	3,698	3,772	3,847	3,924	4,002	4,082	4,164
21	22	3,698	3,698	3,772	3,847	3,924	4,002	4,082	4,164	4,247
22	23	3,772	3,772	3,847	3,924	4,002	4,082	4,164	4,247	4,332
23	24	3,847	3,847	3,924	4,002	4,082	4,164	4,247	4,332	4,419
24	25	3,924	3,924	4,002	4,082	4,164	4,247	4,332	4,419	4,507
25	26	4,002	4,002	4,082	4,164	4,247	4,332	4,419	4,507	4,597
26	27	4,082	4,082	4,164	4,247	4,332	4,419	4,507	4,597	4,689
27	28	4,164	4,164	4,247	4,332	4,419	4,507	4,597	4,689	4,783
28	29	4,247	4,247	4,332	4,419	4,507	4,597	4,689	4,783	4,879
29	30	4,332	4,332	4,419	4,507	4,597	4,689	4,783	4,879	4,977
30	31	4,419	4,419	4,507	4,597	4,689	4,783	4,879	4,977	5,077
31	32	-	4,507	4,597	4,689	4,783	4,879	4,977	5,077	5,179
32	33	-	-	4,689	4,783	4,879	4,977	5,077	5,179	5,283
33	34	-	-	4,783	4,879	4,977	5,077	5,179	5,283	5,389
34	35	-	-	-	4,977	5,077	5,179	5,283	5,389	5,497
35	36	-	-	-	5,077	5,179	5,283	5,389	5,497	5,607
36	37	-	-	-	-	5,283	5,389	5,497	5,607	5,719
37	38	-	-	-	-	-	5,497	5,607	5,719	5,833
38	39	-	-	-	-	-	-	5,719	5,833	5,950
39	40	-	-	-	-	-	-	5,833	5,950	6,069.
40	41	-	-	-	-	-	-	-	-	-

(c) The appropriate classification for placement of principals and assistant principals on the salary schedule shall be determined in accordance with the following schedule:

	Classification	Number of Teachers Supervised
1		
2		
3	Assistant Principal	
4	Principal I	Less than 11 Teachers
5	Principal II	11-21 Teachers
6	Principal III	22-32 Teachers
7	Principal IV	33-43 Teachers
8	Principal V	44-54 Teachers
9	Principal VI	55-65 Teachers
10	Principal VII	More than 65 Teachers

11
12 The number of teachers supervised includes teachers and assistant principals paid from
13 State funds only; it does not include teachers or assistant principals paid from non-State
14 funds or the principal or teacher assistants.

15 (d) A principal shall be placed on the step on the salary schedule that reflects total
16 number of years of experience as a certificated employee of the public schools and an
17 additional step for every three years of experience as a principal, except that a principal
18 shall not receive credit for a year of service performed during the 1995-96 fiscal year
19 until the beginning of the fourth payroll period of the 1996-97 fiscal year.

20 (e) Principals and assistant principals with certification based on academic
21 preparation at the six-year degree level shall be paid a salary supplement of one hundred
22 twenty-six dollars (\$126.00) per month and at the doctoral degree level shall be paid a
23 salary supplement of two hundred fifty-three dollars (\$253.00) per month.

24 (f) There shall be no State requirement that superintendents in each local
25 school unit shall receive in State-paid salary at least one percent (1%) more than the
26 highest paid principal receives in State salary in that school unit: Provided, however, the
27 additional State-paid salary a superintendent who was employed by a local school
28 administrative unit for the 1992-93 fiscal year received because of that requirement shall
29 not be reduced because of this subsection for subsequent fiscal years that the
30 superintendent is employed by that local school administrative unit so long as the
31 superintendent is entitled to at least that amount of additional State-paid salary under the
32 rules in effect for the 1992-93 fiscal year.

33 (g) Longevity pay for principals and assistant principals shall be as provided
34 for State employees.

35 (h) (1) If a principal is reassigned to a higher job classification because the
36 principal is transferred to a school within a local school administrative
37 unit with a larger number of State-allotted teachers, the principal shall
38 be placed on the salary schedule as if the principal had served the
39 principal's entire career as a principal at the higher job classification.

40 (2) If a principal is reassigned to a lower job classification because
41 the principal is transferred to a school within a local school
42 administrative unit with a smaller number of State-allotted
43 teachers, the principal shall be placed on the salary schedule as if

1 the principal had served the principal's entire career as a principal
 2 at the lower job classification.

3 This subdivision applies to all transfers on or after the
 4 ratification date of this act, except transfers in school systems
 5 that have been created, or will be created, by merging two or
 6 more school systems. Transfers in these merged systems are
 7 exempt from the provisions of this subdivision for one calendar
 8 year following the date of the merger.

9 (i) Except as provided in subsection (h) of this section, the salary of a principal
 10 or assistant principal shall not be less for the 1996-97 fiscal year than it was for the 1993-
 11 94 fiscal year solely as a result of placement on the salary schedule established in this
 12 section.

13 (j) The provisions of Section 7.19 of Chapter 507 of the 1995 Session Laws
 14 and the salaries, longevity, and salary supplements set by that section shall remain in
 15 effect through the third payroll period of the 1996-97 fiscal year, except that assistant
 16 principals and principals shall not receive credit for a year of service performed during
 17 the 1995-96 school year until the beginning of the fourth payroll period of the 1996-97
 18 fiscal year.

19 (k) Certified personnel of the public schools who are school administrators
 20 and who are at the maximum of their pay range at the beginning of the fourth payroll
 21 period of the 1996-97 fiscal year, shall receive a one-time bonus as set out in the table
 22 below payable at the fourth payroll period of the 1996-97 fiscal year:

<u>Classification</u>	<u>Bonus Amount</u>
Asst. Principal	\$751
Asst. Principal Advanced	772
Asst. Principal Doctorate	794
Principal I	811
Principal I Advanced	833
Principal I Doctorate	856
Principal II	860
Principal II Advanced	882
Principal II Doctorate	905
Principal III	914
Principal III Advanced	936
Principal III Doctorate	959
Principal IV	950
Principal IV Advanced	972
Principal IV Doctorate	995
Principal V	989
Principal V Advanced	1011
Principal V Doctorate	1034
Principal VI	1050

1 Principal VI Advanced 1,072
 2 Principal VI Doctorate 1,095
 3 Principal VII 1,092
 4 Principal VII Advanced 1,114
 5 Principal VII Doctorate 1,137.
 6

7 Requested by: Senators Plyler, Perdue, Odom

8 **SCHOOL CENTRAL OFFICE SALARIES**

9 Sec. 28.18. (a) The following monthly salary ranges apply to public school
 10 superintendents, assistant superintendents, associate superintendents,
 11 directors/coordinators, supervisors, and finance officers for the 1996-97 fiscal year,
 12 beginning October 1, 1996:

13	(1)	School Administrator I:	\$2,832
14		- \$4,555	
15	(2)	School Administrator II:	\$3,005
16		- \$4,834	
17	(3)	School Administrator III:	
18		\$3,189 - \$5,130	
19	(4)	School Administrator IV:	\$3,318
20		- \$5,338	
21	(5)	School Administrator V:	\$3,451
22		- \$5,555	
23	(6)	School Administrator VI:	\$3,662
24		- \$5,895	
25	(7)	School Administrator VII:	
26		\$3,810 - \$6,133	

27 The local board of education shall determine the appropriate category and placement for
 28 each assistant superintendent, associate superintendent, director/coordinator, supervisor,
 29 or finance officer, within the salary ranges and within funds appropriated by the General
 30 Assembly for central office administrators and superintendents. The category in which
 31 an employee is placed shall be included in the contract of any employee hired on or after
 32 July 1, 1996.

33 (b) The following monthly salary ranges apply to public school superintendents
 34 for the 1996-97 fiscal year, beginning October 1, 1996:

35	(1)	Superintendent I (Up to 2,500 ADM):	\$4,045 - \$6,509
36	(2)	Superintendent II (2,501 - 5,000 ADM):	\$4,292 - \$6,907
37	(3)	Superintendent III (5,001 - 10,000 ADM):	\$4,555 - \$7,330
38	(4)	Superintendent IV (10,001 - 25,000 ADM):	\$4,834 - \$7,778
39	(5)	Superintendent V (Over 25,000 ADM):	\$5,130 - \$8,254

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

1 Notwithstanding the provisions of this subsection, a local board of education
2 may pay an amount in excess of the applicable range to a superintendent who is entitled
3 to receive the higher amount under Section 28.11(f) of this act.

4 (c) Longevity pay for superintendents, assistant superintendents, associate
5 superintendents, directors/coordinators, supervisors, and finance officers shall be as
6 provided for State employees.

7 (d) Superintendents, assistant superintendents, associate superintendents,
8 directors/coordinators, supervisors, and finance officers with certification based on
9 academic preparation at the six-year degree level shall receive a salary supplement of one
10 hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided
11 for pursuant to this section. Superintendents, assistant superintendents, associate
12 superintendents, directors/coordinators, supervisors, and finance officers with
13 certification based on academic preparation at the doctoral degree level shall receive a
14 salary supplement of two hundred fifty-three dollars (\$253.00) per month in addition to
15 the compensation provided for under this section.

16 (e) The State Board shall not permit local school administrative units to
17 transfer State funds from other funding categories for salaries for public school central
18 office administrators.

19 (f) The Director of the Budget shall transfer from the Reserve for Salary
20 Increases created in this act for fiscal year 1996-97, beginning October 1, 1996, funds
21 necessary to provide an average annual salary increase of five percent (5%), including
22 funds for the employer's retirement and social security contributions, commencing
23 October 1, 1996, for all permanent full-time personnel paid from the Central Office
24 Allotment. The State Board of Education shall allocate these funds to local school
25 administrative units.

26 (g) The provisions of Section 7.17 of Chapter 507 of the 1995 Session Laws
27 shall remain in effect through September 30, 1996.

28
29 Requested by: Senators Plyler, Perdue, Odom

30 **NONCERTIFIED PUBLIC SCHOOL EMPLOYEES' SALARY INCREASE**

31 Sec. 28.19. (a) The Director of the Budget may transfer from the Reserve for Salary
32 Increases created in this act for fiscal year 1996-97, beginning October 1, 1996, funds
33 necessary to provide a salary increase of five percent (5%), including funds for the
34 employer's retirement and social security contributions, commencing October 1, 1996, for
35 all noncertified public school employees, except school bus drivers, whose salaries are
36 supported from the State's General Fund. These funds shall not be used for any purpose
37 other than for the salary increases and necessary employer contributions provided by this
38 subsection.

39 (b) The fiscal year 1995-96 pay rates adopted by local boards of education for
40 school bus drivers shall be increased by at least five percent (5%) on and after October 1,
41 1996, to the extent that such rates of pay are supported by the allocation of State funds
42 from the State Board of Education. Local boards of education shall increase the rates of
43 pay for all school bus drivers who were employed during fiscal year 1995-96 and who

1 continue their employment for fiscal year 1996-97 by at least five percent (5%) on and
2 after October 1, 1996. The Director of the Budget may transfer from the salary increase
3 reserve fund created in this act for fiscal year 1996-97, beginning October 1, 1996, funds
4 necessary to provide the salary increases for school bus drivers whose salaries are
5 supported from the State's General Fund in accordance with the provisions of this
6 subsection.

7 (c) The Director of the Budget may transfer from the Reserve for Salary
8 Increases created in this act for fiscal year 1996-97, beginning October 1, 1996, funds
9 necessary to increase the minimum teacher assistant salary to grade 54.

10
11 Requested by: Senators Plyler, Perdue, Odom

12 **SALARY ADJUSTMENT FUND**

13 Sec. 28.20. Any remaining appropriations for legislative salary increases not
14 required for that purpose may be used to supplement the Salary Adjustment Fund. These
15 funds shall first be used to provide reclassifications of those positions already approved
16 by the Office of State Personnel. The Office of State Budget and Management shall
17 report to the Joint Legislative Commission on Governmental Operations prior to the
18 allocation of these funds.

19
20 Requested by: Senator Perdue

21 **TRAVEL EXPENSE REIMBURSEMENT STUDY**

22 Sec. 28.21. The Office of State Budget and Management shall study the issue
23 of whether the current system of reimbursement of State employees for job-related travel
24 expenses is flexible enough to allow State employees to recover the actual cost of
25 expenses incurred for lodging and meals, when the total of all such costs does not exceed
26 the maximum statutory amount. If the Office of State Budget and Management finds that
27 the current system is not flexible enough to allow State employees to recover all such
28 expenses, the Office of State Budget and Management shall consider ways to make the
29 system more flexible. The Office of State Budget and Management shall report the
30 results of its study, including any proposed policy or statutory changes and the fiscal
31 impact of such changes, to the Joint Legislative Commission on Governmental
32 Operations, prior to February 1, 1997.

33
34 Requested by: Senators Plyler, Perdue, Odom, Conder, Soles

35 **POSTRETIREMENT BENEFIT INCREASES**

36 Sec. 28.22. (a) G.S. 135-5 is amended by adding a new subsection to read:

37 "(bbb) From and after October 1, 1996, the retirement allowance to or on account
38 of beneficiaries whose retirement commenced on or before July 1, 1995, shall be
39 increased by four and four-tenths percent (4.4%) of the allowance payable on July 1,
40 1995, in accordance with G.S. 135-5(o). Furthermore, from and after October 1, 1996, the
41 retirement allowance to or on account of beneficiaries whose retirement commenced after
42 July 1, 1995, but before June 30, 1996, shall be increased by a prorated amount of four
43 and four-tenths percent (4.4%) of the allowance payable as determined by the Board of

1 Trustees based upon the number of months that a retirement allowance was paid between
2 July 1, 1995, and June 30, 1996."

3 (b) G.S. 135-65 is amended by adding a new subsection to read:

4 "(q) From and after October 1, 1996, the retirement allowance to or on account of
5 beneficiaries whose retirement commenced on or before July 1, 1995, shall be increased
6 by four and four-tenths percent (4.4%) of the allowance payable on July 1, 1995.
7 Furthermore, from and after October 1, 1996, the retirement allowance to or on account
8 of beneficiaries whose retirement commenced after July 1, 1995, but before June 30,
9 1996, shall be increased by a prorated amount of four and four-tenths percent (4.4%) of
10 the allowance payable as determined by the Board of Trustees based upon the number of
11 months that a retirement allowance was paid between July 1, 1995, and June 30, 1996."

12 (c) G.S. 120-4.22A is amended by adding a new subsection to read:

13 "(k) In accordance with subsection (a) of this section, from and after October 1,
14 1996, the retirement allowance to or on account of beneficiaries whose retirement
15 commenced on or before January 1, 1996, shall be increased by four and four-tenths
16 percent (4.4%) of the allowance payable on January 1, 1996. Furthermore, from and after
17 October 1, 1996, the retirement allowance to or on account of beneficiaries whose
18 retirement commenced after January 1, 1996, but before June 30, 1996, shall be increased
19 by a prorated amount of four and four-tenths percent (4.4%) of the allowance payable as
20 determined by the Board of Trustees based upon the number of months that a retirement
21 allowance was paid between January 1, 1996, and June 30, 1996."

22 (d) G.S. 128-27 is amended by adding a new subsection to read:

23 "(rr) From and after October 1, 1996, the retirement allowance to or on account of
24 beneficiaries whose retirement commenced on or before July 1, 1995, shall be increased
25 by four and four-tenths percent (4.4%) of the allowance payable on July 1, 1995, in
26 accordance with G.S. 128-27(k). Furthermore, from and after October 1, 1996, the
27 retirement allowance to or on account of beneficiaries whose retirement commenced after
28 July 1, 1995, but before June 30, 1996, shall be increased by a prorated amount of four
29 and four-tenths percent (4.4%) of the allowance payable as determined by the Board of
30 Trustees based upon the number of months that a retirement allowance was paid between
31 July 1, 1995, and June 30, 1996."

32
33 Requested by: Senators Plyler, Perdue, Odom

34 **SALARY-RELATED CONTRIBUTIONS/EMPLOYERS**

35 Sec. 28.23. Section 7.1(b) of Chapter 324 of the 1995 Session Laws, as
36 amended by Section 7.22A of Chapter 507 of the 1995 Session Laws, reads as rewritten:

37 "(b) ~~Effective July 1, 1995, July 1, 1996,~~ the State's employer contribution rates
38 budgeted for retirement and related benefits as a percentage of covered salaries for the
39 ~~1995-96-1996-97~~ fiscal year are (i) ten and eighty-three hundredths percent (10.83%) -
40 Teachers and State Employees; (ii) fifteen and eighty-three hundredths percent (15.83%)
41 - State Law Enforcement Officers; (iii) nine and eighteen hundredths percent (9.18%) -
42 University Employees' Optional Retirement Program; (iv) twenty-two and sixty-five
43 hundredths percent (22.65%) - Consolidated Judicial Retirement System; and (v) ~~twenty-~~

1 ~~three and twenty seven hundredths percent (23.27%)~~ twenty-four and fifty-eight
2 hundredths percent (24.58%) - Legislative Retirement System. Each of the foregoing
3 contribution rates includes two percent (2%) for hospital and medical benefits. The rate
4 for State Law Enforcement Officers includes five percent (5%) for the Supplemental
5 Retirement Income Plan. The rates for Teachers and State Employees, State Law
6 Enforcement Officers, and for the University Employees' Optional Retirement Program
7 includes fifty-two hundredths percent (0.52%) for the Disability Income Plan."
8

9 Requested by: Senators Plyler, Perdue, Odom

10 **STATE EMPLOYEE HEALTH BENEFIT PLAN/PREEXISTING HEALTH**
11 **CONDITIONS**

12 Sec. 28.24. (a) G.S. 135-40.1(15) reads as rewritten:

13 "(15) Preexisting Condition. – A condition, disease, illness or injury ~~which~~
14 ~~existed or had its beginning to any degree, whether diagnosed or not,~~
15 diagnosed and treated within six months prior to the effective date of
16 coverage."

17 (b) G.S. 135-40.3(b) is amended by adding a new subdivision to read:

18 "(5) To administer the 12-month waiting period for preexisting conditions
19 under this Article, the Plan must give credit against the 12-month period
20 for the time that a person was covered under a previous plan if the
21 previous plan's coverage was continuous to a date not more than 60 days
22 before the effective date of coverage. As used in this subdivision, a
23 'previous plan' means any policy, certificate, contract, or any other
24 arrangement provided by any accident and health insurer, any hospital
25 or medical service corporation, any health maintenance organization,
26 any preferred provider organization, any multiple employer welfare
27 arrangement, any self-insured health benefit arrangement, any
28 governmental health benefit or health care plan or program, or any other
29 health benefit arrangement."

30 (c) This section is effective July 1, 1995.
31

32 Requested by: Senators Plyler, Perdue, Odom

33 **STATE EMPLOYEE HEALTH BENEFIT PLAN/SKILLED NURSING**
34 **FACILITY BENEFITS IN FACILITIES NOT MEDICARE-QUALIFIED**

35 Sec. 28.25. G.S. 135-40.6(3) reads as rewritten:

36 "(3) Skilled Nursing Facility Benefits. – The Plan will pay benefits in a
37 skilled nursing facility ~~which qualifies for delivery of benefits under~~
38 ~~Title XVIII of the Social Security Act (Medicare),~~ licensed under
39 applicable State laws as follows:

40 After discharge from a hospital for which inpatient hospital benefits
41 were provided by this Plan for a period of not less than three days, and
42 treatment consistent with the same illness or condition for which the
43 covered individual was hospitalized, the daily charges will be paid for

1 room and board in a semiprivate room or any multibed unit up to the
2 maximum benefit specified in subsection (1) of this section, less the
3 days of care already provided for the same illness in a hospital. Plan
4 allowances for total daily charges may be negotiated but will not exceed
5 the daily semiprivate hospital room rate as determined by the Plan.

6 Credit will be allowed toward private room charges in an amount
7 equal to the facility's most prevalent charge for semiprivate
8 accommodations. Charges will also be paid for general nursing care and
9 other services which would ordinarily be covered in a general hospital.
10 In order to be eligible for these benefits, admission must occur within 14
11 days of discharge from the hospital.

12 In order to qualify for benefits provided by a skilled nursing facility,
13 the following stipulations apply:

- 14 a. The services are medically required to be given on an inpatient
15 basis because of the covered individual's need for skilled nursing
16 care on a continuing basis for any of the conditions for which he
17 or she was receiving inpatient hospital services prior to transfer
18 from a hospital to the skilled nursing facility or for a condition
19 requiring such services which arose after such transfer and while
20 he or she was still in the facility for treatment of the condition or
21 conditions for which he or she was receiving inpatient hospital
22 services,
- 23 b. Only on prior referral by and so long as, the patient remains
24 under the active care of an attending doctor who certifies that
25 continual hospital confinement would be required without the
26 care and treatment of the skilled nursing facility, and
- 27 c. Approved in advance by the Claims Processor.

28 For facilities not qualified for delivery of services covered by the
29 benefits of Title XVIII of the Social Security Act (Medicare), neither
30 the Plan nor any of its members shall be billed or held liable by such
31 facilities for charges that otherwise would be covered by Medicare."
32

33 Requested by: Senators Plyler, Perdue, Odom

34 **STATE EMPLOYEE HEALTH BENEFIT PLAN/ACUPUNCTURE COVERAGE**

35 Sec. 28.26. (a) G.S. 135-40.6(8) is amended by adding a new subdivision to
36 read:

37 "u. Acupuncture: Allowable charges up to five hundred dollars
38 (\$500.00) per covered individual per fiscal year for the practice
39 of acupuncture when performed by a doctor of medicine or an
40 acupuncturist licensed or certified in the state in which the
41 acupuncturist practices."

42 (b) The Executive Administrator of the North Carolina Teachers' and State
43 Employees' Comprehensive Major Medical Plan shall report the financial impact upon

1 the Plan resulting from this section to the Joint Legislative Commission on Governmental
2 Operations at the end of March 1997 and at the end of May 1997.

3 (c) This section becomes effective October 1, 1996, but expires September 30,
4 1998.

5
6 Requested by: Senators Ballance, Rand

7 **REDEFINE SERVICE FOR PURPOSES OF LONGEVITY PAY FOR PUBLIC**
8 **DEFENDERS**

9 Sec. 28.27. G.S. 7A-465(b) reads as rewritten:

10 "(b) The public defender shall be an attorney licensed to practice law in North
11 Carolina, and shall devote his full time to the duties of his office.

12 In lieu of merit and other increment raises paid to regular State employees, a public
13 defender shall receive as longevity pay an amount equal to four and eight-tenths percent
14 (4.8%) of the annual salary set forth in the Current Operations Appropriations Act
15 payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10
16 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, and
17 nineteen and two-tenths percent (19.2%) after 20 years of service. 'Service' means service
18 as a public ~~defender~~ defender, assistant public defender, justice or judge of the General
19 Court of Justice, or clerk of superior court."

20
21 Requested by: Senator Odom

22 **MECKLENBURG LAW OFFICERS' EMERGENCY AND PENSION FUND**
23 **CHANGE**

24 Sec. 28.28. (a) Section 5 of Chapter 446 of the Public-Local Laws of 1931, as
25 amended by Section 1 of Chapter 305 of the 1967 Session Laws, is rewritten to read:

26 "Sec. 5. The funds accumulated under this act shall be known as the 'Emergency and
27 Pension Fund of the County of Mecklenburg' and shall be used as a fund for all arresting
28 officers, as defined in Section 2 of this act, and their families. If an officer while in the
29 actual performance of that officer's duties is killed, the board may pay any amount up to a
30 maximum of ten thousand dollars (\$10,000) as a death benefit to the surviving spouse of
31 the deceased officer. If the officer is not married at the time of death, the board may pay
32 any amount up to a maximum of ten thousand dollars (\$10,000) to the nearest dependent
33 next of kin of the deceased. It is further the true intent, meaning, and purpose of this act
34 that the board may pay any amount less than the amount specified, and the board may
35 refuse to make a payment of any amount in any case in any or all of the classes
36 enumerated in this act. Further, the board may use monies from the fund to award
37 scholarships to dependent children of officers who are either killed while in the
38 performance of their duties or who are rendered totally disabled as a result of an injury
39 received while in the performance of their duties. The maximum scholarship amount
40 shall be two thousand five hundred dollars (\$2,500) per child."

41 (b) Nothing in this section shall create any liability for the Emergency and Pension
42 Fund of the County of Mecklenburg unless there are sufficient current assets in the Fund

1 to pay fully for the liability. Under no circumstances shall the State incur any liability as
2 a result of this section.

3 4 **PART 29. MISCELLANEOUS PROVISIONS**

5
6 Requested by: Senators Plyler, Perdue, Odom

7 **EXECUTIVE BUDGET ACT APPLIES**

8 Sec. 29. The provisions of the Executive Budget Act, Chapter 143, Article 1 of
9 the General Statutes, as amended by this act, are reenacted and shall remain in full force
10 and effect and are incorporated in this act by reference.

11
12 Requested by: Senators Plyler, Perdue, Odom

13 **COMMITTEE REPORT**

14 Sec. 29.1. (a) The Senate Appropriations Committee Budget Modification Report,
15 dated July 15, 1996, together with any accompanying correction sheets, which was
16 distributed in the Senate and used to explain this act, shall indicate action by the General
17 Assembly on this act and shall therefore be used to construe this act, as provided in G.S.
18 143-15 of the Executive Budget Act, and for these purposes shall be considered a part of
19 this act.

20 (b) The budget enacted by the General Assembly for the maintenance of the
21 various departments, institutions, and other spending agencies of the State for the 1995-
22 97 fiscal biennium is a line item budget, in accordance with the Budget Code Structure
23 and the State Accounting System Uniform Chart of Accounts set out in the
24 Administrative Policies and Procedures Manual of the Office of the State Controller.
25 This budget includes the appropriations made from all sources including the General
26 Fund, Highway Fund, special funds, cash balances, federal receipts, and departmental
27 receipts.

28 The General Assembly amended the itemized budget requests submitted to the
29 General Assembly by the Director of the Budget and the Advisory Budget Commission,
30 in accordance with the steps that follow and the line item detail in the budget enacted by
31 the General Assembly may be derived accordingly:

- 32 (1) Negative reserves set out in the submitted budget were deleted and the
33 totals were increased accordingly.
- 34 (2) The base budget was adjusted in accordance with the base budget cuts
35 and additions that were set out in the Senate Appropriations Committee
36 Budget Modification Report, dated July 15, 1996, together with any
37 accompanying correction sheets.
- 38 (3) Transfers of funds supporting programs were made in accordance with
39 the Senate Appropriations Committee Budget Modification Report,
40 dated July 15, 1996, together with any accompanying correction sheets.

41 The budget enacted by the General Assembly shall also be interpreted in
42 accordance with the special provisions in this act and in accordance with other
43 appropriate legislation.

1 In the event that there is a conflict between the line item budget certified by the
2 Director of the Budget and the budget enacted by the General Assembly, the budget
3 enacted by the General Assembly shall prevail.
4

5 Requested by: Senators Plyler, Perdue, Odom

6 **MOST TEXT APPLIES ONLY TO 1996-97**

7 Sec. 29.2. Except for statutory changes or other provisions that clearly indicate
8 an intention to have effects beyond the 1996-97 fiscal year, the textual provisions of this
9 act apply only to funds appropriated for, and activities occurring during, the 1996-97
10 fiscal year.
11

12 Requested by: Senators Plyler, Perdue, Odom

13 **1995-96 APPROPRIATIONS LIMITATIONS AND DIRECTIONS APPLY**

14 Sec. 29.3. (a) Except where expressly repealed or amended by this act, the
15 provisions of Chapters 324 and 507 of the 1995 Session Laws remain in effect.

16 (b) Notwithstanding any modifications by this act in the amounts appropriated,
17 except where expressly repealed or amended, the limitations and directions for the 1995-
18 96 fiscal year in Chapters 324 and 507 of the 1995 Session Laws that applied to
19 appropriations to particular agencies or for particular purposes apply to the newly enacted
20 appropriations and budget reductions of this act for those same particular purposes.
21

22 Requested by: Senators Plyler, Perdue, Odom

23 **EFFECT OF HEADINGS**

24 Sec. 29.4. The headings to the parts and sections of this act are a convenience
25 to the reader and are for reference only. The headings do not expand, limit, or define the
26 text of this act.
27

28 Requested by: Senators Plyler, Perdue, Odom

29 **SEVERABILITY CLAUSE**

30 Sec. 29.5. If any section or provision of this act is declared unconstitutional or
31 invalid by the courts, it does not affect the validity of this act as a whole or any part other
32 than the part so declared to be unconstitutional or invalid.
33

34 Requested by: Senators Plyler, Perdue, Odom

35 **EFFECTIVE DATE**

36 Sec. 29.6. Except as otherwise provided, this act becomes effective July 1,
37 1996.